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Particular Law of the Syro-Malabar Church

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**THE RIGHTS AND OBLIGATIONS OF THE PASTOR OF A PARISH
ACCORDING TO THE CODE OF CANONS OF THE EASTERN CHURCHES
AND THE PARTICULAR LAW OF THE SYRO-MALABAR CHURCH**

by
Thomas Mathew ADOPPILLIL

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

This study consisting of five chapters is an examination of the rights and obligations of the pastor of a parish according to the Code of Canons of the Eastern Churches and the Particular Law of the Syro-Malabar Church. The following important issues constitute the core of the investigation pursued by the study: the juridical figure of the pastor of a parish in the Eastern tradition; the rights and obligations of the pastor of a parish as minister of the word of God, sanctification and governance; and the rights of the pastor of a parish in his removal and transfer from office.

The pastor of a parish, both theologically and juridically, is at the center of a parish community. He is a presbyter, the foremost collaborator of the eparchial bishop in the parish and he carries out his ministry under the authority of the same eparchial bishop.

The pastor is the good shepherd of the flock, teacher in matters of faith, preacher of the word of God, mediator and principal dispenser of the mysteries of God who has the right and obligation to encourage, coordinate and direct the catechetical formation of the faithful entrusted to his care. It is his primary responsibility for the sanctification of the faithful and he is obliged to motivate, inspire and organize his parishioners in a way that they will in fact live out "the sacraments and sacramentals" in their daily life. Pastor shares in the governing function of the eparchial bishop and assumes responsibilities of organizing, directing and coordinating the faith life of the parish community. His office does not entail legislative and judicial power. The Eastern Code and the particular law of the Syro-Malabar Church make provision for the pastor to exercise the executive power of governance especially in the area of dispensation from merely ecclesiastical laws, such as the laws governing matrimonial impediments under certain conditions and circumstances, blessing of marriages, dispensation from private vows and oaths, and the administration of the parish's temporal goods. The pastor is obliged to know his flock, promote Christian values both in individual members and in associations, and should make sure that the needy and the destitute are never ignored. All these responsibilities of the pastor of a parish are part of his function of organizing and directing the life of the faithful. It is the pastor's responsibility to arouse interest among his parishioners to be involved in the good of the community.

Through legitimate appointment to his office, the pastor acquires certain rights related to the security and stability of the office as well as his well-being and good name. A bishop cannot arbitrarily remove or transfer a pastor who has been appointed either for an indefinite period of time or for a determined period. Any substantial violation of the right of defense of a pastor could result in the invalidity of the bishop's decision.

The study concludes that a pastor of a parish does have concrete rights and corresponding obligations in the Church, and these rights and obligations are real and not merely empty words. These rights and obligations are embedded in the threefold mission of the Church, namely the teaching, sanctifying and governing functions.

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ABBREVIATIONS

AA	<i>Apostolicam actuositatem</i>
AAS	<i>Acta Apostolicae Sedis.</i>
AG	<i>Ad gentes.</i>
CA	<i>Crebrae allate.</i>
CCEO	<i>Codex canonum Ecclesiarum orientalium.</i>
CD	<i>Chritus Dominus.</i>
CIC 1917	<i>Codex iuris canonici 1917.</i>
CIC 1983	<i>Codex iuris canonici 1983.</i>
CLSA	Canon Law Society of America.
CS	<i>Cleri sanctitati.</i>
CT	<i>Catechesi tradendae</i>
DH	<i>Dignitatis humanae</i>
DV	<i>Dei verbum.</i>
ECE	<i>Ex cordie ecclesiae</i>
EN	<i>Evangelii nuntiandi.</i>
GE	<i>Gravissimum educationis.</i>
GS	<i>Gaudium et spes.</i>
IM	<i>Inter mirifica.</i>
LG	<i>Lumen gentium.</i>
OE	<i>Orientalium Ecclesiarum.</i>
OT	<i>Optatam totius.</i>
PAL	<i>Postquam apostolicis litteris.</i>

ABBREVIATIONS

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PB	<i>Pastor bonus.</i>
PCCICOR	Pontificia Commissio Codici Iuris Canonici Orientalis Recognoscendo.
PO	<i>Presbyterorum ordinis.</i>
SC	<i>Sacrosanctum concilium.</i>
SN	<i>Sollicitudinem nostram.</i>
UR	<i>Unitatis redintegratio.</i>

GENERAL INTRODUCTION

In 1974, the plenary session of the members of the revision of Eastern Code, which met from 18-23 March, unanimously approved a set of principles as guidelines for the revision of the Code of oriental canon law.¹ One of these principles indicated that the Code was to be juridical in nature; as is fitting, therefore, it is to define clearly and safeguard the rights and obligations of individual physical and juridic persons toward one another and toward ecclesiastical society.

Undoubtedly the most noteworthy canonical development during the last decade was the promulgation of the *Codex canonum Ecclesiarum orientalium*.² The very purpose of a separate Code for the Eastern Churches was to ensure the proper protection, organic growth, preservation and promotion of the rich patrimony of the Eastern Churches. Now each *sui iuris* Eastern Catholic Church is trying to regain its past glory and to move ahead with new vigour by taking the impetus and light provided by the CCEO.³

¹ See *Nuntia*, 3 (1976) pp. 10, 16-24, and 30 (1990) pp. 14-88.

² *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.

³ Today there are twenty-one Eastern Catholic Churches *sui iuris* in the Catholic Church derived from five major Eastern traditions (Alexandrian, Antiochian, Armenian, Chaldean, Constantinopolitan or Byzantine). Among Eastern Churches, there are six Patriarchal Churches (Coptic, Maronite, Melkite, Syrian, Chaldean, and Armenian), two Major Archiepiscopal Churches (Ukrainian and Syro-Malabar), four Metropolitan Churches (Ethiopian, Syro-Malankara, Romanian and Ruthenian), and nine other Churches *sui iuris* (Albanian, Bielorussian, Bulgarian, Greek, Hungarian, Italo-Albanian, Russian, Slovak and Yugoslavian). All these Churches *sui iuris* are bound by CCEO. For an understanding of the genesis and scope and some of the particular features of CCEO, and the status, tradition and the order of precedence of

During various meetings with pastors of parishes and seminarians following the promulgation of both the CCEO in 1990 and particular laws on Clerics of Syro-Malabar Church in 1998, a good number of people have expressed the opinion that the Code has stipulated many obligations for the pastor of a parish and very few rights. Does this opinion have any basis in fact?

My own experience as a pastor of parishes for 15 years has created in me an enthusiasm for a deeper study in the area of rights and obligations of the pastor of a parish according to the CCEO. The experiences of many pastors of parishes suggested that there is an urgent need for understanding their rights and obligations, and this need is ever more pressing in today's Syro-Malabar Church. Does this suggestion have any relevance in fact? The pursuit of answers to the above basic question has developed into this study. The goal of this study, therefore, is to provide a comprehensive overview of the rights and obligations of the pastor of a parish as they are expressed, both explicitly and implicitly, in the CCEO and particular law of the Syro-Malabar Church.⁴

In the CCEO, the rights and obligations of individual and juridic persons are mentioned in various places under different titles (Christian Faithful: canons 7-26,

each Church *sui iuris*, see George NEDUNGATT, "A New Code for the Oriental Churches," in *Vidyajyothi*, 55 (1991), pp. 265-284, and 327-345.

⁴ For the particular law of the Syro-Malabar Church, see THE SYNOD OF THE SYRO-MALABAR MAJOR ARCHIEPISCOPAL CHURCH, in *Synodal News*, 1 (2003), pp. 1-138 (*Synodal News* is the Bulletin of the Syro-Malabar Major Archiepiscopal Church. This bulletin carries the important documents and news related to this Church).

Patriarchal Churches and Patriarchs: canons 78-101, Eparchies and Bishops: canons 190-211 and Clerics: canons 367-393). A pastor's general and specific obligations are spelled out, but there is, to say the least, scant direct and explicit mention of the rights connected with the ecclesiastical office of pastor. Nevertheless, a careful survey of the CCEO leads us to the conclusion that the pastor of a parish has a whole range of rights, most often simply implied in the texts of canons, which explicitly present the obligations of a pastor of a parish, or the obligations of others toward pastors of parishes, or procedures to be observed with respect to conferral and cessation of office of the pastor of a parish.

The principal focus of this study will be on the rights and obligations of the pastor of a parish according to CCEO. Since the particular law of the Syro-Malabar Church has already been promulgated, and has relevance to our study, we will relate the provisions of this particular law to our analysis of the canons of the CCEO. Our analysis will be restricted to those rights and obligations, which are attached to the ecclesiastical office of the pastor of a parish according to the CCEO and particular law of the Syro-Malabar Church. Other rights and obligations, which are mentioned in the CCEO, concerning the Christian faithful or Clerics in general will not be covered by this study.

Throughout this study the expression "pastor of a parish" has been used deliberately in the title and often in the text. This has been done in an effort to promote greater clarity. The Latin word *Parochus* is regularly translated as "pastor" in the American use of the English language, whereas in British English it is rendered as

“parish priest.” George Nedungatt prefers to translate it as “parish priest.”⁵ But in some countries the term “parish priest” may indicate any priest assigned to a parish, whether as pastor or parochial vicar. In CCEO the eparchial bishop is “pastor” according to c. 177 §1, and in cc. 45 §2, 92 §1, and 597 §1, the term “pastor” refers to the Roman Pontiff.

A number of canonical studies and books have already commented directly on the office of pastor or directly on parishes but tangentially on pastors because of a pastor’s unique role in parish communities. Among these studies, major works are Alphonse Borrás’s *Les communautés paroissiales: droit canonique pastorales*,⁶ which provides a general background for understanding the concept of parish and its workings. Michael Hack, in his doctoral dissertation, *Stability of the Office of Parish Priest in the 1983 Code of Canon Law*,⁷ deals with one of the substantial rights of a pastor, while in his recent book, *The Obligations and Rights of the Pastor of a Parish According to the Code of Canon Law*,⁸ Edward A. Sweeny studies the obligations and rights of the pastor of a parish in the light of the Latin Code. Obviously, these works are limited to the relevant norms of CIC 1983 on the topic.

⁵ George NEDUNGATT, *A Companion to the Eastern Code: For a New Translation of Codex canonum Ecclesiarum orientalium*, Rome, Pontificio Istituto Orientale, 1994, pp. 92-94.

⁶ Alphonse BORRAS, *Les communautés paroissiales: droit canonique pastorales*, Paris, Les Éditions du Cerf, 1996.

⁷ Michael A. HACK, *Stability of the Office of Parish Priest in the 1983 Code of Canon Law*, Ottawa, Saint Paul University, 1988.

⁸ Edward A. SWEENY, *The Obligations and Rights of the Pastor of a Parish According to the Code of Canon Law*, New York, Alba house, 2002.

Thomas Puthiyakunnel's book, *Syro-Malabar Clergy and their General Obligations: An Historico-Juridical Study in the Light of Canons 60-87 of the motu proprio Cleri sanctitati*,⁹ clarifies the canonical position of certain obligations of clergy regarding the Divine Office, Clerical Holiness, Canonical Obedience, Clerical Celibacy and Clerical Habit, whereas Joseph Varnath's study on *The Threefold Function of a Pastor in the Malabar Church in the Light of CCEO*,¹⁰ presents the theologico-juridical analysis of the parish and pastors and of the manner in which the threefold functions of teaching, sanctifying and governing are revised by the pastors in the Malabar Church in light of the CCEO. Since CCEO and particular law of the Syro-Malabar Church have been promulgated, our study represents an effort to analyse in depth the rights and obligations of the pastor of a parish according to the CCEO and particular law of the Syro-Malabar Church.

Basically our study will be juridical in nature, but rooted certainly in theological foundations and traditions. A historical perspective of some of the canonical issues involved in this study will be inevitable. It will be analytical in the sense that the historical facts provide appropriate basis for examining various sources, especially the documents of Second Vatican Council and *Cleri sanctitati*, the *motu proprio* on persons.

⁹ 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.

¹⁰ Joseph VARANATH, *The Threefold Function of a Pastor in the Malabar Church in the Light of CCEO*, Rome, Pontificium Institutum Orientalae, 1994.

The canons of the CCEO, and where applicable, the particular laws of the Syro Malabar Church on the pastor of a parish will constitute the juridical parameters of this study.

The organization of the content of our study will be as follows:

The first chapter presents the juridical figure of the pastor of a parish according to the Eastern tradition. In order to identify the juridical figure of the pastor of a parish we will analyse the concept of parish and pastor of a parish according to the canons of the CCEO. However, to explore the stages of the development of the concept of parish and pastor of a parish, we will briefly examine here the canons of *Cleri sanctitati* and the teachings of Second Vatican Council.

In the next three chapters, we will logically explore the rights and obligations in exercising the threefold functions of the pastor of a parish as teacher, sanctifier and shepherd respectively.

The second chapter enters into an analysis of the leadership role of the pastor of a parish in the teaching ministry. Inherent in any office are obligations and rights proper to its nature. When a pastor is appointed to his office, he also inherits the rights and obligations, which constitute that office. Because preaching the word of God is at the heart of his ministry as the pastor of a parish, he assumes the rights and obligations proper to that ministry. Therefore, we will also examine the specific obligations and rights with respect to preaching the word of God, the pastor's rights and obligations in respect to catechetical formation of his parishioners, and the extent to which a pastor

may, and sometimes should, share with other Christian faithful his obligations and rights relative to his ministry of preaching the word of God.

The pastor of a parish assumes the priestly ministry of Jesus here on earth by leading the community of faithful in the worship of God through the celebration of Divine Liturgy, the sacraments, sacramentals and other acts of worship. Therefore, in the third chapter we will investigate the rights and obligations of the pastor of a parish as minister of sanctification. This would also include an examination of the extent to which a pastor may, and sometimes should, share with other Christian faithful his obligations and rights relative to his ministry of sanctification.

From a theological and canonical perspective it seems clear that pastors of parishes share in the governing function of the eparchial bishop in the faith communities committed to their care. They are certainly responsible for organizing and directing parish life in its spiritual and temporal aspects under the leadership of their bishop. This would naturally include the day-to-day activities related to the pastoral care of their flock. Hence, the fourth chapter will explore the leadership of the pastor of a parish in governing ministry and the right and obligations which flow from it. This study would, therefore, include three fundamental issues: the source of a pastor's power of governance; the content of the pastor's ministry of governance and his rights and obligations related to it according to CCEO and the particular law of the Syro-Malabar; and the extent to which a pastor may, and sometimes should, share with other Christian faithful his obligations and rights relative to his governing ministry.

The pastor of a parish acquires certain rights through appointment to the office. These rights concern the security of his office and his personal well being and good name. The law provides norms that are intended to safeguard these rights. Among the rights, which a pastor of a parish has, is the right of defense in case of removal or transfer. A bishop cannot arbitrarily remove or transfer a pastor who has been appointed either for an indefinite period of time or for a determined period. Any substantial violation of the right of defense of a pastor could result in the invalidity of the bishop's decision. Because of the importance of this issue, we will analyse in the final chapter of this study the legislation of the Eastern Code that deals with the procedure for the removal and transfer of pastors.

In the general conclusion we will make a brief synthesis of the rights and obligations of the pastor of a parish in the CCEO and the particular law of the Syro-Malabar Church *sui iuris*.

CHAPTER ONE

THE JURIDICAL FIGURE OF THE PASTOR OF A PARISH ACCORDING TO THE EASTERN TRADITION

INTRODUCTION

The Church, the Mystical Body of Jesus Christ, is constituted and established as a visible community in the world. It is a highly organized community of faith. Fundamentally, the Church is a community joined together by the bond of sacraments and ultimately aims for the salvation of all. In order to carry out this salvific mission and to shepherd the flock, Jesus Christ instituted in the Church a variety of offices, which strive for the good of the whole body. The holders of these offices are endowed with the sacred power for the service of those entrusted to their care. As Saint Paul says, “The gifts he gave were that some would be apostles, some prophets, some evangelists, some pastors and teachers, to equip the saints for the work of ministry, for building up the body of Christ.”¹

Jesus Christ, the Good Shepherd entrusted to the apostles the ministry of shepherding the flock and they, in turn, entrusted it to their successors, the bishops. Bishops exercise this mission of shepherding the flock with the collaboration and co-operation of other sacred ministers, especially those presbyters who exercise the ministry of shepherding the flock at the parish level. In order to carry out this shepherding task properly and fruitfully in the parish, the pastor of a parish should have a better understanding of his own rights and

¹ Ephesians 4: 11-12. Biblical quotations used in this study are from *The New Revised Standard*

obligations. Hence, the main purpose of this chapter is to examine more deeply some of the basic concepts of parish and pastor in the Eastern tradition, with special emphasis on *Codex canonum Ecclesiarum orientalium*. There will be three sections in this chapter. The first section will describe the concept of a parish in the Eastern tradition; the second section will analyze the juridical figure of the pastor of a parish in the Eastern tradition; and the third section will explore some general concerns regarding the rights and obligations of pastors of parishes.

1.1. THE PARISH IN EASTERN TRADITION

The parish is without any doubt one of the most important and basic institutions in the Church designed for the care of souls. This institution has existed in same form in the life of the Church from early centuries wherever the good news of salvation was preached. Even today the parish is at the center of the Church's life and mission. On 20 October 1984 Pope John Paul II in his address to the Plenary Assembly of the Congregation for the Clergy said:

The Parish remains an indispensable organism of primary importance among the visible structures of the Church. The parish is in fact the first ecclesial community; after the family, it is the first school of faith, of prayer and of Christian conduct; it is the first field of ecclesial charity; the first organ of pastoral and social action; the ground best suited to make priestly and religious vocations blossom; the primary seat of catechism [...] Whatever one may think, the parish is still a major point of reference for the Christian people, even for the non-practicing.²

Version, Catholic Edition for India, Theological Publications, Bangalore, 1994.

² See *L' Osservatore romano*, (weekly English Language edition), 3 December 1984, p. 4.

The Second Vatican Council in its constitution on the Sacred Liturgy *Sacrosanctum concilium* described the place of the parish in the Church in following words:

But as it is impossible for the Bishop always and everywhere to preside over the whole flock in his Church, he must of necessity establish groupings of the faithful; and, among these, parishes, set-up locally under a Pastor who takes the place of the Bishop, are the most important, for in some way they represent the visible Church constituted throughout the world.³

So, the universal Church is rendered present through its vast network of parishes scattered throughout the world. A parish is not merely a copy of human organization; it is, the Church in miniature. It is through the parish that a Catholic comes into contact with the Church. It is in the parish that one is born anew, nourished with word and sacrament, and grows into a new fellowship through the ministry of priests. In short, the parish can be said to be the Holy Land where the members of the Church realize the salvific action of Christ in a truly personal manner. Thus the concept of parish is characterized by rich theological, canonical and pastoral meanings. In this section, we will examine the concept of parish in the Eastern tradition.

Before we discuss the different elements of a parish according to CCEO, it is important to understand the etymology of the word parish and its influence on the theme of our study. The word *parish* comes from the Latin word *paroecia* or *parochia*, which in turn is derived from the Greek word *paroikia*. It has several meanings. First, it means the stay or

³ SECOND VATICAN COUNCIL, Constitution on the Sacred Liturgy *Sacrosanctum Concilium*, 4 December 1965, in *AAS*, 56 (1964), pp. 97-138, here at n. 42, pp. 111-112: "Cum Episcopus in Ecclesia sua ipsemet nec semper nec ubique universo gregi praeesse possit, necessario constituere debet fidelium coetus, inter quos paroeciae, localiter sub pastore vices gerente Episcopi ordinatae, eminent: nam quodammodo repraesentant Ecclesiam visibilem per orbem terrarum constitutam." English translation in Austin FLANNERY (gen. ed.), *Vatican Council II*, vol. 1, *The Conciliar and Post Conciliar Documents* (= FLANNERY 1), North port/New York, Costello Publishing Company, Dublin, Ireland, Dominican Publications, 1998, pp.1-36, here at p. 15.

sojourn in a strange place of one who is not a citizen; second, a foreign country, and third, a congregation or parish, in so far as it represents a community of those who are strangers in a place. Thus *paroikia* is used figuratively for Christians whose real home is in heaven.⁴ In its verb form *paroikein*, it signifies living together or to living abroad without the right of citizenship. It could also mean to live beside, or to be a neighbor.⁵ For Biblical writers, *paroikos*, is a foreigner who lives in a community, where he/she enjoys some privileges, but without full citizenship.⁶ The Jewish people always had a religious awareness of being foreigners in this world and for them *paroikia* was a community on pilgrimage towards the Promised Land. The New Testament and early Christianity adopted this understanding of the concept of *paroikia* to signify the present existence of the Christian community whose true country and citizenship is in heaven.

The *paroikia* (a group of dwellings), was originally a subdivision of the province. Later, the term was employed by the Church to designate the community governed by the Bishop-Pastor. Due to the growth of the Christian community the role of the bishop and of the pastor of a parish eventually became distinct, and in this way there emerged distinct parishes in a diocese.⁷ At present, the term parish is used exclusively for small communities of the Church whose head is not a bishop but a presbyter under the authority of the bishop.⁸

⁴ See Joseph H. THAYER, *Thayer's Greek English Lexicon of the New Testament*, Edinburgh, T. & T. Clark, 1905, p. 490.

⁵ See Walter BAUER, *A Greek-English Lexicon of the New Testament and Other Early Christian Literature*, Chicago, University of Chicago Press, 1957, pp. 628-629.

⁶ Cfr. Genesis 12:10; 17:8; 19:9; 21:34; 26:3.

⁷ See John D. FARIS, *The Eastern Catholic Churches: Constitution and Governance According to the Code of Canons of the Eastern Churches*, New York, Maron Publications, 1992, p. 574. Also see Victor J. POSPISHIL, *Eastern Catholic Church Law*, Revised and Augmented Edition, New York, Saint Maron

1.1.1. *Cleri sanctitati* on the Parish

The present legislation is always understood in light of the former. This is also true in regard to the concept of a parish. Before examining what the Second Vatican Council documents and CCEO say about the parish, a brief analysis of the concept of parish in the *motu proprio Cleri sanctitati*, the canonical legislation governing Eastern Churches till 30 September 1991, is necessary.⁹

1.1.1.1. Juridical Notion of a Parish

There is not a single canon in *Cleri sanctitati* which defines the parish. As CIC 1917 had done, CS retains substantially the same elements and discipline provided by the Council of Trent.¹⁰ Canon 160 of CS refers to parish while speaking of the territory of an eparchy. The term parish used in different canons in CS emphasizes its territorial dimension rather than the people:

Publication, 1996, pp. 246-247.

⁸ For a concise description of the historical development of the concept of the parish, see Paul Thomas O'CONNEL, *The Concept of the Parish in the Light of Second Vatican Council*, Washington, DC, The Catholic University of America, 1969; William J. LADUE, "A Structural Arrangement of the Parish: A Brief History," in *The Jurist*, 30 (1970), pp. 314-327; Alex BLOCHLINGER, *The Modern Parish Community*, New York, Geoffrey Chapman, 1965; Casiano S. FLORISTAN, *The Parish: Eucharistic Community*, London, Fides Publishers, 1965; Sabbas J. KILIAN, *Theological Models for the Church*, New York, Alba House, 1976; A.B. MICKELLS, *The Constitutive Elements of Parishes: A Historical Synopsis and a Commentary*, Canon Law studies, no. 296, Washington, DC, Catholic University of America, 1950, pp.14-17; also Alphonse BORRAS, *Les communautés paroissiales: droit canonique pastorals*, Paris, Les Éditions du Cerf, 1996, pp. 15-16; James A. CORIDEN, *The Parish in the Catholic Tradition: History, Theology and Canon Law*, New York, Paulist press, 1997, pp. 1-51.

⁹ *Cleri sanctitati* (=CS) was promulgated by Pope Pius XII on 2 June 1957, in *AAS*, 49 (1957), pp. 433-603, and came into force on 25 March 1958. With this apostolic letter the whole law *on persons* was published. The concept of a parish is in c. 160, and also in between cc. 489-526, which deal with pastors, parochial vicars and rectors of churches. For English translation and commentary on *Cleri sanctitati*, see Victor J. POSPISHIL, *Code of Oriental Canon Law: Law on Persons*, Ford City, PA, St. Mary's Ukrainian Catholic Church, 1960.

¹⁰ See TRENT, Sess. 24, c. 13, in Norman P. TANNER, *Decrees of Ecumenical Councils*, vol. 2, London, Sheed & Ward, 1990, pp. 767-768.

The territory of each eparchy shall be divided into distinct parts, and each part shall have assigned its own church, with its own faithful; and a particular rector shall be appointed in the capacity as its own pastor for the necessary care of souls [...]¹¹

The sections of an eparchy mentioned in c. 160 §1 are parishes. The sections of apostolic, patriarchal or archiepiscopal exarchies are called quasi-parishes if they have their own rector.¹²

The analysis of the above canons indicates that the concept of a parish found in CS consists of five juridical elements. They are: (i) a distinct territorial part of an eparchy, (ii) parish church, (iii) faithful, (iv) pastor, (v) parochial ministry (necessary care of souls).

1.1.1.2. Kinds of Parishes According to *Cleri sanctitati*

At least three types of parishes are implied in c. 160 of CS: parishes (*strictae dictae*), quasi-parishes, and personal parishes.

1.1.1.2.1. Territorial Parishes

The first category of parishes is based on territoriality. CS c. 160 §1 speaks of the division of an eparchy into distinct parts and the first part of §3 of the same canon makes it clear that those distinct parts are called parishes. This type of parish is regarded as normative and it should have its own proper church, pastor and community of faithful.

¹¹ CS c. 160 §1: "Territorium cuiuslibet eparchiae dividatur in distinctas partes; uni cuique autem parti sua peculiaris ecclesia cum populo determinato est assignanda, suusque peculiaris rector, tamquam proprius eiusdem pastor, est praeficiendus ad necessariam animarum curam."

¹² CS c. 160 §3: "Partes eparchiae, de quibus in §1, sunt paroeciae; partes exarchiae apostolicae, patriarchalis vel archiepiscopalis, si peculiaris rector iisdem fuerit assignatus, appellantur quasi-paroeciae." In the formulation of the *motu proprio* the influence of CIC 1917 is evident. Therefore, CS was influenced greatly by CIC 1917 with regard to the concept of parish. The corresponding canon of CS 160 §1, 3° is seen in CIC 1917 c. 216 § 4, 2°.

1.1.1.2.2. Quasi-Parishes

The second part of CS c.160 §3 speaks of quasi-parishes. The sections of an apostolic, patriarchal or archiepiscopal exarchies are called quasi-parishes if they have their quasi-pastor. Too much emphasis is not to be placed on this division which could imply that quasi-parishes are only similar and not identical to parishes properly so called. For CS itself considers priests who are charged with the care of souls in a certain territory equal to pastors when it states that quasi-pastors have all parochial rights and obligations mentioned under the name of pastors.¹³

1.1.1.2.3. Personal Parishes

Canon 160 § 4 of CS makes provision for the establishment of personal parishes. But this can be done only with a special apostolic indult. These parishes are not circumscribed by any territorial limits but are to have their own church, a pastor and a community of faithful determined by personal qualities.¹⁴

1.1.1.2.4. Parish Entrusted to Religious

Canon 491 of CS offers the possibility of entrusting a parish to a religious house. According to this canon, the bishop can entrust a parish to a house of religious institute for

¹³ See CS c. 489 §3. According to Pospishil, priests who are charged with care of souls in a certain territory but lack the title and character of pastor are quasi-pastors, without considering the official title assigned to them. See POSPISHIL, *Law on Persons*, p. 212.

¹⁴ CS c. 160 §4. 1°: "Non possunt sine speciali Sedis Apostolicae indulto constitui paroeciae pro diversitate sermonis fidelium eiusdem ritus in eadem civitate vel territorio degentium, nec paroeciae mere familiares aut personales; ad constitutas autem quod attinet nihil innovandum, inconsulta Apostolica Sede."

2°: "Indultum et consilium de quibus in n. 1 dare competit Patriarchae et Archiepiscopo ad normam iuris in suo cuiusque territorio."

an undetermined period of time. Such a parish is not regarded as a religious parish, but remains fully under the governance of the diocesan bishop, and for a reasonable cause, the bishop can, observing the norms of law and terms of agreement, revoke the trusteeship, or the competent superior can relinquish the parish under certain conditions.¹⁵

1.1.2. Second Vatican Council on the Parish

The conciliar legislation has made no direct changes to what CIC 1917 and CS had said of the parish. However, it prepared the way for future changes to be incorporated in the revised legislation. The Council did not set aside a special section or a specific title on the parish. Nor did it provide a precise definition of a parish. However, several references to the need, the essential nature and functions of the parish are found in various documents.¹⁶

The Council addressed to four major aspects of the parish: the relationship between the diocese and parish, between the bishop and the pastor, the parish as a community of faithful, and the pastoral involvement of the faithful.

¹⁵ CS c. 491 § 1: "Episcopus committere potest paroeciam alicui domui religiosae precario tantum. §2. Ex hac precaria commissione paroecia non fit religiosa, sed saecularis remanet, et, ex rationabili causa, tum Episcopus commissionem revocare, tum superior competens paroeciae renuntiare, potest, servatis clausulis conventioni adiectis." If the parish is united to a religious house or to another moral person, it is always necessary in the Oriental canon law that a physical person is appointed as pastor of the parish. See CS c. 490; Meletius M. WOJNAR, "The Code of Oriental Canon Law *De ritibus orientalibus* and *De personis*," in *The Jurist*, 19 (1959), p. 459.

¹⁶ The most comprehensive single statement of the Second Vatican Council about the make up of a parish is found in n. 42 of the Constitution on the Sacred Liturgy. It has provided the foundation for study of more than half of the elements of a parish. The elements mentioned in this document on parish are also found in another conciliar document. See SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops *Christus Dominus* (=CD), 28 October 1965, in *AAS*, 58 (1966), pp.673-696, here at nn. 20 and 32, pp. 683, 688-689. English translation in FLANNERY 1, pp. 575 and 583. Over the years canonists have tried to identify the "constitutive" elements of a parish. See Michael A. HACK, *Stability of the Office of Parish Priest in the 1983 Code of Canon Law*, Ottawa, Saint Paul University, 1988, pp.106-114. For a detailed study of the concept of parish according to Second Vatican Council, see Edward A. SWEENEY, *The Obligations and Rights of the Pastor of a Parish According to the Code of Canon Law*, New York, Alba house-St. Pauls, 2002, pp. 3-28.

1.1.2.1. Diocese and Parish

The Council dealt first with the diocese and then with the parish, because the latter is a portion of the former. The parish is not the total Church in miniature. It remains a cell of the diocese as the council stated:

Parishes, thus, cannot be considered separate from the diocese. In the same way, the faithful should foster concerns beyond their locality; because a parish is a cell of the universal Church, it should have a feeling for the entire people of God.

According to the Council Fathers, the parish should be understood as a community of persons through whom the universal Church is being communicated to the world practically, and not merely as a territorial element created simply for administrative purposes, or as an organism created by positive legislation for structuring the parochial affairs. According to one canonist:

Just as the universal Church is concentrated in each of the Episcopal Conferences, so is the diocesan church concentrated in the Bishop who animates each parish. Thus it is that the dioceses can be the universal Church communicated; and thus it is that the parish becomes the participating local Church.¹⁷

1.1.2.2. Bishop and Pastor of a Parish

Before Vatican Council II, the idea of communion between the bishop and the pastor was never rightly understood. People normally saw it only in terms of submission of the pastor to the bishop, as if he had neither rights of his own nor independent thinking. But in

¹⁷ See Michel THÉRIAULT, "The Post Conciliar Parish," in *Studia canonica* (= *StC*), 1 (1967), pp.193-194.

the dogmatic constitution on the Church *Lumen gentium*, the work of a priest is shown to be very much associated with the effectiveness of the bishop's ministry:

The priests, prudent co-operators of the Episcopal college and its support and mouthpiece, called to the service of the people of God, constitute, together with their Bishop, a unique sacerdotal college (presbyterium), dedicated it is true to a variety of distinct duties. In each local assembly of the faithful they represent in a certain sense the Bishop, with whom they are associated in all trust and generosity.¹⁸

1.1.2.3. Parish as a Community of the Faithful

The Council shifted the emphasis on the parish from the old way of looking at it as an organization or institution to a community of the faithful. This can be seen in different expressions of the parish in conciliar documents.¹⁹ Furthermore, the Council also stated, "Efforts must also be made to encourage a sense of community within the parish."²⁰

1.1.2.4. Pastoral Involvement of the Faithful

The Council inspired a truly new way of looking at a parish. The conciliar documents retained the traditional descriptions of territoriality, pastoral office, stability and

¹⁸ See SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium* (=LG), 21 November 1964, in *AAS*, 57 (1965), pp. 5-75, here at n. 28, pp. 33-36; English translation in FLANNERY 1, p. 385.

¹⁹ The idea of community and of the local expressions of the entire Church of Christ is expressed in following terms: "grouping of the faithful," see SC, n. 42; "Eucharistic community," see CD, n. 30; "Christian Community," see SECOND VATICAN COUNCIL, Decree on the Life and Ministry of Priests *Presbyterorum ordinis*, (=PO), 7 December 1965, in *AAS*, 58 (1966), pp. 991-1024, here at nn. 5-6, pp. 997-1001; English translation in FLANNERY 1, p. 870-875; "local community," see AA, n. 30. The idea of family has also been used to express the parochial community. Thus we find, "family of God," see PO, n. 6, and "ecclesiastical family," see AA, n. 10. In the following references also we see the council referring to communities of the faithful as "eucharistic communities." See SC, nn. 2, 6, 10, 41, 106; LG, nn. 3, 7, 10, 23, 42, 50; see SECOND VATICAN COUNCIL, Decree on Ecumenism *Unitatis redintegratio* (=UR), 21 November 1964, in *AAS*, 57 (1965), pp. 90-112, here at n. 2, 4, 15, pp. 91-92, 94-96, 101-102; English translation in FLANNERY 1, pp. 453, 456-459, 465-466.

²⁰ See SC, n. 42

care of souls; however, a distinct emphasis on the personal rather than institutional aspect of the parish was apparent in conciliar teaching. Commenting on the council's view of the parish community, Thériault says:

Parish life is to be seen as a family life, a life of work, of common recreation; it is the events, which pre-occupy all people, the joys and misfortunes they meet, the influences they undergo.²¹

1.1.3. Parish in CCEO

The post-conciliar legislation flowing immediately from Vatican Council II presented no significant variation in the juridical description of the parish. However, the interim legislation²² prepared the way for some modification of terms relating to the parish which now appear in the new Latin Code of 1983 and in the new Eastern Code (CCEO)²³ of

²¹ See THÉRIAULT, "The Post Conciliar Parish," p. 199; see also G. ABEGUNRING, *Parish Organization in Conciliar Documents and in the Code of Canon Law with Special Reference to Oyo Diocese in Nigeria*, Roma, Pontifical University of Urbaniana (=PUU), (1988), pp. 43-44.

²² By interim legislation is meant the *motu proprio Ecclesiae sanctae* (=ES 1) promulgated by Pope Paul VI on 6 August 1966 on the implementation of the Decrees *Christus Dominus*, *Presbyterorum ordinis*, *Perfectae caritatis* and *Ad gentes divinitus*. See *AAS*, 58 (1966), pp. 757-758 and 783-787; ES 1 dealt with the establishment, change, and suppression of parishes (ES 1, n. 21); parishes entrusted to religious (ES 1, n. 33); and the modification of the benefice system (ES 1, n. 18). English translation in FLANNERY I, pp. 603, 607, and 602.

²³ CCEO has its solid foundation in conciliar documents, especially for its theological and ecclesiological visions. In order to maintain co-ordination in the revision and codification of the canons in the Code, a definite and clear policy was established in the form of a set of Guidelines approved by the first Plenary Assembly of *Pontificia Commissio Codici Iuris Canonici Orientalis Recognoscendo* (=PCCICOR), in 1974. See "Guidelines for the Revision of the Code," in *Nuntia* 3 (1976), pp. 18-24. CCEO is divided into 30 titles and each title is further divided into several chapters and chapters into articles. There are 1546 canons in this Code. The parish is described in Title VII, chapter III, cc. 279-303 with the subtitle *De paroeciis, De parochis et de Vicariis paroecialibus*. For PCCICOR reports on the formulation of these canons, see *Nuntia*, 9 (1979), pp. 62-82; 19 (1984), pp. 18 and 79-86; 23 (1986), pp. 77-95; 24-25 (1987), pp. 277-301; 27 (1988), pp. 44-45 and 82; 28 (1989) pp. 54-56; 29 (1989), p. 69; 31 (1990), pp. 38-39. For the corresponding canons in the Latin Code, see CIC 1983 cc. 515-552. For commentary on cc. 279-303 of CCEO, see FARIS, *The Eastern Catholic Churches*, pp. 573-622; POSPISHIL, *Eastern Catholic Church Law*, pp. 246-262; Pio V. PINTO, *Commento al Codice dei canoni delle Chiese orientali*, Città del Vaticano, Libreria editrice Vaticana, 2001, pp. 249-271; George NEDUNGATT (ed.), *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, Rome, Pontificio Istituto Orientale, 2002, pp. 242-244.

1990. The CCEO is mainly based on two sources: the *motu proprio Cleri sanctitati* and the documents of Second Vatican Council. The description of a parish in CCEO is textually more precise than its Latin counterpart, because the former does not include in it the expression “the pastor as its proper shepherd” functioning under the authority of the bishop.²⁴

1.1.3.1. Definition of the Parish

Canon 279 of CCEO provides a descriptive definition of a parish:

A parish is a definite community of the Christian faithful established on a stable basis in the eparchy, whose pastoral care is committed to a pastor.²⁵

We notice the following essential elements in this definition:

1.1.3.1.1. Parish a Definite Community of the Christian Faithful

In the above definition, the focus is on the parish as a definite community of the Christian faithful. It echoes the conciliar understanding of the Church as the People of God, as a community of faith, hope and charity. The definition speaks of a parish not merely as a community of the faithful but as a definite community of the Christian faithful. One of the factors, which determine the definiteness of the parish community, is its territoriality.²⁶

Though territory is an important factor, it is the baptized people who determine the territory

²⁴ See CCEO c. 281 §1.

²⁵ CCEO c. 279: “Paroecia est certa communitas christifidelium in eparchia stabiler constituta, cuius cura pastoralis committitur parochi.” The sources of this definition of parish are CS c. 160 §§ 1-3; 489 §1; SC, n. 42; CD, n. 30; AA, n.10, and SECOND VATICAN COUNCIL, Decree on the Church’s Missionary Activity *Ad gentes divinitus* (=AG), 7 December 1965, in *AAS*, 58 (1966), pp. 947-990, here at n. 37, p. 984; English translation in FLANNERY 1, pp. 850-851.

²⁶ A person belongs to a definite and determinate territory on the basis of *domicile or quasi-domicile*

and not vice-versa. Only through baptism an individual is incorporated into the Church of Christ and becomes a member with the rights and duties proper to a Christian.²⁷ The non-baptized are not members of the parish because they do not belong to the Church; however, in CCEO c. 293, the pastor of a parish is asked to manifest in his daily contacts solicitude for the Christian and the non-Christian, for the Catholics as well as for the non-Catholics, a truly priestly and pastoral example of ministry and a proper witness of truth and life to all.²⁸

The community dimension of the parish is strengthened by the abolition of the benefice system.²⁹ It responds also to the deep desires of people for a sense of belonging, identity, acceptance, appreciation and love. Community is the fullness of home. It is where we are listened to and accepted, appreciated and loved not just by our family but also by all our neighbors with whom we share our lives.

1.1.3.1.2. Stably Established

The community of parishioners should be constituted in a stable way within the eparchy by the competent authority, through a decree of the eparchial bishop.³⁰ The parish is not to be considered as a transitory assembly of believers, which exists only when gathered

according to the norms of CCEO c. 912. See also in CCEO cc. 913-919.

²⁷ CCEO c. 7 §1: "Christifideles sunt, qui per baptismum Christo incorporati in populum Dei sunt constituti atque hac ratione muneris Christi sacerdotalis, prophetici et regalis suo modo participes secundum suam cuiusque condicionem ad missionem exercendam vocantur, quam Deus Ecclesiae in mundo implendam concedit."

²⁸ CCEO c. 293: "Memor sit parochus se debere sua cotidiana conversatione et sollicitudine baptizatis, catholicis et acatholicis, exemplum ministerii vere sacerdotalis et pastoralis exhibere omnibusque testimonium veritatis et vitae reddere et ut bonus pastor illos quoque quaerere, qui baptizati quidem in Ecclesia catholica a susceptione sacramentorum se abinent vel immo a fide defecerunt."

²⁹ See PO, n. 20; ES 1, n. 8.

³⁰ See CCEO c. 280 §2.

to celebrate the Eucharist; it is rather a stable community established on a permanent basis with a determined pastor and members. This stability is wanting when a community of faithful is made up of refugees or employees of factories who temporarily reside in certain regions isolated from populated areas. Canon 280 §1 is applicable to situations where communities cannot be erected into parishes or quasi-parishes, but the eparchial bishop is to provide some other means for their pastoral care.³¹

1.1.3.1.3. In the Eparchy

The parish is established within an eparchy. Canon 177 of CCEO defines the eparchy as:

a portion of the people of God that is entrusted to a bishop to shepherd, with the co-operation of the presbyters, in such a way that, adhering to its pastor and gathered by him through the gospel and the Eucharist in the Holy Spirit, it constitutes a particular Church in which the one, holy, catholic and apostolic Church of Christ truly exists and is operative.³²

It is this particular Church, an eparchy that is divided into communities called parishes; accordingly a parish does not exist in isolation, but belongs to a greater portion of the people of God. Thus the parishes are part of an eparchy and are like a *cellula* of the eparchy.

³¹ See FARIS, *Eastern Catholic Churches*, pp. 574-575.

³² CCEO c. 177 §1: "Eparchia est populi Dei portio, quae Episcopo cum cooperatione presbyterii pascenda conceditur ita, ut Pastori suo adhaerens et ab eo per Evangelium et Eucharistiam in Spiritu Sancto congregata Ecclesiam particularem constituat, in qua vere inest et operatur una, sancta, catholica et apostolica Christi Ecclesia." "Eparchy" is a Greek word used originally in Byzantine civil law for a subdivision of a civil diocese. See Thomas J. GREEN, "Diocesan and Parish Structures: A Comparison of Selected Canons in the *Codex iuris canonici* and *Codex canonum Ecclesiarum orientalium*," in *StC*, 33 (1999), p. 364.

1.1.3.1.4. Pastoral Care of Souls

Pastoral care of souls is another element of the parish. This comprises the administration of sacraments, liturgical worship and provision for other spiritual needs such as religious instruction through catechetics and preaching of the divine word. The ministry of the pastor must be carried out under the authority of the eparchial bishop, who is entrusted with the care of souls of the whole eparchy.

1.1.3.1.5. Pastor

The parochial community must have a priest as its proper pastor to take care of the spiritual needs of the community. He must lead the community to the supernatural end for which the Church is founded by teaching, sanctifying and governing.³³ He exercises his office as the principal collaborator of the eparchial bishop (c. 281 §1).

1.1.3.2. Kinds of Parishes

Canon 280 §1 identifies various types of parishes. The canon reads:

As a rule, a parish is to be territorial, that is, it is to embrace all the Christian faithful of a certain territory. If, however, in the judgment of the eparchial bishop it is advisable, after consulting the presbyteral council, personal parishes are to be erected, by reason of nationality, of language, of ascription of the Christian faithful to another Church *sui iuris* or indeed of some other clearly distinguishing factor.³⁴

³³ See CCEO c. 289.

³⁴ CCEO c. 280 §1: "Paroecia regulariter sit territorialis, quae scilicet omnes complectatur Christifideles certi territorii; si vero de iudicio Episcopi eparchialis consulto consilio presbyterali id expedit, erigantur paroeciae personales ratione nationis, linguae, ascriptionis Christifidelium alii Ecclesiae sui iuris immo vel alia definita ratione determinatae."

1.1.3.2.1. Territorial

Normally a parish is territorial, and the eparchial bishop determines its geographic boundaries after consulting the presbyteral council. Whenever a parish is significantly altered through change of boundaries, the bishop is obliged by law to consult the presbyteral council.³⁵

1.1.3.2.2. Personal

The eparchial bishop, on the basis of pastoral criteria, is empowered to create personal parishes. This could be done by reason of rite, language, and nationality of the faithful of a certain territory and by some other pastorally determined criteria (e.g., academic or university parish). The factors, which necessitate the establishment of personal parishes, are treated in the following sections.

1.1.3.2.3. Rite

The membership in another *sui iuris* Church could be the determinant in the establishment of a personal parish. Canon 280 §1 has special significance for members of Eastern Catholic *sui iuris* Churches. The main aim of creating the personal parish is for the proper care of the spiritual needs of the Eastern Catholics who live in the midst of other Catholics. If the members of an Eastern Catholic Church *sui iuris* cannot fulfill their spiritual obligations without the creation of personal parishes, it can be created according to the law. The basic source of this canon is *Orientalium Ecclesiarum* n. 4, which states:

Provision must be made therefore everywhere in the world to protect and

³⁵ See POSPISHIL, *Eastern Catholic Church Law*, p. 249.

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. [...] Each and every Catholic, as also the baptized members of any non-Catholic Church or community, who come to the fullness of Catholic communion, must retain each his own rite wherever he is, and follow it to the best of his ability [...].³⁶

1.1.3.2.4. Language

The language of a particular group of people may prove to be an obstacle to the proper care of their spiritual needs. An eparchial bishop has the obligation to create a special parish for such people who could be otherwise spiritually deprived. The creation of such a parish is to be done with the interest of the people concerned, particularly when they wish to preserve their language and customs.

1.1.3.2.5. Nationality

Similarly, the people who have the same nationality and who could find it more meaningful to foster their specific liturgical traditions as a group may be constituted into a personal parish.

³⁶ See SECOND VATICAN COUNCIL, Decree on the Catholic Eastern Churches *Orientalium Ecclesiarum* (=OE), 21 November 1964, in *AAS*, 57 (1965), pp. 76-85, here in n. 4, p. 77; English translation in FLANNERY I, pp. 442-443.

1.1.3.2.6. Independent Groups

Various other groups, such as a college and university population, members of military forces, charismatic groups, etc., may be regarded as communities of faithful, and they could be established as personal parishes.

1.1.3.3. Parish Entrusted to Religious

In light of increasing pastoral demands owing to lack of eparchial clergy, the Second Vatican Council urges religious priests to give more help to eparchial bishops in pastoral ministry with due consideration given for the special character of their religious institute.³⁷ In such a situation, eparchial bishops can at times erect a parish in the church of a religious institute or a society of common life in the manner of religious.³⁸ It should be done after consulting the presbyteral council, and with the consent of the major superior of the same institute or society. This erection must be done by means of a written agreement made between the eparchial bishop and the major superior of religious institute or society of common life in the manner of religious. It is necessary that this agreement states precisely what parochial ministry is to be fulfilled, the persons to be attached to the parish, the financial arrangements, and the rights and obligations of the members of the same institute or society in that church and those of the pastor (c. 282 §2).

³⁷ See CD, n. 34.

³⁸ Cfr. CCEO cc. 282 §1, 480.

According to c. 284 §2, eparchial bishop can entrust a parish to a member of a religious institute or society of common life in the manner of religious. In such a situation major superior proposes for appointment a suitable priest of his institute or society to the eparchial bishop, with due regard for agreements entered into with the eparchial bishop or other authority determined by the particular law of the respective Church *sui iuris*.

Another manner in which the religious can be involved in eparchial ministry is to entrust them the apostolic works or functions proper to the eparchy in accord with the norm of law. But such an arrangement is to be distinguished from the appointment of a religious priest as pastor of a parish. For entrusting apostolic works to religious, the norms stated in c. 415 §3 must be followed.

Only the eparchial bishop is competent to attach a parish to a religious institute or society of common life in the manner of religious.³⁹ The eparchial administrator is prohibited from doing so.⁴⁰ The *protosyncellus* or the *syncellus* can do so only with a special mandate from the competent hierarch.⁴¹

The arrangement is to be made in writing and signed both by the eparchial bishop and by the major superior of the institute or society. Areas, which should be treated in the agreement, are:

³⁹ A parish cannot be erected in the Church of a monastery, nor can monks be appointed pastors, without the consent of the patriarch within the territorial boundaries of the Church over which he presides or, in other cases, of the Apostolic See. See CCEO c. 480.

⁴⁰ See CCEO c. 282 §1.

⁴¹ See CCEO c. 284 §2.

(1) Length of time of the arrangement: The parish could be entrusted to the institute or society for an indefinite or for a specific period of time.

(2) Appointment of pastor and parochial vicar(s): Canon 281 §2 explicitly prohibits the appointment of a juridical person as pastor of a parish. Therefore, a specific member of the community must be appointed as pastor of the parish. The manner of appointment is also to be arranged. The eparchial bishop also enjoys the right to appoint pastors (c. 284 §1), but in the case of a parish entrusted to an institute or society, the major superior can propose a suitable presbyter to the eparchial bishop for appointment (c. 284 §2).

(3) Fiscal and property matters: The agreement must determine the issue concerning the proportion of the revenue which should go to the parish and eparchy and which should be allocated to the religious institute or society. The title of the property should also to be determined in the contract.⁴²

1.1.3.4. Parish Entrusted to a Team of Priests

The second paragraph of c. 287 of CCEO speaks of team ministry. It is a concept that is new to the Church law since Vatican II. It is an emerging form of parish ministry and administration designed to provide for the voluntary sharing of authority and responsibility by the priests assigned to a parish. The priests members of a pastoral team jointly plan the

⁴² See FARIS, *Eastern Catholic Churches*, pp. 579-580. Regarding liturgical norms, celebration of the sacraments, catechetics, and administration, a parish entrusted to a religious institute is subject to the same requirements as any other parish of the eparchy.

ministry they are to undertake and by mutual consent establish their individual areas and responsibilities within that ministry.⁴³

The eparchial bishop is to determine the feasibility of team ministry. He might be motivated by a concern for the needs of individual priests who comprise the team as well as the exigencies of pastoral ministry to a specific parish served by the team. Although the members of the team are to act as one, one priest among the team must be named its moderator. Canonically speaking, he represents the parish in all juridical affairs according to law (c. 290 § 1). Ideally, the moderator represents the pastoral team and although the law is not clear on this matter, he should always act in consultation with the team members. Team is accountable directly to the hierarch through the moderator.⁴⁴ The Eastern Code neither employs the technical term *in solidum* nor contains canons parallel to those in CIC1983.⁴⁵

1.1.3.5. Establishment of the Parish

The Christian faithful have the right to receive from the pastors the spiritual goods of the Church, especially the word of God and the Sacraments (CCEO c.16). Such a right on the part of the faithful creates an obligation on the part of the Church to provide pastoral care on an ongoing basis for the faithful and, for this reason, parishes are established.⁴⁶

The Eastern Code incorporates the concept of parish as presented by the Second Vatican Council and post conciliar legislation. The eparchial bishop alone can establish,

⁴³ See FARIS, *Eastern Catholic Churches*, p. 586

⁴⁴ Ibid.

⁴⁵ See CIC 1983 cc. 542-544.

⁴⁶ See FARIS, *Eastern Catholic Churches*, p. 574.

suppress or substantially modify parishes in consultation with the presbyteral council. It may happen that in some parishes, pastoral ministry may face great difficulties and become less effective because of many reasons, such as the members of the people to be ministered to, vastness of the territory, etc. In such situations, the parishes are to be suitably divided, as required by concrete circumstances. So also, parishes, which are too small, could be united,⁴⁷ but it should always be kept in mind that the salvation of souls is to be the ultimate criterion in determining the establishment, division, and suppression of parishes or any significant changes to them.⁴⁸

1.1.3.6. Modification and Suppression of a Parish

In circumstances mentioned above, only the eparchial bishop has the competence to significantly modify or suppress a parish. He does not have to seek the Holy See's intervention in this matter, but he is required by law to consult with the presbyteral council, as he has to do in the case of establishment of parishes.

The main reason for modification and suppression of parishes should be the concern for the proper care of souls. A parish may be suppressed in case of migration of people from a community, or complete destruction of a place, or lack of priests⁴⁹

⁴⁷ See ES 1, n. 21 §1.

⁴⁸ See CD, n. 32.

⁴⁹ See ABEGUNRUN, *Parish Organization*, pp. 58-59. According to Pospishil, the bishop must erect parishes, but they are made alive by the faithful; they are the parish. See POSPISHIL, *Eastern Catholic Church Law*, p. 248.

1.1.3.7. Vacant Parish

Canon 298, which speaks of the situation of a vacant parish, reads as follows:

If the parish becomes vacant or the pastor is impeded by any cause whatever from exercising the pastoral function in the parish, the eparchial bishop is to appoint as soon as possible another priest as parochial administrator.

A parish becomes vacant if the pastor dies, or is informed in writing that his resignation has been accepted or that the term of office has expired, is transferred or removed according to the norms of law.⁵⁰ A parish is impeded if the pastor is unable to fulfill his responsibilities for reasons of health or if he is held captive or exiled.⁵¹ While recourse against a decree of removal is pending, the bishop cannot appoint a new pastor, but is to provide a parochial administrator in the meantime.⁵²

If a parish becomes vacant or impeded, the eparchial bishop has the right and responsibility to appoint a parochial administrator, who must be a priest,⁵³ as soon as possible.⁵⁴ The administrator has the same rights and obligations as the pastor unless the eparchial bishop determines otherwise (c. 299). In order to provide for the uninterrupted care of the parish, provision must be made for the interim-governance of the parish prior to the appointment of a parochial administrator.⁵⁵

⁵⁰ See CCEO c. 297 §1

⁵¹ See CCEO c. 233 §1

⁵² See CCEO c. 1396 §3

⁵³ See CCEO cc. 281 §1 and 299 §1

⁵⁴ According to CCEO c. 941, canonical provision for which no term has been prescribed by law, is never to be deferred beyond six available months from the receipt of the news of the vacancy.

⁵⁵ See FARIS, *The Eastern Catholic Churches*, pp. 607-610, 621. Until an administrator is appointed, the parochial vicar assumes interim care of the parish; if there are several parochial vicars, the senior in presbyteral ordination; if there is none, the nearest pastor. See CCEO c. 300.

1.2. THE PASTOR OF A PARISH IN EASTERN TRADITION

Different terms like “Father,” “the priest in-charge,” “parish priest,” “vicar,” etc., are frequently used to mean the pastor of a parish. The term “parochus” in Latin, derived from the Greek word “paroikos,”⁵⁶ means a host officer who takes care of important officials during their travels. The term “pastor,” Latin in origin, means a shepherd⁵⁷ and is properly applicable to the pastor of a parish who really feeds his flock with word and the sacraments.

In the early Church, the parish (a community headed by a pastor) and the diocese (the community headed by a bishop) were coextensive. At that time, the bishop, assisted by his presbyterate, directly and immediately served the pastoral needs of the community. When the Christian community expanded as a result of the diffusion of the Gospel message to the countryside, and especially after the public imperial recognition of Christianity, new structures began to evolve to respond to the needs of the larger community. Presbyters who had formerly resided with the bishop and traveled to outlying areas were assigned permanently to rural communities where they resided, thereby creating communities distinct from that of the bishop.⁵⁸

Only in the fifth century there is evidence of priests residing in parishes where they worked. The parish began to be considered as a regular institution only in the sixth century, but it was only at the Council of Trent that the division of eparchies into distinct parishes

⁵⁶ See H. G. LIDDELL and SCOTT, *A Greek English Lexicon*, New York, McMillan, 1889, p. 1342.

⁵⁷ See D. P. SIMPSON, *Cassell's Latin Dictionary*, New York, McMillan, 1968, p. 426.

⁵⁸ See FARIS, *Eastern Catholic Churches*, p. 577.

with proper pastor was made universal.⁵⁹ Thus, the laws and regulations governing priests and parishes of the present form date back to the Council of Trent. However, in the East we notice different systems of pastoral services exercised by pastors of parishes.⁶⁰ The pastors of parishes as presbyters are in a special sense collaborators of the bishop. The Second Vatican Council and CCEO emphasize this idea.

1.2.1. *Cleri sanctitati* on the Pastor of a Parish

The relevant canons on pastor of a parish according to CS should help us in understanding the progress made by the present canonical legislation.

Canon 489 gives the definition and classification of pastor:

The pastor of a parish is a presbyter to whom a parish has been assigned in *titulum* to attend to the care of souls under the authority of the bishop.⁶¹

The canon eliminates the possibility of a moral [juridic] person being the pastor of a parish or titular of his office. Even if the parish is united to a religious house or to another moral person (CS c. 489 §2), it is always necessary in the Oriental discipline that a physical person be appointed as pastor. The corresponding canon 451 in CIC 1917 admitted the possibility of a moral [juridic] person being pastor of a parish. CS c. 489 §3 enumerates those who are considered equal to pastors. It includes quasi-pastors, who are priests charged with the care of souls in a certain territory, but lack the title and character of a pastor of a

⁵⁹ See TRENT, Sess. 24, c. 21, in TANNER, *Decrees of the Ecumenical Councils*, vol. 1, p. 245; see also FARIS, *The Eastern Catholic Churches*, pp. 577-578.

⁶⁰ See POSPISHIL, *The Law on Persons*, pp. 210-211

⁶¹ CS c. 489 §1: "Parochus est presbyter cui paroecia collata est in titulum cum cura animarum sub Episcopi auctoritate exercenda."

parish. This canon also speaks of priests to whom the care of souls within a determined territory is entrusted in a stable fashion “*ad instar parochorum.*”

1.2.1.1. Qualifications for the Pastor

Canon 493 of CS requires of a priest certain qualifications to be appointed pastor of a parish. First of all he should be a man of good moral character with sufficient academic qualifications. He should also have zeal for souls, prudence and other virtues, along with those qualifications, which are required by common as well as by particular law for the effective administration of a parish.

1.2.1.2. Stability of the Pastor

In this regard CS does not follow a uniformity of law. It speaks of stability in the office of pastor of a parish, some of whom enjoy greater stability than others. The pastors of the former group were irremovable. According to CS, irremovable pastors could not be made removable without the consent of the Apostolic See, but the bishop could declare those who were removable irremovable with the advice of the eparchial consulters, but not by the administrator of the vacant see. Pastors belonging to religious communities were always removable; they could be removed at the will of the bishop after notifying the superior, or by the superior after notifying the bishop, both having equal rights, and the one did not need the consent of the other.⁶²

⁶² See CS c. 494 §§ 1-5; see also POSPISHIL, *The Law on Persons*, p. 214.

1.2.1.3. Appointment of the Pastor

The right to appoint a pastor belonged to the bishop. The bishop had a grave obligation in conscience to confer without any favoritism the vacant parish on the priest whom he judged best qualified for its governance. In judging the candidate the bishop must not only consider personal qualifications but also all other qualities required for the administration of the parish. The bishop should examine the documents preserved in the archives of the chancery related to the candidate to be appointed. He shall also gather information, even secret, from places outside the eparchy should he consider it necessary.⁶³

1.2.1.4. The Rights and Duties of the Pastor

Canon 503 §1-7 of CS treats of the important functions reserved to pastors. They were: administration of the sacraments of baptism and confirmation, as well as the sacrament of the anointing of sick, carrying the divine Eucharist as viaticum to the sick, announcing the bans of the sacred ordination and of marriage, imparting the betrothal and the nuptial blessings, performing funeral services, blessing of homes on the days determined by the rules of liturgical books, blessing of water according to the solemn rite on the feast of Epiphany, conducting public processions outside the Church, blessings outside the Church with solemnity and imparting other blessings in accordance with lawful customs of various rites.⁶⁴ Among these functions, to confer confirmation together with baptism, to perform the solemn blessing of water on the feast of Epiphany or on another day determined by law, and

⁶³ See CS c. 500 §§1-3.

⁶⁴ See CS c. 500 §§1-3; see also POSPISHIL, *The Law on Persons*, pp. 220-221.

to give other blessings or recite prayers in accordance with the customs of the proper rites, etc., were different from the functions prescribed by c. 462 of the CIC 1917.⁶⁵

Other obligations of the pastor of a parish according to CS were the following: the obligation to reside in the rectory (c. 506 §1), obligation to apply divine liturgy for the people on all Sundays and holy days of obligation (c. 507 §1), celebration of divine office (c. 508 §2), administration of sacraments to the faithful whenever they lawfully requested them, preaching the Word of God, knowledge of the flock and prudent correction of their errors, caring for the poor and the sick, instruction of children in the Catholic faith (c. 508 §1); obligation of guarding faith and morals in the parish, establishment of the works of faith, charity and piety (c. 510), keeping of parish records (c. 511 §1), obligation to send a transcript of the parish records to the Episcopal chancery (c. 511 §3) and reports to their hierarchs regarding the members of the faithful of other rites (c. 511 §4).

Chapter eight of CS mentioned only one right of pastor, that is, the right to vacation (c. 506 §2). The pastor of the parish was allowed to be absent for 40 days in a year, either continuous or interrupted, unless a grave reason in the judgment of the bishop himself required a longer absence or permitted a shorter one. The time allotted to Eastern Church pastors for their annual vacation were reduced, in comparison with CIC 1917 c. 465 §1, from two months to 40 days.

⁶⁵ See POSPISHIL, *The Law on Persons*, pp. 219-221.

1.2.2. Second Vatican Council on the Pastor of a Parish

Though the Second Vatican Council does not present any document directly dealing with the nature and function of the pastor of a parish, its documents contain sufficient information regarding priests in general. The decree on the ministry and life of priests *Presbyterorum ordinis* is directly concerned with priests. In the introductory part of this decree we read that “what is said here applies to all priests and in a special way to those who are engaged in the care of souls.”⁶⁶ Other documents of the council, like *Christus Dominus*, *Lumen gentium*, *Optatam totius*, *Sacrosanctum concilium* also have some references to the pastor of a parish.⁶⁷

1.2.2.1. Pastor of a Parish as Cooperator of the Bishop

In presenting the role of clergy among the people of God within the context of a parish, several conciliar documents speak of pastors as cooperators of the bishop in his mission.⁶⁸ The eparchial bishop receives his mission directly from the Lord through the fullness of Orders and thereby becomes the Vicar of Christ in the particular church assigned to him.⁶⁹ Although the pastor is sent by the bishop and depends on him in the exercise of his office, he is not merely an extension of the bishop. The pastor of the parish is indeed the spiritual head of the parish and truly represents the invisible Lord, and it is his duty to unite the individual faithful in a community founded in and for Christ.

⁶⁶ See PO, n. 1

⁶⁷ Cfr. CD, nn. 16, 30, 31; LG, nn. 11, 14, 27, 28; SC, nn. 19, 59, 64, 67, 77-78; PO, nn. 3, 9, 13, 17.

⁶⁸ Cfr. LG, n. 28; SC, n. 42; PO, nn. 4-5.

⁶⁹ See LG, n. 37.

Paragraph 30 of *Christus Dominus* describes the manner in which the pastor cooperates with the bishop in the apostolate within the eparchy. The importance of the pastor is expressed by the statement that “they are in a special sense collaborators with the bishop,” for, as shepherds in their own right, they are entrusted with the care of souls in a certain part of the eparchy under the bishop’s authority. The pastor reveals the dignity of being the shepherd in his own right with the bishop, but he is distinguished from the bishop by the fact that his pastoral office is only a share in that of the bishop and concerns only a small portion of the eparchial community, a part of the people of God.⁷⁰

1.2.2.2. Pastor as Source of Unity

It is the duty of pastors to form and build up the community of God’s people in the parish. This idea is emphasized frequently in the conciliar documents. They are to form the people of God into a community of love and faith. They are, in a sense, the principle of growth and community formation. In the decree on the ministry and life of priests, the Council Fathers repeat that the clergy are a source of unity and community.⁷¹ It is through the Word of God that the unity of the people is established and strengthened.⁷² By stimulating faith among the people, the pastor fosters unity within the community. It is the message of the Gospel which draws people together and leads them to offer mutual help and perform works of charity that are necessary if the parish is to be a true witness to the mission

⁷⁰ See O’CONNELL, *The Concept of the Parish*, p. 125.

⁷¹ Cfr. PO, nn. 1, 5-6; LG, nn. 3, 7, 26; GS, nn. 38, 42; AG, n. 15, UR, nn. 4-15; CD, nn. 10, 15, 30; SC, n. 42

⁷² See PO, n. 4.

of Christ.⁷³

1.2.3. CCEO on the Pastor of a Parish

Based on CS and with new insights from the Second Vatican Council, CCEO identifies a new dimension of the pastor of a parish. CS defined the pastor of a parish in a more juridical manner, whereas CCEO is richer in theological and pastoral aspects.

1.2.3.1. Definition of pastor

Canon 281 §1 of CCEO defines the pastor of a parish as follows:

The pastor of a parish is a presbyter to whom the care of souls in a given parish is committed as to its own shepherd; he is the foremost collaborator of the eparchial bishop in the parish under the authority of the same eparchial bishop.⁷⁴

The above canon corresponds almost literally to the conciliar text of the decree *Christus Dominus*, n. 30, to which the word “presbyter,” was added, which was in CS c. 489 §1. One does not find the word “presbyter” in the corresponding c. 519 of CIC 1983. But in c. 521 §1 of CIC 1983 states, “To assume the office of pastor validly one must be in the sacred order of the presbyterate.” This is also strengthened by c. 150 of CIC 1983. CCEO is precise in the definition of the pastor of a parish.⁷⁵

⁷³ See PO, nn. 4, 6, 8, 9; CD, nn. 12, 30; AA, nn. 10, 11, 30; GS, nn. 38, 52, 69, 76, 79, 82, 89; OE, n. 4; SC, nn. 9, 14; LG, nn. 25, 28.

⁷⁴ CCEO c. 281 §1: “Parochus est presbyter, cui ut praecipuo cooperatori Episcopi eparchialis tamquam pastori proprio cura animarum committitur in determinata paroecia sub auctoritate eiusdem Episcopi eparchialis.”

⁷⁵ One of the consulters for the codification of canons on *de paroeciis* and *de parochis* proposed to add the word *tantummodo* before presbyter. He argued that in certain countries, because of a shortage of priests the pastoral care is entrusted to persons who are not priests. But the committee did not accept this suggestion. See *Nuntia*, 9 (1979), p. 64; 23 (1986), p. 79. See also FARIS, *The Eastern Catholic Churches*, p. 578; Joseph

In accord with the conciliar teachings,⁷⁶ CCEO also stresses that a pastor of parish is in a special sense a collaborator with the eparchial bishop, to whom is committed the care of souls as their proper shepherd in a parish under the authority of the bishop.

A pastor is the ordinary and immediate shepherd of a parish who leads his flock in the name of the Lord.⁷⁷ A pastor of a parish possesses all the faculties necessary to provide pastoral care for his people with all rights and obligations. The rights and obligations are attached to the office of the pastor by common law⁷⁸ and the eparchial bishop should ordinarily not restrict their exercise.⁷⁹ Nor can the eparchial bishop remove the presbyter from a pastorate in an arbitrary manner. He is not a mere delegate of the bishop. He exercises his office as the principal collaborator of the eparchial bishop and in his name.⁸⁰

The notion of pastor as shepherd is very rich both biblically and pastorally. As Yahweh is the good shepherd in the Old Testament,⁸¹ and Jesus the Good Shepherd in the New Testament⁸² the pastor of a parish should feed his people as a good shepherd.

As already seen in CS c. 489, the CCEO also eliminates the possibility of a moral or

VARANATH, "The Role of the Pastor in the Preservation of the Patrimony of Oriental Churches," in Paul PALLATH (ed.), *Catholic Eastern Churches: Heritage and Identity*, Rome, Marthoma Yogam Publication, 1994, p. 164.

⁷⁶ Cfr. CD, n. 30; LG, n. 28; PO, n. 7; SC, n. 42.

⁷⁷ See Herbert VORGRIMLER (ed.), *Commentary on the Documents of Vatican II*, vol. 2, Freiburg, Herder and Herder, 1968, pp. 233-236.

⁷⁸ Cfr. CCEO cc. 289-294.

⁷⁹ Cfr. CCEO c. 283.

⁸⁰ Cfr. CCEO c. 281 §1.

⁸¹ Genesis 48:15; Isaiah 40:11; Jeremiah 23:3; Psalms 2: 1; 68:8.

⁸² John 10:3, 11, 14, 16; Matthew 9:35-36; Luke 18: 2-14; 15: 4.

juridical person being appointed the pastor of a parish. Canon 281 §2 says, “A juridical person cannot validly be a pastor.”⁸³

1.2.3.2. Qualities Required to be a Pastor

CCEO c. 285 describes the qualifications and characteristics essential for a presbyter to be appointed as pastor. The canon reads as follows:

In order for a presbyter to be named pastor it is necessary that he be of good morals, sound doctrine, zealous for souls, endowed with prudence and other virtues and gifts, which are required by law in order to fulfill the parochial ministry in a praise-worthy manner.⁸⁴

The qualities required for the appointment of a pastor of a parish are good morals, sound doctrine, zeal for souls and prudence. Other virtues and gifts are to be decided “by the law” (*iure requiruntur*). Canon 285 § 2 of CCEO speaks of the good morals required of wife and children, if a pastor is a married man. In evaluating the suitability of a married priest for the office of pastor of a parish, the conduct of his family cannot be ignored. Therefore, in order to be appointed as pastor of a parish, the presbyter is accountable for the good morals of his wife and the children who live with him.⁸⁵

1.2.3.3. Appointment of the Pastor

CCEO gives the eparchial bishop the maximum freedom in the appointment of a

⁸³ See CCEO c. 281 § 2: “Persona iuridica valide parochus esse non potest. »

⁸⁴ CCEO c. 285 §1: “Ut presbyter parochus nominari possit, oportet sit bonis moribus, sana doctrina, animarum zelo, prudentia ceterisque virtutibus et dotibus praeditus, quae ad ministerium paroeciale cum laude implendum iure requiruntur.” This canon retains the text of canon 493 of CS without any modification. CIC 1983 c. 521 is the corresponding canon.

⁸⁵ See FARIS, *The Eastern Catholic Churches*, p. 584.

pastor. He has the right freely to appoint the pastor of a parish, except in the case of entrusting a parish to a member of a religious institute, in which case the major superior may propose to the eparchial bishop a suitable priest of his institute for appointment, with due regard for the terms of agreement entered into by the eparchial bishop and the other authority in accord with the particular law of the proper *sui iuris* Church.⁸⁶

Canon 285 §3 states the criterion for the appointment of the pastor. The good of the faithful in a particular parish should be the ultimate criterion in the choice of pastors. Other virtues and gifts required are to be decided “by the law” (*iure requiruntur*).⁸⁷ The law mentioned here can also be the particular law of a *sui iuris* Church. Taking into account the long standing practice and the present exigencies of the Syro-Malabar Major Archiepiscopal Church,⁸⁸ the norms for the appointment of a pastor of a parish are: (i) One shall be

⁸⁶ See CCEO c. 284.

⁸⁷ See CCEO c. 285 §1.

⁸⁸ The Syro-Malabar Major Archiepiscopal Church is the second largest Eastern Church in the Catholic communion. According to tradition, the Apostle Thomas founded this Church. See THE SYNOD OF THE SYRO-MALABAR MAJOR ARCHIEPISCOPAL CHURCH, *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 Apostle Thomas came by sea, with the light of faith, and first landed at Cranganore on the Kerala coast in 52 AD. This tradition is strong, living and is connected with definite places and even families and is also shared by the Hindus. The Christians of Malabar, therefore, are called the Thomas Christians or St. 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 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, now there are two ethnically distinct communities known as the Northists and the Southists (Vatakumbhagar and Thekkumbhagar 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 in 345 AD. These ethnic distinctions also run across their ecclesial division into Catholics and non-Catholics. Southists form but a small minority counting

appointed pastor only five years after his priestly ordination. (ii) Pastors shall be appointed for a period not less than three years, which could be further renewed or extended at the discretion of the eparchial bishop.⁸⁹ The Synod also proposes to give “confidential intimation regarding the decree of appointment or transfer is to be served at least two weeks in advance of the date of appointment decree except in cases of necessity to be determined by the local hierarch in consultation with at least two members of the college of eparchial consulters.”⁹⁰

1.2.3.4. Taking Possession of the Parish

The manner in which the presbyter takes canonical possession of the parish is not prescribed by the common law but is left to the prescription of the particular law.⁹¹ Canon 527 of CIC 1983 is more elaborate on this question. Therefore, one organ of consultation of PCCICOR proposed substitution of c. 288 of the Eastern Code with c. 527 of the Latin Code. This suggestion was rejected on the basis that *ad normam iuris particularis* (of c. 288) is

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 also, 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 the particular law of Syro-Malabar Church. In order to find out 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.

⁸⁹ THE SYNOD OF THE SYRO-MALABAR MAJOR ARCHIEPISCOPAL CHURCH, “Particular Law on Clerics,” in *Synodal News*, 12 (1998), p. 58.

⁹⁰ *Ibid.* p. 59.

⁹¹ CCEO c. 288: “parochus a provisione canonica obtinet curam animarum, quam tamen eidem exercere non licet nisi capta ad normam iuris particularis possessione canonica paroeciae.”

appropriate for the Eastern Code.⁹² About the manner of taking possession, whether it should be during a liturgical ceremony, whether there should be the handing over of the keys of the Church, etc., is left to be decided by the particular law. The particular law of Syro-Malabar Church allows each eparchy to have its own norm on this matter.⁹³ Moreover, the eparchial bishop can dispense from the manner of taking possession of the parish.⁹⁴ He can simply indicate the effective date on which the presbyter acquires the office of pastor. The Book of Decrees⁹⁵ prescribes how and when a vicar⁹⁶ or assistant has to take possession of his office in the Syro-Malabar Church.

Any priest, who is selected as the vicar or assistant of a church, should arrive at and publish the patent letter in the church, where he is appointed, within fifteen days of the reception of the patent letter issued by the bishop. From the day of publication of the patent letter he can enjoy the emoluments due to his office.⁹⁷

⁹² See *Nuntia*, 23 (1986), p. 85, c. 260.

⁹³ See *Synodal News*, 12 (1998), p. 59. According to the information based on the patent letters of the eparchies of Ernakulam, Changancherry, Talassery, Trichur and Kottayam, the appointment order in the patent letter is addressed to the newly appointed pastor and other faithful in the parish. The content of the patent letter includes the greetings and blessings of the eparchial bishop to the pastors of the parishes and faithful and briefly sets out the functions and main duties of the pastor of a parish in the parish ministry and the obligation of the faithful to love, obey and honor the pastor. The pastor should take possession of the parish on the day fixed by the eparchial bishop in the patent letter and he should read this letter publicly to the faithful assembled in the church on the first obligatory day after his arrival in the new parish. He should inform the eparchial curia about taking possession of the parish within one week.

⁹⁴ See CCEO c. 1538 §1.

⁹⁵ The Book of Decrees of Mar Mathew Makil is the first canonical codification of the Syro-Malabar Church after it recognized its autonomy from the jurisdiction of the Latin Church in 1887. It was promulgated on 21 September 1903 for the Vicariate of Changanacherry. It has a long title in Malayalam which may be translated into English as: "The Book of Decrees Containing Laws and Regulations on Many Matters like Faith, Priests, Faithful, Sacraments, Churches, Feasts, Income of Parish and of Priests etc., for the Administration of the Apostolic Vicariate of Changanacherry." However, in Malayalam it is generally known as *Dekretu Pustakam* translated into English as *Book of Decrees*. Mathew John Moolakkatt has made a detailed study on this book. See Mathew John MOOLAKKATT, *The Book of Decrees of Mar Mathew Makil: A Historico Juridical Study*, Romae, Pontificium Institutum Orientale, Facultas Iuris Canonici, 1992.

⁹⁶ *Vicar* is the term used in the Syro-Malabar Church in place of *prochus*.

⁹⁷ See Mathew MAKIL, *Book of Decrees for the Vicariate of Changanacherry*, Mannanam, 1909, p. 19.

1.2.3.5. Stability of the Office of the Pastor

The pastor of a parish must enjoy certain stability in his office, which helps him to know his flock and to have a stable relationship with it. According to CCEO c. 284 §3, the pastor of a parish possesses stability in his office; therefore he is not to be named for a determined period unless the appointment concerns a member of a religious institute or society of common life in the manner of religious, or a candidate agrees otherwise in writing.⁹⁸ Appointment for an undetermined period of time does not mean a life-long tenure; it simply means that no time is fixed for the office of the pastor so appointed. As per the decision of the Syro-Malabar synod, pastors of parishes shall be appointed for a period not less than three years, which could be further renewed or extended at the discretion of the eparchial bishop. The pastor would continue in office, until he receives the order for renewal, extension or transfer.⁹⁹

All priests whether diocesan or religious share and exercise with the bishop the one priesthood of Christ (CD, n. 28). Parallel to the threefold mission of bishop (LG, n. 28), the pastor is charged with the same threefold functions of teaching, sanctifying and governing in accordance with the norms of law. The power of the pastor of a parish is ordinary and proper and he exercises this power not independently but in relation with the eparchial bishop. He

See also MOOLAKKATT, *The Book of Decrees of Makil*, p. 49.

⁹⁸ The stability of the pastor's office is an accepted tradition in many Eastern Churches. See Kuriakose BHARNIKULANGARA, *Particular Law of the Eastern Catholic Churches*, New York, Saint Maron Publications, 1996, pp. 92-95.

⁹⁹ See *Synodal News*, 12 (1998), p. 58. This norm is similar to the provision of the CIC 1983 c. 522, which permits the Episcopal Conferences to enact decrees permitting diocesan bishops to appoint pastors for a definite period.

does not create a community separated from the eparchial community. Canon 289, which provides a long description of the triple function of the pastor, is divided into three parts, each dealing with the teaching, sanctifying and governing functions.¹⁰⁰

1.2.3.6. Cessation from Office

The possible conflict between the spiritual welfare of the faithful and the right of the pastor to his office is solved by the clear affirmation of the Second Vatican Council that the good of the souls must determine the term of office of the pastor. Hence all distinction between removable and irremovable pastors has been abolished.¹⁰¹ An ecclesiastical office by definition is a function constituted in a stable manner to be exercised for a spiritual purpose (c. 936 §1) and, in order to achieve this spiritual purpose, it should also be conferred in a stable manner. One who is appointed to an office assumes the obligations entailed in it and acquires the rights proper to it. Therefore, an office that is conferred according to the norms of law (c. 938) can be lost only by modes specified in law. In addition to other cases prescribed by law,¹⁰² canon 965 §1 of CCEO lists six ways in which an office is ceased: (1)

¹⁰⁰ Unlike CIC 1983, which describes the triple function of the pastor of a parish in two long canons (cc. 528-529), CCEO puts the threefold function of the pastor of a parish in a single canon (c. 289). The proposed text (by the relator) of this canon was very concise. The §1 referred to *munus docendi*. The §2 referred to *munus sanctificandi*. Both are mentioned in the decree CD, n. 30. After a long discussion, the study group decided to add §3 to the canon, which refers to *munus pastoris*, with which the same decree also deals in the same place. The study group tried to formulate a rather concise canon yet in such a manner that the conciliar text would be retained with no substantial change or omission of anything important. This proved to be impossible, so it was agreed, as the best solution, to adopt the whole text of the decree CD, n. 30. To trace the development of the formulation of CCEO c. 289, see *Nuntia*, 9 (1979), pp. 71-72, also, 23 (1986), p. 86. This canon 289 will be developed further while dealing with the rights and obligations of the pastor of a parish as minister of the word of God, as minister of sanctification and as minister of governance

¹⁰¹ See CD, n. 31

¹⁰² These include suppression of the office by competent authority, reasons determined by law or in contracts, and for some offices the expiration of the authority that conferred them. Cfr. CCEO cc. 936 §3, 444,

lapse of a determined time; (2) reaching the age defined by law; (3) resignation; (4) transfer; (5) removal, and (6) privation.

Some offices are or can be conferred for a term, or “predetermined time.”¹⁰³ Once predetermined time is complete, the person loses the protection of the term (cc. 974 §2, 975), but remains in office until notified by the competent authority.

If the law has set an age limit, once that age is reached, the person remains in office until notified. For example, the pastor of a parish is requested to submit his resignation from the office when he has completed his seventy-fifth year of age (c. 297 §2). This resignation is not equivalent to the resignation mentioned in c. 965 §1 and c. 297 §1. In the case of a pastor’s resignation at completing the seventy- fifth year of age, written notification from the eparchial bishop is required for the cessation from office to take effect.

According to CCEO c. 297 §1, the pastor of a parish ceases from office by resignation accepted by the bishop, by the expiry of the term, by removal or transfer.¹⁰⁴

The Code itself does not provide a definition of resignation. But on the basis of canons 967-971 of CCEO, resignation can be defined as a request initiated by an office holder to leave the office for a just cause. If no confirmation was required to obtain the

514, 557. The death of one holding an office concerns the vacancy of an office and not the loss of it. For example, the death of an eparchial bishop results in that see being vacant (c. 219).

¹⁰³ For example in the Eastern Code includes protosyncellus (who are not auxiliary bishops) and syncellus (c. 247 §1); pastors of parish (c. 284); members of the presbyteral council (c. 270) and finance council (c. 263 §1); the college of consultors as such (c. 271 §§1-5); eparchial pastoral council as such (c. 274); protopresbyter (c. 277); religious superiors (cc. 444 §§1-2, 514, 557); judicial vicars, adjutant judicial vicars, and tribunal judges (1088).

¹⁰⁴ CCEO c. 297 §1: “Parochus ab officio cessat renuntiatione ab Episcopo eparchiali acceptata, elapso tempore determinato, amotione vel translatione.” For procedure in removal and transferring of pastors, cc. 1388-1400 of CCEO must be followed.

office, resignation consists in notifying those responsible for providing for the office. Otherwise, it must be submitted to a competent authority and does not become effective until that authority gives notice of acceptance.

A pastor may resign from office either because he wishes to retire or is unable to fulfill his pastoral responsibilities. For validity, however, the resignation must be submitted to the eparchial bishop in writing or orally in the presence of two witnesses (CCEO c. 969). For the efficacy of this resignation the eparchial bishop must accept it. The eparchial bishop is not obliged to accept the resignation. If he accepts resignation, he is obliged to intimate the person resigning. If acceptance of the resignation has not been intimated to the person resigning within three months, the resignation lacks all effect (970 §1). A resignation can be withdrawn by the one resigning as long as it has not yet been accepted (970 §2). Since resignation can only be made for a just cause, the eparchial bishop is not to accept a resignation, which is not based on a just and proportionate cause. When the eparchial bishop accepts the resignation, he is to provide the pastor sufficient means for a dignified retirement. A special fund is to be established by the eparchial bishop in the eparchy in order to support resigned presbyters (CCEO c. 1021 §§1-2).¹⁰⁵

Besides these, the eparchial bishop has the obligation to provide material support for pastors who are dying, and also for their families if they are married, and to ensure that the

¹⁰⁵ Article 22 §1 of the Syro-Malabar Church's particular law on Clerics states: "Every eparchy shall have its own Priests' Welfare Organization with approved statutes that provide for the social security including ample provisions for individual care and nursing in their invalid state or old age and medical assistance of its priests. All priests ascribed to the eparchy shall contribute to the welfare fund of the above said organizations according to the norms specified in the statutes." See *Synodal News*, 12 (1998), pp. 57-58. See also CCEO c. 1021 §2; 390 §2; 297 §2.

personal property of the pastor of the parish¹⁰⁶ and that of the parish be accurately separated (CCEO c. 278 §3). In case a pastor of a parish is unwilling to be transferred or removed from office, while the eparchial bishop judges it necessary, the bishop must follow the proper canonical procedure.¹⁰⁷ The sole authority competent to initiate these procedures to remove or transfer a pastor is the eparchial bishop or one who is his equivalent in law.¹⁰⁸

Although the removal and transfer procedures are similar in many respects, they also differ on some important aspects. Neither of these procedures is punitive in nature; rather, they are pastoral and disciplinary in character. However, the reasons for initiating the two procedures are quite different. While the procedure for the removal of a pastor is appropriate in circumstances where his ministry has become harmful or ineffective, the procedure for transfer assumes that a pastor has been serving his parish well but that his talents are needed in another office. Hence, the ultimate criteria for transfer and removal regarding the procedure should be the good of souls and the need or the benefit of the Church.

According to c. 972, a transfer necessarily involves two offices, that is, the one being lost and the one being conferred. Such a transfer can only be made by one who has the right of providing for the office being lost and, at the same time, the office being conferred. An obvious example that helps to understand the meaning of the canon is the eparchial bishop's

¹⁰⁶ In keeping with the age-old tradition of the Syro-Malabar Church, before receiving major orders, clerics shall register the documents of their "patrimony" if eparchial norms demand it. See *Synodal News*, 12 (1998), p. 58.

¹⁰⁷ Removal and transfer are two ways by which an ecclesiastical office can be lost. More specifically the Codes provide special administrative procedures for removing and transferring pastors. Cfr. CCEO cc. 1388-1400; the corresponding canons in Latin Code are: CIC 1983 cc. 1740-1752.

¹⁰⁸ Cfr. CCEO cc. 178, 179, 987. The protosyncellus is excluded unless he has received a special mandate.

transfer of pastor of a parish from one assignment to another. From the above description it is clear that the act of transfer is not a mutual negotiation between two office holders but an act which can be effected only on the authority of those who have the power to confer an office. Transfer need not necessarily carry a negative connotation, but it can be imposed as penalty.¹⁰⁹ For transferring the pastor, the eparchial bishop must first propose the transfer in writing and ask the pastor if he is agreeable to it. The pastor may decide to reject this and provide his reasons for rejecting it. If the bishop does not agree with the reasons, he will then consult with the two pastors freely chosen from the group of pastors, whom the presbyteral council has elected for this purpose in suitable manner at the proposal of the eparchial bishop.¹¹⁰ The group of pastors mentioned here is not to be confused with the college of consultors mentioned in c. 271. However, the opinion of the two pastors consulted is not binding on the eparchial bishop. If the pastor continues to resist the transfer, the bishop can issue decree of transfer and declare that the parish will become vacant on a certain date, and then declare it as such after the designated day. This will remove the pastor from conducting all parish affairs, but if there is recourse against the decree of transfer, the vacancy cannot be filled until superior authority settles the controversy.

Removal results in cessation of office.¹¹¹ A person is removed from office in two ways: (1) by the law itself; or, (2) by decree legitimately issued by a competent authority (c.

¹⁰⁹ See CCEO c. 1432 §§2-3.

¹¹⁰ See CCEO c. 1391 §1.

¹¹¹ Cfr. CCEO cc. 974-977.

974 §1). The removal from office by law itself is further specified in c. 976. A decree is an administrative act issued by a competent executive authority in which a decision is given or a provision is made in a particular case in accord with the norms of law (c.1510 §2, 1°). Before issuing a decree the authority concerned should seek out the necessary information and proofs, and also hear those whose rights can be injured, in so far as possible (c.1517 §1). A decree should be issued in writing, giving, in case of a decision, the reasons which prompted it, at least in summary fashion (cc. 1514 and 1519 §2).

Removal from office may be done for a serious cause or for a just cause. In case of removal for a serious cause the procedure determined by law is to be followed. Whereas, in case of removal for a just cause there is no formality prescribed by law and, therefore, the competent authority on whose discretion depended the conferral of the office can remove the incumbent when, in his judgment, a just reason is present.

Canon 975 prescribes the necessary requirements to be observed in case of removal by decree. Three kinds of situations are envisaged in this canon. An office may be conferred on a person, e.g., a pastor of a parish, for an indefinite period; it may be given for a determined period; and it may also be granted without any determined period but with the understanding that the competent authority may remove the incumbent at his discretion. Canon 975 is quite emphatic in stipulating that a person cannot be removed from an office conferred for an indefinite period of time except for grave cause and according to the procedure determined by law. This procedure is applicable for the removal of a pastor of a parish. Let us look briefly at the situation of removal of a pastor from his office. Let us

presume that the office has been conferred for an indefinite period. Canon 975 §1 states that there should be a grave cause for removing him from office and the procedure in law must be followed.

The Code itself provides the following causes and procedure for removal of a pastor of a parish through an administrative decree. The reasons why a bishop may remove the pastor are partially enumerated in c. 1390 of CCEO. They are: Gravely detrimental conduct, disturbing the parish community; physical or mental incompetence; loss of good reputation among upright and responsible parishioners; unabating aversion to the pastor, even though not caused by his untoward behavior; grave neglect and violation of his obligations, which persisted after a warning; poor administration of property. The presence and gravity of these causes must be objective and decided to be such by the eparchial bishop.

Once the eparchial bishop has established the presence of a grave cause and decides that a pastor must be removed, he should invite the pastor to resign within fifteen days, after explaining to him the reasons and arguments for removal. This is required for the validity of the process. Before taking this step the bishop must discuss the matter with two pastors mentioned above. After receiving the invitation from the bishop the pastor could submit his resignation, and even with conditions, which the bishop may decide to accept. If the pastor has not responded to the bishop's invitation, the bishop is to repeat it by extending the time period for submitting the reasons. If the pastor should fail to respond to the invitation, the bishop can issue the decree of removal. If the pastor opposes the causes for removal, and declares the reasons stated by the bishop to be insufficient, the bishop can invite the pastor to

prepare his opposition in writing, even by making available to him relevant evidence in order to formulate his proper defense. The bishop then consults again with the same pastors mentioned above, and determines whether or not the pastor must be removed. Then he issues the final decree. If the pastor has not placed recourse against the decree of the bishop, the pastor must nonetheless at once cease from exercising his office and vacate the rectory, unless his state of health would force him to continue to stay in the rectory. While the recourse is pending, the bishop cannot appoint anyone as pastor of the vacant parish. He is to provide for the care of souls by appointing an administrator. The canons emphasize the need to observe canonical equity toward the pastor, so that throughout the process his transfer or removal does not turn harmful to him.¹¹²

Privation is another form of loss of office that is imposed as a penalty for a delict (c. 978). It is inflicted in accordance with penal law (cc. 1401-1467) and penal procedure (cc. 1468-1487). For example, privation of office may be imposed as a penalty for the following offences: apostasy or heresy (c. 1436 §1); abuse of ecclesiastical power (c. 1464 §1); certain offenses by judges and other tribunal officers (c. 1115) and offences against life (cc. 1450-1451).

1.2.4. Pastor of the Parish in Extraordinary Circumstances

Canon 942 states that two or more offices, which cannot be fulfilled at the same time by the same person, may not be conferred upon one person unless there is a real necessity.

¹¹² For a detailed description of the procedure for removal of a pastor, see FARIS, *Eastern Catholic Churches*, pp. 605-607; NEDUNGATT, *A Guide to the Eastern Code*, pp. 782-785.

Canon 287 is a specific application of that general principle of law. According to Faris, “[...] Under ordinary conditions, a presbyter should be appointed the pastor of only one parish, but given the shortage of clergy, it sometimes becomes necessary for one priest to be appointed as the pastor or administrator of more than one parish.”¹¹³ In principle then there is to be only one pastor in a parish and if there is a pastoral need, one or more presbyters can be appointed as parochial vicars (c. 301 §1). An alternative, which has evolved subsequent to the Second Vatican Council, is the appointment of several priests in *solidum* to one parish. By way of exception, if particular law permits it, the Eastern Code authorizes a team of priests to pastor a parish. One of the priests is to be appointed as the moderator of the team, who is to coordinate the activity of the group, report on their activities to the eparchial bishop, and he is responsible for the parish in its juridic affairs. In order for an eparchial bishop to commit a parish to more than one priest, the Eastern Code remands to particular law the specification of the rights and duties of the moderator of such team and the other priests.

1.3. PASTOR’S RIGHTS AND OBLIGATIONS IN GENERAL

Before directly addressing the issue of rights and obligations of the pastor as minister of the word of God, as minister of sanctification and as minister of governance, certain general concerns regarding rights and obligations of pastors should be noted, because they affect the interpretation of all the canons to be analyzed in this study.

¹¹³ FARIS, *Eastern Catholic Churches*, p. 586. Both Latin and Eastern Codes are basically the same regarding the one pastor-one parish principle in view of fostering effective pastoral care. Cfr. CCEO c. 287 §§ 1-2; CIC 1983 cc. 526 §§1-2; 517 §1.

The most important general concerns are; a) the extent of the application of c. 26 §§ 1-2; b) explicit and implicit expression in the text of laws, and c) certain rights and obligations with respect to ecclesiastical offices mentioned in cc. 936 and 937.

1.3.1. Extent of the Application of Canon 26 §§1-2

The extent of the application of both paragraphs of c. 26 is important to a study of the rights and obligations of the pastor of a parish because it addresses a very practical question: What happens when the rights or obligations of some faithful, clerics or lay persons, conflict with the rights or obligations of other faithful, clerics or lay persons, or of those who do not belong to the Church at all? Although the focus of this study is on the existence of rights and obligations rather than on their exercise, the answer to this question is significant, because it could help one in deciding when and how the rights of one party constitute an obligation for another and thereby affect the rights of the obligated party.

Canon 26 states:

§1. In exercising their rights, the Christian faithful, both as individuals and gathered in associations, must take account of the common good of the Church, as well as the rights of others and their own duties to others.

§2. Ecclesiastical authority has the competence to regulate, in view of the common good, the exercise of the rights, which are proper to the Christian faithful.¹¹⁴

This canon provides a necessary corrective to an overly individualistic understanding

¹¹⁴ CCEO c.26 §1: "In iuribus suis exercendis christifideles et singuli et in consociationibus adunati rationem habere debent boni communis Ecclesiae necnon iurium aliorum atque suarum erga alios obligationum."

§ 2. "Auctoritati ecclesiasticae competit intuitu boni communis exercitium iurium, quae christifidelibus sunt propria, moderari."

of rights and obligations, a tendency that often prevails in civil society. This canon corresponds to canon 223 §§1-2 of CIC1983.

The exercise of rights of individuals or groups always occurs in the context of society. Therefore, in exercising their rights, individuals and associations must take cognizance of the common good of the Church, the rights of the other persons, and their own obligations toward others. In order to provide for the proper exercise of individual rights, it is the responsibility of ecclesiastical authorities to determine what must be done for the common good if there is a conflict.¹¹⁵

It is also to be noted that c. 26 §1 is practically a quotation of the second paragraph of *Dignitatis humanae*, n. 7,¹¹⁶ which taught about “moral law [...] and the common good [...]” as elements prompting the need for justice in exercising one’s rights.¹¹⁷ The canon articulates three factors to be taken into account in the exercise of rights by the faithful: the common good of the Church; the rights of others; and specific duties owed toward other faithful. The second paragraph states the competence of ecclesiastical authority to regulate the exercise of rights “in view of the common good.”

Dignitatis humanae, n. 6 describes the common good as “those conditions of social

¹¹⁵ See FARIS, *Eastern Catholic Churches*, p. 138; POSPISHIL, *Eastern Catholic Church Law*, p. 106.

¹¹⁶ SECOND VATICAN COUNCIL, Declaration on Religious Liberty *Dignitatis humanae* (=DH), 7 December 1965, in *AAS*, 58 (1966), pp. 929-941, here at n. 7, p. 934. English translation in FLANNERY 1, pp. 804-805.

¹¹⁷ A clear unbroken, but developing, textual trail leads from DH, n. 7 through the *Lex Ecclesiae fundamentalis* to CCEO c. 26 §§1-2. The text of DH, n. 7 is the result of four revisions during the Vatican Council’s deliberations: First revision, see SECOND VATICAN COUNCIL, *Acta synodalia sacrosancti Concilii oecumenici Vaticani II* (= *Acta synodalia*), vol. 3, period 3, Typis polyglottis Vaticanis, 1976, pp. 432-433. Second revision, in *Acta synodalia*, 1978, vol. 4, period 4, part 1, pp. 150-151. Third revision, in *Acta synodalia*, 1978, vol. 4, period 4, part 5, pp. 84-85. Fourth revision, in *Acta synodalia*, 1978, vol. 4, period 4,

living, which enable people to develop their own qualities most fully and easily.” *Gaudium et spes*, n. 26 explains the common good as “the sum total of the conditions of social life enabling groups and individuals to realize their perfection more fully and readily.” The community that is the Church is situated within this human society; the two should exist in harmony in as much as the gospel of Jesus Christ serves to safeguard the personal dignity and freedom of men and women.¹¹⁸ Consequently, “the common good of the Church” refers to the fulfillment of the Church’s mission received from Jesus Christ.

This “common good” context explains the second and third limitations on the exercise of rights: the rights of others and duties owed toward others. Human beings are social by nature; they do not exist in isolation. The Church as *communio* emphasizes the mutual interdependence and cooperation among all the faithful. A responsible exercise of rights presupposes a process of reflection on a number of different factors: the person as an individual with obligations and rights; the person as a member of the community of faith; the person as possessing particular duties toward others arising from a specific vocation or function in the Church; and the exercise of rights by other members of that same community. The exercise of rights must both foster a personal relationship with God as well as facilitate the common vocation of the Church to proclaim the gospel.

The second paragraph allows Church authorities to “direct the exercise” of rights but only to protect and promote the Church’s mission in view of the common good. The paragraph does not, therefore, allow or justify any arbitrary exercise of authority; rather, it

part 6, p. 707.

attempts to ensure that individuals in exercising their rights are mindful of the Church as a communion in which all the Christian faithful are equal in dignity and in action (CCEO c. 11). In virtue of this dignity they all cooperate, each according to his or her own condition and function, in the building up of the Body of Christ. Conflicts between individuals and between individuals and institutions can and do arise; canon 24 of CCEO expresses the necessity of ensuring proper protection of rights. Canon 26 of CCEO is substantially the same as c. 223 of the CIC 1983.¹¹⁹

1.3.2. Explicit and Implicit Expression in the Texts of Law

In legal text, we can see explicit and implicit expressions of laws. Some canons make specific mention of implicit communication. Texts of various canons require that some conditions must be explicit for them to have an effect on the law. This is often the case with *nisi* clauses.¹²⁰ Other canons specifically require an explicit expression, which reveals the mind of the legislator excluding an implicit expression.¹²¹ Those canons demonstrate that if, in a given canon, the legislator finds it necessary to rule out any implicit interpretation of words or actions, such exclusion itself must be clearly and explicitly stated.

There is common agreement among authors that an expression of a particular

¹¹⁸ See, for example, GS, n. 41.

¹¹⁹ With the exception of the addition of c. 10, canons 7-26 of CCEO are drawn substantially from CIC 1983 cc. 208-223. For information about the evolution of the texts, see *Nuntia*, 2 (1976), p. 56, cc. 3-4; 10 (1980), p. 67; 17 (1983), p. 17, 19; 18 (1984), p. 13; 21 (1985), pp. 3-11; 24-25 (1987), pp. 7-26; 27 (1988), pp. 5, 27, 37, and 81; 28 (1989), pp. 15-18; 31 (1990), p. 38.

¹²⁰ For example, see CCEO c. 985 §§ 2-3.

¹²¹ Cfr. CIC 1983 c. 9 §1; CCEO c. 1494.

prescript can be either explicit or implicit. This principle is applicable to the matter of our discussion. For example, G. Michiels, commenting on the canonical reality, meaning and acceptability of “explicit” and “implicit” expression in legal text, wrote:

Indeed there are two ways in which the will of the legislator can be contained in his words, [...] namely explicitly or implicitly. Something is explicitly contained or manifested in a law, when, [...] [it] appears distinctly and by name. [...] Something is implicitly contained when it [...] is out of sight [...], enfolded in the words, so that it is not actually obvious or apparent [...].¹²²

According to Sweeny, “An important element of systematically analyzing canons, therefore, will be to give clear and precise expression to obligations and/or rights which are implied in the texts of the canons studied.” He notes several logical and general factors, which help in analyzing the canons. (a) A canon, which explicitly or implicitly imposes an obligation, is also legislating that the person thus obliged has not only a duty but also a right to fulfill that obligation. (b) The pastor has a canonical obligation to obey the laws, which set down how he is to interrelate with others. (c) The pastor has a canonical right to require of others that they obey the laws, which set down how they are to relate to the pastor.¹²³

1.3.3. Rights and Obligations with Respect to Ecclesiastical Offices in cc. 936-937

The Church has developed various legal structures to carry out its mission of continuing the work of Christ in the world: the listing of common responsibilities arising

¹²² See Gommar MICHIELS, *Normae generales iuris canonici commentarium libri I Codicis iuris canonici*, second edition, Paris, Typis Societatis S. Joannis Evangelistae, Desclée et Socii, 1949, vol. 1, p. 132; translation as in SWEENY, *Obligations and Rights of Pastor*, p. 50.

¹²³ See SWEENY, *Obligations and Rights of Pastor*, pp. 50-51.

from Christian initiation for all the Christian faithful (e.g., CCEO cc. 7-26), the recognition and promotion of charisms as given by the Holy Spirit, the delegation of individuals for specific tasks (e.g., CCEO cc. 988-992), and the institution of ecclesiastical offices. The norms governing ecclesiastical offices are of major importance in the Code and in the life and mission of the Church.¹²⁴ As L. Chiappetta states, it is the “hinge” on which rests the entire organization of the Church, the indispensable technical instrument, which directs the ordered exercise of its powers, diverse functions and activities.¹²⁵ These norms establish the nature, extent and methods of obtaining and losing offices through which the mission of the Church is achieved.

Specifically with respect to ecclesiastical offices, canon 936 states that an ecclesiastical office is any function constituted in a stable manner either by the Lord himself or by competent authority to be exercised for a spiritual purpose. The office is stable because it is independent from the person to whom it is entrusted. Offices established by divine authority are the primacy of the Roman Pontiff and the episcopacy. The rights and

¹²⁴ For norms governing the offices, see CCEO cc. 936-978; CIC 1983 cc. 145-196. For a comparative study of the Eastern and Latin Codes of Canon Law on “Offices in the Church,” see Jobe ABBASS, “Offices in the Church: A Comparative study of the Eastern and Latin Codes of Canon Law,” in *Liber Amicorum Mons. Biffi*, n. 25, Rome, Libreria editrice Lateranense, 1994, pp. 211-237. According to Abbass, these canons not only regulate the same subject matter but they are also to a great extent similar. This fact was also apparent under the former canonical legislation when the Eastern regulations contained in *Cleri sanctitati* were compared with the provisions of the 1917 Latin Code. This similarity was effectively confirmed by PCCICOR. See *Nuntia*, 5 (1977) p. 47. The study of Abbass explains clearly that many of the norms that govern offices in the Church will be common to both the Eastern and Latin Codes. However, there are six dissimilarities too. They include the use of the term “Officium” in the Eastern and Latin Codes; norms regarding offices not shared in common by the Eastern and Latin Codes; provision of ecclesiastical offices within six months; more extensive norm in the Eastern Code invalidating canonical provision; general normative principle qualifying elections in the Latin Church and finally calculation of votes and procedure for election.

¹²⁵ Luigi CHIAPPETTA, *Il Codice di diritto canonico: commento giuridico-pastorale*, 2 ed., Roma, Edizioni, Dehoniane, 1996, vol. 1, p. 229.

obligations proper to individual offices are determined by the law by which the office is constituted or by the decree of the competent authority. And canon 937 prescribes that the exercise of the functions joined with an office require that the means necessary for it are provided by the competent authority who has set up the office, as well as that the office holders receive their just remuneration. How this determination is to be done is sometimes indicated in common law of the Eastern Code. Otherwise the particular law of each *sui iuris* Church is to provide for it.

Canon 936 §2 is very clear on the source of the rights and obligations of a pastor. The source is the office of pastor. All his rights and obligations flow from that office. However, the pastor may be delegated either by law or by competent authority to exercise the executive power of governance under particular circumstances. There are in the Code several canons, which explicitly grant the pastor certain faculties. In such situations, the pastor becomes endowed with additional, special rights and obligations. Still other canons may implicitly involve a pastor, conceding rights and imposing obligations in the process.

In general, various canons of the Eastern Code have different sources and have different degrees of authority behind them even while seeking to achieve different levels of compliance. As a result, those canons may express different kinds of rights and obligations.¹²⁶ Some canons state divine positive or natural law, or present a divinely revealed truth, or state simply ecclesiastical law, or even endow local civil laws with

¹²⁶ For different literary forms of law, see Ladislav ÖRSY, "The Interpreter and His Art," in *The Jurist*, 40 (1980), pp. 27-56. For a study of the expression and interpretation of the *Christifideles'* obligations and rights, see John P. MCINTYRE, "*Lineamenta* for a Christian Anthropology: Canons 208-223," in *Periodica*, 85 (1996), pp. 249-276.

canonical force. Still other canons are exhortatory, pointing to a goal that is to be sincerely and earnestly sought rather than absolutely and immediately achieved.

While dealing with rights and obligations, it is important to note the different types of rights mentioned in the Code of Canon Law. According to J. P. McIntyre, the Code[s] recognizes six different kinds of rights:

Just as human rights originate with human nature and civil rights derive from citizenship, so ecclesial rights occur with baptism. Religious rights derive from final profession; ecclesiastical rights are attached to office and contractual rights come from contract. In ascertaining any hierarchy of rights, the canonist must consider the correlative responsibilities involved, especially in those areas that concern priests and their bishop.¹²⁷

Because of the notable differences and, in order to approach the subject of rights and obligations in a complete rather than a restrictive manner, the term “obligation” will be used in this study to encompass whatever the Code acknowledges, restates or institutes as something that is to be done or strived for; “rights” will be used to describe whatever entitlement or beneficial involvement the Code acknowledges, restates or institutes in relation to the office of a pastor of a parish.

Some rights or obligations may be absolute, but most will be relative; the interpretation and enforcement of relative rights or obligations in practice can be affected by various circumstances. As a result, a person’s canonical rights or obligations, expressed explicitly or implicitly in the Code, although “real” may not always be fully enforceable in practice.

¹²⁷ See MCINTYRE, “*Lineamenta* for a Christian Anthropology,” p. 264. It may also be noted that CCEO c. 1540 uses the term “subjective right” (“*iuris subiectivi*”).

CONCLUSION

In this chapter, the figure, office and function of the pastor of a parish according to CCEO have been examined in detail. In exploring this topic, the first section analyzed the concept of parish in the Eastern tradition from the viewpoint of its different levels. Consideration was given to the etymological analysis of the word parish and the early concept of parish. Then, the juridical concept of a parish as seen in the *motu proprio Cleri sanctitai*, the canonical legislation for Eastern Churches before the promulgation of the CCEO, was examined showing that it placed greater stress on the territorial element. Parish was seen more as an administrative unit of juridical institution than as a local ecclesiastical community. The Second Vatican Council enriched the concept of *ecclesia* through a new theological approach. It considered the Church as the people of God and parish as a cell of the eparchy. Thus, in the conciliar vision, the community aspect of the parish was re-introduced without ignoring its territorial dimension. The CCEO has incorporated into its canons a balanced approach to the parish by including both communal and territorial dimensions, with the former given greater importance.

The Eastern Code has made significant changes to the old legislation. There is an important difference between the very presentation of the parish in CS and in CCEO. The title itself, which deals with the parish, reveals this difference. In CS, the emphasis was on the pastor (*De parochis*) rather than on the community. Whereas the title in CCEO, is *De paroeciis, de parochis et de vicariis paroecialibus*. In CS, the parish was seen essentially in terms of a certain territory with people and a benefice attached to it. In CCEO, a parish is a

certain community of the Christian faithful, stably established within an eparchy. Thus now the emphasis is on the community rather than on its territorial and institutional aspects. The eparchial bishop now enjoys more power in the organization of parishes.

There are only a few differences between CIC 1983 and CCEO concerning parishes. The CIC 1983 (c. 516 §2) speaks of quasi-parishes, while in CCEO there is no reference to such parishes. Again, some of the canons of CIC 1983 are more elaborate than those in the CCEO. The reason for this is evident, i.e., CCEO gives wider scope and freedom to the particular laws of various *sui iuris* Churches in the organization of parishes so that they can retain their identity and traditions.

Then we examined in detail the juridical figure of the pastor of a parish. With regard to the figure and function of pastor, CS placed greater emphasis on the juridical nature of the office rather than on its pastoral significance. In CS the pastor of a parish was a person who was strictly under the control of the eparchial bishop who dealt with the pastor according to rigid prescriptions of laws rather than as his fellow worker or co-operator. Moreover, in CS there were different grades of stability of the office of pastors, which seemed contradictory to the principle of equality among pastors. Also, CS laid more emphasis on the obligations and functions of pastors, giving very little consideration to the exercise of rights attached to the office of a pastor of a parish.

The Second Vatican Council declared the presbyters to be collaborators with bishops and aids and instruments in the service of the people of God.

The CCEO presents the figure of the pastor of a parish with more theological and pastoral significance. The CCEO has a greater stress on the pastoral care of souls. Its depiction of the figure of pastor of a parish is based on the image of the good shepherd.

The salvation of humanity is the supreme law in the Church. Hence, the good of humankind is and should be the ultimate criterion in structuring the parish and its ministry, in appointing, transferring and removing pastors. The CCEO has abolished the grades of stability in the office of pastors. It has also removed some of the limitations of the old law placed upon the freedom of the bishops in the appointment and transfer of pastors.

Finally, certain general concerns regarding pastor's rights and obligations were examined. Those general concerns alluded to in this chapter are fundamental to the proceeding chapters. The figure of pastor of a parish expresses the nature of his rights and obligations. The pastor of a parish is a presbyter to whom the care of souls in a given parish is committed as to its own shepherd; he is the foremost collaborator of the eparchial bishop. He cares for the parish under the authority of the same eparchial bishop: "In exercising this care of souls, pastors and their assistants should so fulfill their duty of teaching, sanctifying, and governing that the individual parishioners and the parish communities will really feel that they are members of the eparchy and of the universal Church" (CD, n. 30). Through his appointment to the office he acquires certain rights and obligations related to the exercise of his three-fold functions, and this has been clearly noted in c. 289 of CCEO. In other words, the office of the pastor of a parish and the three-fold functions he has to fulfill necessarily

imply certain rights and obligations. These rights and obligations will be the focus of the following chapters.

CHAPTER TWO

THE PASTOR OF A PARISH AS MINISTER OF WORD OF GOD

INTRODUCTION

Before his ascension into heaven, Jesus commanded his disciples, “Go into all the world and proclaim the good news to the whole creation.”¹ This command of Jesus was in fact addressed to the whole Church. By its very nature the Church is missionary, one sent out into the world to preach the good news to all nations. Therefore, the proclamation of the gospel is the Church’s inherent right and duty.

The entire Church, guided by the Holy Spirit of Christ, dynamically engages in God’s revealed truth, safeguarding it, searching for more profound grasp of it, faithfully announcing it and explaining it. Every baptized person shares in this ecclesial mission by virtue of being incorporated into the body of Christ. However, while the Supreme Pontiff, as successor of Peter and head of the Episcopal college, bears this responsibility for the universal Church in a unique way, at the level of the local Church it is the eparchial bishop who has the primary task of preaching the revealed word, because here he is the authentic teacher and guardian of faith within the eparchy entrusted to his shepherding ministry. He is commissioned to preach the good news of God,² to defend it,³ and to proclaim it without shame.⁴ Presbyters, who are collaborators (“*cooperators*”)

¹ Mark 16: 15.

² Romans 1: 1.

³ Philippians 1: 16.

⁴ Romans 1: 16.

of the eparchial bishop, share the same priesthood of Christ with him and have their proper role (“*proprium*”) or particular prerogative in preaching the word of God.⁵ Therefore, all presbyters, but particularly those who assume the full care of souls in parishes, have a grave responsibility to accomplish this ecclesial mission, namely the preaching the word of God.

The central theme of this chapter is the leadership role of the pastor of a parish in the teaching ministry. Inherent in any office are obligations and rights proper to its nature. When a pastor is appointed to his office, he also inherits the rights and duties which constitute that office. Because preaching the word of God is at the heart of his ministry as the pastor, he assumes the rights and obligations proper to that ministry. Therefore, the theme of this chapter would include the following issues: (a) the specific obligations and rights with respect to preaching the word of God; (b) the pastor’s rights and obligations in respect to catechetical formation of his parishioners; (c) the extent to which a pastor may, and sometimes should, share with other Christian faithful his obligations and rights relative to his ministry of preaching the word of God.

2.1. GENERAL CONSIDERATIONS

Title I, canons 7-26 of CCEO,⁶ speak directly of “the rights and obligations of

⁵ Cfr. PO, n. 4; LG, nn. 28, 29; CD, n. 30.

⁶ The Eastern Code used the word order: rights and obligations (*ius et obligatio*), while on the contrary the 1983 Latin Code used the formula: obligations and then rights (*obligatio et ius*). For further reading about this subject, see James H. PROVOST, “The Nature of Rights in the Church,” in *Canon Law Society of America (= CLSA) Proceedings*, 53 (1991), pp. 1-18; Dominique LE TOURNEAU, “*Quelle protection pour droits et les devoirs fondamentaux des fidèles dans L’Église?*” in *StC*, 28 (1994), pp. 59-83; for commentary on cc. 7-26 of CCEO, see POSPISHIL, *Eastern Catholic Church Law*, pp. 91-106; FARIS, *Eastern Catholic Churches*, pp. 117-152; NEDUNGATT, *A Guide to the Eastern Code*, pp. 81-97; PINTO, *Commento al Codice dei canoni delle Chiese orientali*, pp. 13-35.

all the Christian faithful,” and Title X, chapter III, canons 367-393 present “the rights and obligations of clerics.” Some of the basic rights and obligations of a pastor of a parish as minister of the word of God are based on responses to obligations and rights shared by all of Christian faithful, bishops, priests, deacons and lay persons. A close relationship of that sort really ought to be expected because pastors of parishes are completely involved in providing the service of leadership within their parish communities.

The rights mentioned in cc.7-26 of CCEO often implicitly express the pastor’s obligations.⁷ Pastors have to lead their own lives conscientiously. They have to teach their faithful accurately, listening to them patiently and helping them to fulfill their spiritual needs. They also help their faithful to know and live the mystery of salvation. Finally, they work with the faithful to enable them to receive a “Christian education,” so that they can spread the message of divine salvation.⁸

Canons 15 and 16 of CCEO, inspired by the conciliar teaching and existing legislation,⁹ articulate the relationship that should exist between pastors of the Church and their faithful. The faithful are obliged in obedience to follow the pastors, to recognize them as teachers of faith, and to offer them allegiance as leaders of the Church. By this obedience, the faithful enjoy the right to make their needs and opinions known to their pastors. Such an expression of needs is aligned closely with the right of

⁷ The dispositions contained in cc. 7-26 of CCEO reproduce to a large extent the norms of cc. 204-223 of CIC1983. These canons present specific means by which the Christian faithful express their identity and their mission in the world.

⁸ See SWEENEY, *Obligations and Rights of the Pastor of a Parish*, p. 53.

⁹ Cfr. LG, n. 37, PO, n. 9, IM, n. 8, AA, n. 6, GS, n. 92, and CS c. 527.

the Christian faithful to receive spiritual assistance from their pastors. By right the faithful receive assistance from the pastors of the Church from the spiritual goods of the Church, especially the word of God and the sacraments (CCEO c.16).¹⁰ Such rights are complementary: (1) to the obligation of pastors to carry out the function of teaching, sanctifying and governing on behalf of their flock (CCEO c. 289); (2) to reside in the parish, thereby assuring his availability to his parishioners (CCEO c. 292); (3) to see that a homily is preached at the Divine Liturgy on Sundays and feast days (CCEO c. 614§2); and (4) to celebrate the sacraments in conformity with the approved and appropriate liturgical texts (CCEO c. 674).

Canon 20 of CCEO clearly emphasizes, “that the baptized have a right to a Christian education by which they are properly instructed on how to achieve the maturity of the human personality and at the same time to know and live the mystery of salvation.”¹¹ The right of the faithful to an appropriate personal formation and education about the truths of salvation places an obligation on the Church to provide such an education. Various canons of CCEO make references to this obligation.¹² While canon 20 provides the basic general principle, details are explained at greater lengths in canons 617-666. For example, canons 617-626 deal with catechesis; canons 627-650 are concerned with Catholic educational institutions; and canons 651-666 focus on the media, especially books. To exercise this right to Christian education, the faithful must

¹⁰ CCEO c. 16: “Ius est christifidelibus, ut ex spiritualibus Ecclesiae bonis, praesertim ex verbo Dei et sacramentis, adiumenta ab Ecclesiae Pastoribus accipiant.”

¹¹ CCEO c. 20: “Christifideles, quippe qui baptismo ad vitam doctrinae evangelicae congruentem ducendam vocentur, ius habent ad educationem christianam, qua ad maturitatem humanae personae prosequendam atque simul ad mysterium salutis cognoscendum et vivendum rite instruantur.”

¹² See CCEO cc. 596, 617-623.

depend on the assistance of the pastors of the parishes. So implicit in canon 20 is a very generally expressed obligation of the pastor; he has to work with the faithful so that all his parishioners may obtain, a sound Christian education.

Of the canons on the rights and obligations of clerics (cc. 367-393), c. 372 §2 requires clerics to attend conferences that the hierarch has judged suitable for promoting the sacred sciences, and pastoral affairs. Canon 372 §2, when considered in conjunction with c. 281§1, would appear to place some obligation on the pastor of a parish. It requires just and reasonable efforts to schedule duties of priests assigned to the parishes; they should have opportunities to satisfy their obligation stipulated in c. 372. However, if it is not possible to do so, because of conflicts of rights, canon 26 §§1-2 should be prudently applied.

2.1.1. The Content of the Pastors Teaching Function

Although the office of teaching in the name of the Church is an exclusive responsibility of the bishops, presbyters, being their collaborators, and having the sacred orders, share this teaching function.¹³ Among presbyters a place of special prominence belongs to the pastors of parishes.

Canons 281 and 289 §1 of CCEO establish the pastor's general obligation to

¹³ CCEO c. 596: "In nomine Ecclesiae docendi munus solis Episcopis competit; in eodem tamen munere partem habent ad normam iuris sive ii, qui Episcoporum per ordinem sacrum effecti sunt cooperatores, sive ii, qui in ordine sacro non constituti mandatum docendi receperunt." This canon not only highlights bishop's decisive teaching role in the name of the Church but also specifies the collaborative teaching function of other clerics and those who have received the mandate to teach. See also Juan Ignacio ARIETTA, "The Active Subject of the Church's Teaching Office," in *StC*, 23 (1989), pp. 243-256; NEDUNGATT, "Teaching Function of the Church in Oriental Canon Law," in *StC*, 23 (1989), pp. 39-60; see also the ideological analysis of the task of the Church as teacher, sharpened by the juxtaposing of the respective canons of the two Codes in Thomas J. GREEN, "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.

preach the word of God and catechetical formation.¹⁴ The first part of the c. 289 reads as follows:

In carrying out the teaching function, the pastor is bound by the obligation of preaching the word of God to all the Christian faithful so that, rooted in faith, hope and charity, they may grow in Christ and that the Christian community may render such witness of love as the Lord commanded. The pastor is also to lead the Christian faithful to the full knowledge of the mystery of salvation by catechetical formation that is adapted to the age of each one. To impart this formation he is to seek, not only the assistance of the members of religious institutes or societies of common life in the manner of religious, but also the cooperation of lay persons.¹⁵

According to this canon, with regard to the office of teaching, the responsibility of pastor of the parish revolves around two important functions: preaching the word of God and catechetical formation. The Code highlights, as a goal of the pastor's teaching, the growth of the community in faith, hope and charity. It also explicitly calls upon the pastor to elicit the support of the religious and the lay persons in the Church's teaching

¹⁴ With regard to the teaching function, CIC 1983 c. 528 §1 is more elaborate. CIC 1983 speaks of preaching the word of God, homily, catechetical instruction, Catholic education of children, young and adults, etc. In CIC 1983, the teaching function includes also the "works, which foster the spirit of the Gospel." However, CCEO c. 289 §1 does not speak of the homily. Preaching the word of God includes the homily as well as catechetical formation includes Catholic education for all sections of faithful, about which the Code speaks elaborately in title XV devoted to ecclesiastical magisterium (CCEO cc. 595-666). As is perhaps not surprising, the initial set of canons on the Church's teaching office is largely the same in the two Codes (CCEO cc. 595- 606; CIC 1983 cc. 747-754). However, the Eastern Code does not include here canon 751 of the Latin Code describing the meaning of heresy, apostasy and schism, but somewhat more systematically deals with the issue in terms of the persons guilty of such delicts in title XXVII on penal sanctions (cc. 1436-1437). For a detailed study on the Teaching function of the Church, see GREEN, "The Teaching Function of the Church," pp. 93-140.

¹⁵ CCEO c.289 § 1: "In exsequendo munere docendi parochus obligatione tenetur verbum Dei praedicandi omnibus Christifidelibus, ut hi in fide, spe et caritate radicati in Christo crescant et communitas Christiana illud testimonium caritatis reddat, quod Dominus commendavit; itemque institutione catechetica Christifideles ad plenam mysterii salutis cognitionem ducendi unicuique aetati accommodatam; ad hanc institutionem tradendam non solum sodalium institutorum religiosorum vel societatum vitae communis ad instar religiosorum auxilium quaerat, sed etiam laicorum cooperationem."

mission.¹⁶

2.1.2. The Content of the Pastor's Ministry of the Word of God

In Title XV of CCEO, "The Teaching Function of the Church," the rights and obligations of the pastor with respect to the ministry of the word of God are set forth. Title XV, Article 1 of Chapter II, speaks of the preaching of the word of God (cc. 609-616), whereas, Article II explores the area of Catechetical Formation (cc. 617-626). These canons address the questions: What are the sources of preaching? Who are the ministers of the word of God and who cooperates in this ministry? Before addressing these questions it is important to examine "What is the ministry of the word of God?" This question has not been envisaged in these canons, as an appropriate answer to it pertains to the discipline of theology.

The term "word of God" is used in both Old and New Testaments. But the word of God precedes both Scripture and Tradition. God first speaks, and the living community of faith, experiences this revelation. These experiences of God's revelation are then committed to written and oral forms in order to transmit it to succeeding generations of believers, and the faith community reappropriates them in light of its own experience and understanding of God's word. This divine revelation found in Scriptures and Tradition is now experienced in the Church. The ministry of the word of

¹⁶ The Latin Code stresses the formative role of the homily, the fostering of social justice, ministry to children and young adults, and ministry to those no longer practicing the faith or not professing the true faith. See CIC 1983 c. 528 §1. Not surprisingly both Codes are basically similar on key tasks of the pastor in view of his sharing in the threefold functions of Christ.

God is a broad concept in Catholic theology.¹⁷

A succinct definition of the ministry of the divine word is found in the 1971 *General Catechetical Directory*: “The ministry of the word is the communication of the message of salvation: it brings the gospel to humanity.”¹⁸

The New Testament has several expressions for the object of this ministry: “the reign of God,” “the word of God,” “the mystery,” and “the good news.” All mean ultimately the same thing – to preach Christ who died on the cross and rose from the dead to give us life.¹⁹ Christ is the content and object of the ministry of the word of God. The aim of the ministry of the word of God is to communicate the message of salvation: to bring the gospel to humanity, to make Christ present in the world through word and sacrament, to form and foster communities of faith.

The *General Catechetical Directory* contains a theology of the ministry of the word, which nicely relates the “life of the Church” as a source of this ministry with other sources like Scripture and Tradition. It stresses that the ministry of the word is not a mere transmission of static truths. It is a vital interpretation of the Scripture and the living traditions of the Church. The ministry of the word “is not a mere repetition of ancient doctrine, but rather it is a faithful reproduction of it, with adaptation to new problems and with a growing understanding of it.”²⁰ This means that the ministry of the

¹⁷ For a clearer understand of the theology of the word of God, see John M. HUELS, “The Ministry of the Divine Word,” in *StC*, 23 (1989), pp. 326-332.

¹⁸ See SACRED CONGREGATION FOR THE CLERGY, *Directorium catechisticum generale* (= *Directorium catechisticum*), 11 April 1971, n. 16, in *AAS*, 64 (1972), p. 110.

¹⁹ See Domenico GRASSO, *Proclaiming God's Message: A Study in the Theology of Preaching*, Notre Dame, IN, University of Notre Dame Press, 1965, pp. 1-21.

²⁰ Cf. *Directorium catechisticum*, nn. 11, 12, 13, and 32.

word must be adapted to the mentality and cultures of the people so that the Church can “transmit, explain, and interpret this word in a lively manner for the peoples of every culture and for people of every condition.”

The ministry of the word in the Church starts with listening to it, reading the Bible, meditating and studying it. It comprises various forms of communicating it like preaching and catechesis, instruction.²¹ The word of God may also be celebrated liturgically,²² as for example with Bible vigil or, especially when in the absence of priests the Divine Liturgy cannot be celebrated, the liturgy of the word.²³

According to Nedungatt, “The ministry of the word is the *praecipuum munus* of bishops (LG, n. 25, CD, n.12), of presbyters (PO n. 4), and deacons (LG, n. 29); hence the ministers of the word of God in the first place are bishops, presbyters and deacons; others are exhorted to participate in this ministry readily, which they may exercise having regard for three factors: aptitude, state of life and mandate.”²⁴

2.2. PREACHING THE WORD OF GOD IN GENERAL

The Church’s law does not give us a definition of preaching, but the Code does contain a very rich description of it. Preaching is the proclamation of the mystery of Christ, who is the way, the truth and the life. Through preaching God’s people are brought together; they are nurtured in their faith and life, according to the plan of God.²⁵

²¹ Cfr. DV, nn. 23-24.

²² See SC, n. 35.

²³ See CCEO c. 607.

²⁴ See NEDUNGATT, *A Guide to the Eastern Code*, pp. 466-467.

²⁵ See CCEO c. 616 §1: “Verbi Dei praedicatores sepositis humanae verbis abstrusisque

Along with catechetical formation, preaching the word of God is a primary form of ministry of the divine word. Preaching is directed toward those who have already heard and welcomed the gospel, the Christian faithful. Catechetical formation is a more systematic effort “by which faith matures and the disciple of Christ is formed through a deeper and more systematic understanding of the teaching of Christ and through closer union, day by day, to the person of Christ.”²⁶

The first of the principal duties of a pastor is preaching the Word of God.²⁷ This is the carrying out of the mission of Christ, the Word that came to dwell among us in order to announce to the people the kingdom of God.²⁸ The apostles received this mission directly from Christ, and this is being continued by the bishops as their successors, and by priests and deacons who share in the episcopal order. So when a priest teaches, he does it with authority which he received from Christ through the Church. Hence the priest must preach first by his example and then by word. Priests as ministers of the Word of God, are called to meditate upon the Gospel and bear witness to it by their own lives.

The principal obligation of the pastor of a parish is stated with precise detail in c. 289 §1 of CCEO. According to this canon, the pastor is bound by the obligation of

argumentis christifidelibus praedicent integrum mysterium Christi, qui est via et veritas et vita; ostendant res terrestres et instituta humana secundum Dei Creatoris consilium ad hominum salutem quoque ordinari et ideo ad aedificationem Corporis Christi non parum conferre posse.”

²⁶ See CCEO c. 617: “Singularum Ecclesiarum sui iuris praesertim vero earum Episcoporum est gravis obligatio catecheseos tradendae, qua fides ad maturitatem adducatur et formetur Christi discipulus per cognitionem profundiorum et magis ordinatam doctrinae Christi et per adhaesionem in dies artiorum ipsius Personae.”

²⁷ PO, nn. 4-5; CCEO c. 595

²⁸ See John 1: 14.

preaching the word of God to all Christian faithful rooted in faith, hope and charity.

Priests have the faculty to preach where they are legitimately sent or invited (c. 610 §2). Deacons also have the same faculty, unless particular law has determined otherwise (c. 610 §3). By virtue of his office, a pastor has the faculty to preach and can invite other priests or even a deacon to preach if particular law permits it. In an extraordinary case, the eparchial bishop, but not the pastor of a parish, on his own, can give other Christian faithful the mandate to preach (c. 610 §4). Such extraordinary cases could arise because of lack of clergy or it may be that a religious or a lay person could be invited to preach on a specific topic (e.g., vocations, missions, etc.) in which they are involved or particularly qualified. However, these religious or lay persons cannot preach the homily during Divine Liturgy (Mass)²⁹ since, this function is reserved to the priest, or deacon should particular law permit it.³⁰

2.2.1. The Purpose of Preaching the Word of God

Preaching the word of God is proclaiming the gospel of Jesus Christ to people and inviting them not only to believe in it but also to live it in their daily life. In other words, preaching is the proclamation of the good news of salvation. Through proclamation of the word of God, teaching becomes part of the liturgy. The Church preaches the word of God, first, to give birth to faith, and then to nourish and strengthen

²⁹ Though the homily is a means of preaching the Word of God, it differs slightly from preaching in general. Every homily is preaching and it is the preeminent form of preaching, but not all preaching is homily. A homily is characterized by the fact that it is a part of the Liturgy.

³⁰ See CCEO c. 614 §4; see also FARIS, *Eastern Catholic Churches*, pp. 588-589.

that faith because the primary, the very basic mission of the Church is to lead all people to salvation through faith. Therefore preaching leads the faithful to the full knowledge of Christ and communion with him; communion with Christ is the ultimate goal of all activities of the Church. It is through the ministry of the word that the Christian community is formed and hence the universal Church is built up. In order that the faithful may come to know Christ and his news of salvation, and receive the grace of faith, it is necessary that the Church and priests in particular, show them the light of Christ by announcing the Gospel.

Thus, the purpose of preaching is the nourishment of the faith life of Christians which encourages them to read the Bible, pray, receive sacraments, practice personal discipline, grow in moral virtues, take up the cross and attain holiness. Thus a pastor has a responsibility to educate the people of God and bring them up in genuine Christian holiness.³¹

2.2.2. Content of Preaching

Canon 616 of CCEO gives a detailed description of the content and general themes for preaching. A simple reading of the canon establishes that its listing of subject matter of preaching is not taxative, but directive. That is, many other topics should be included in preaching in order to fulfill the explicitly stated obligation to present the whole of God's word. However, at the same time there is also an expressed obligation to preach the subjects mentioned in this canon, which have special importance for our day and age.

³¹ See AG, n. 13.

The first part of the canon states that the preaching should be “Christo-centric.”³² The conciliar decree PO, n. 4 emphasized the Christo-centric aspect of preaching when it said, “the task of a priest is not to teach their own wisdom but God’s word.”

The second part of the canon speaks of other themes which could help the faithful to lead a truly Christian life in this world. Other themes centered around the Church doctrine are: the dignity of human person and fundamental human rights, family life, social and civil life, sense of justice to be pursued in the world of work and of economics, ways and means to establish peace on earth and how to improve peoples’ every day life.

2.2.3. Homily

While speaking of the teaching function of the pastor, CCEO c. 289 does not make explicit mention of the homily. This does not mean that CCEO has ignored the importance of the homily, which is an effective medium of preaching the word of God. Canon 614 of CCEO strongly recommends that homily be preached as part of the liturgy. It makes clear reference to the homily and makes it a duty of the pastor of a parish and of the rectors of the churches to give a homily during the Divine Liturgy on Sundays and feast days.³³ Canon 614 §1 of CCEO is taken textually from SC, n. 52, where it is also prescribed on Sundays and other feast days. Homily is an integral part

³² Cfr. CCEO c. 616 §1; EN, n. 26; CT, nn. 5-9; CD, n. 12.

³³ CCEO c. 614 §1: “Homilia, qua per anni liturgici cursum ex Sacra Scriptura mysteria fidei et normae vitae christianae exponuntur, ut pars ipsius liturgiae valde commendatur. §2: Parochis et rectoribus ecclesiarum incumbit obligatio curandi, ut saltem diebus dominicis et festis de praecepto intra Divinam Liturgiam homilia habeatur, quae ne omittatur nisi gravi de causa.”

of liturgy, not only of the Divine Liturgy, but also every liturgical celebration (baptism, marriage, etc.). In the homily the pastor should expose the mysteries of the faith and rules of Christian living (CCEO c. 616 §§1-2).

Since homily is an important form of preaching the word of God, in the course of the liturgical year, the mysteries of faith and the rules of Christian living that are to be expounded in the homily are to be taken from the sacred text (CCEO c. 614 §1). A homily, here described as the exposition of “the mysteries of faith and the norms of Christian life” is based on or derived from Sacred Scripture throughout the liturgical seasons of the Church.³⁴ This description of a homily is from the Constitution on the Sacred Liturgy.³⁵

According to *Sacrosanctum Concilium*, n. 35,

[...] A sermon is part of the liturgical action whenever a rite involves one. The ministry of preaching is to be fulfilled most faithfully and carefully. The sermon, moreover, should draw its content mainly from scriptural and liturgical sources, for it is the proclamation of God’s wonderful works in the history of salvation, which is the mystery of Christ ever made present and active in us especially in the celebration of the liturgy.

Although the Second Vatican Council did not define the term “homily,” the Sacred Congregation of Rites advanced an understanding of “homily” in the instruction *Inter oecumenici*, for the proper Implementation of the Constitution on the Sacred

³⁴ The liturgical year in the Syro-Malabar Church is composed of 9 seasons. They are 1) Annunciation (subara); 2) Epiphany (Denha); 3) Great Fast (Sawma Rabba); 4) Resurrection (Qjamta); 5) Apostles (Slihe); 6) Summer (Qaita); 7) Elijah-Cross (Elijah- Sliba); 8) Moses (Muse); and 9) Dedication of the Church (Qudas Edta). For details on the liturgical seasons of the Syro-Malabar Church, See Charles PAYNGOT, *Aradhanavatsaram* (Malayalam), Kottayam, Oriental Institute of Religious Studies India [=OIRSI], 1990, p. 51.

³⁵ See SC, n. 52.

Liturgy, n. 54:

By a homily derived from the sacred text is understood an explanation either of some aspect of the readings from holy scripture or of another text from the Ordinary or Proper of the Mass of the day, taking into account the mystery which is being celebrated and the particular needs of the hearers.³⁶

In various official documents many additional details, descriptive elements and insights into the concept of “homily” have been presented. After analyzing and integrating the different elements of a “homily” mentioned in SC, n. 52, CT, n. 48, and EN, n. 43, Sweeny suggests the following description of homily:

The homily is an integral part of the liturgy, but not reserved only to the liturgical celebration of the sacraments; when presented during the Mass, the homily is part of the liturgy of the word, which liturgy of the word together with the eucharistic liturgy “are so closely connected with each other that they form but one single act of worship.”³⁷

According to Provost:

The homily is one of several forms of preaching and does not exhaust the possibilities of preaching in the Church. The homily is the preeminent form of preaching not because it is delivered better than other forms of preaching or is more effective, but because of the dignity of the setting in which it takes place (the liturgy), and its importance in the worship of God as offered in and by the Church. It forms an integral part of the liturgy itself: the word is proclaimed by reading from scripture, and by the homily which applies that reading to the lives of those present; this should so stimulate faith that the liturgical celebration in which the homily takes place becomes a moment of grace and enlightenment for the participants.³⁸

³⁶ See SACRA CONGREGATIO RITUUM, Instruction, *Inter oecumenici*, 26 september 1964, in *AAS*, 56 (1964), pp. 877-900, here at n. 54, p. 890. English translation in *Canon Law Digest*, (= CLD), vol. 6 (1963-1967), p. 88.

³⁷ See SWEENEY, *The Obligations and Rights of the Pastor of a Parish*, p. 66.

³⁸ See James A. PROVOST, “Brought Together by the Word of the Living God,” in *StC*, 23 (1989), p. 360.

One author identifies the following characteristics of the homily: (1) it is prayer; (2) it is liturgical; (3) it is based on the Word of God; (4) it concerns Jesus Christ; (5) it is for today; (6) its preaching requires a gift; (7) and its preaching is related to “office” in the Church.³⁹

Who can preach a homily?⁴⁰ By law those who are obliged to preach homily are pastors and rectors of the Church.⁴¹ But in the second part of c. 614, the obligation is not so restricted. Hence all concerned (e.g., when guest priests who offer Sunday Mass in the parish) have to see to it that the homily is not omitted. At all Masses on Sundays and holydays of obligation, celebrated with a congregation, there is to be a homily; it is not to be omitted except for a grave cause (c. 614 §2). It is the personal responsibility of the pastor to give homily. He cannot habitually entrust another to fulfill his obligation unless he has the approval of the local hierarch to do so (c. 614 §3).⁴²

³⁹ See Frank HENDERSON, “The Minister of Liturgical Preaching,” in *Worship*, 56 (1982), pp. 216-219.

⁴⁰ The preachers in the parishes of the ancient Church were the bishops. In the present law bishops, priests and deacons, each according to the grade of sacred order, are charged with the ministry of the word. See POSPISHIL, *Eastern Catholic Church Law*, pp. 367-370; see PROVOST, “Brought Together by the Word,” p. 361.

⁴¹ The Latin Code treats presbyters and deacons similarly regarding preaching options in that they have the faculty to preach everywhere unless it is removed or restricted, or particular law requires permission (*licentia*) to preach (CIC 1983 c. 764). The Eastern Code deals with the issue somewhat differently. Canon 610 §2 states somewhat broadly that priests may preach wherever they happen to be legitimately sent or invited. However, canon 610 §3 states somewhat restrictively that deacons have the same faculty barring any contrary determination of particular law (“*Eadem facultate praedicandi praediti sunt etiam diaconi, nisi ius particulare aliud statuit*”).

⁴² The parallel canon in the Latin Code, c. 767, strongly asserts the eminent position of the homily among all other forms of preaching God’s word, and provides for its inclusion within virtually all public celebrations of Masses. In 1987 the Pontifical Commission for the Authentic Interpretation of the Code of Canon Law declared that a diocesan bishop couldn’t dispense from the canon requiring reservation of the preaching of a homily to a priest or deacon. The commission’s decision was published at the direction of JOHN PAUL II. See PONTIFICIA COMMISSIO CODICI IURIS CANONICI AUTHENTICE INTERPRETANDO, *Acta Commissionum*, in *AAS*, 79 (1987), p. 1249. Several canonists expressed differing opinions on this reservation of homily to a priest or deacon. For a discussion on this decision, see John M.

Common law stipulates that a deacon could preach homily if the particular law authorizes it (CCEO c. 614 § 4).⁴³ This canon explicitly states that the homily is reserved to a priest, and a deacon can do so only if it is allowed by particular law.

As L. Órsy rightly says, a good interpreter of law must always get behind the meaning of the words of the law and search for the values.⁴⁴ Why is the homily at

HUELS, "The Ministry of the Divine Word (Canons 756-761)." in *StC*, 23 (1989), pp.325-344; "The Law of Lay Preaching: Interpretation and Implementation," in *CLSA Proceedings*, 52 (1990), pp. 61-79; *More Disputed Questions in the Liturgy*, Chicago, Liturgy Training Publications, 1996; PROVOST, "Brought Together by the Word," pp. 345-371; Lawrence G. WRENN, *Authentic Interpretations on the 1983 Code*, Washington, DC, CLSA, 1993, pp. 41-43; Lynda A. ROBITAILLE, "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.

⁴³ Eastern deacons were for a long time ordained only to enhance the liturgical celebration. See POSPISHIL, *Eastern Catholic Church Law*, p. 368; NEDUNGATT, *A Guide to the Eastern Code*, p. 470. But the tradition of ordaining men as permanent deacons never died out in the Eastern Churches, even though most of them became deacons chiefly for enhancing the celebration of divine services. The deacon, as a valuable cooperator of the pastor, has been introduced after the Second Vatican Council, and has met with great success in suitable surroundings. See POSPISHIL, *Eastern Catholic Church Law*, p. 279.

At present the diaconate in the Syro-Malabar Church is the proximate step towards the sacrament of Holy Order. Thus diaconal ministry is not permanent. During the 9th synod of Syro-Malabar Church the draft of the permanent diaconate was introduced by Mar George Punnakottil. Some raised the question whether permanent deacons are needed in the Malabar Church in Kerala at all. After the discussion the Synod decided to entrust the Commission for Particular Law with the task of drafting the particular Law concerning permanent deacons. The commission could make use of the drafts of Guidelines for formulating the particular law. In the meantime Mar Punnakottil was to redraft the Guidelines taking in to consideration the suggestions of the Synod. When ready both the drafts of the particular law and Guidelines would be presented to the synod. The bishops could then ascertain whether the priests of their eparchies feel the need for permanent deacons. See in *Synodal News*, 9 (2001), pp. 24-25.

The 10th synod of bishops held from 15-27 July 2002 discussed again the draft of the permanent diaconate and decided to give preliminary approval for the draft. After giving the definition of permanent deacon, the draft presents laws for admission and formation of candidates, requirements of candidates for ordination, ordination to permanent diaconate, the rights and obligations of permanent deacons, and ongoing formation of the permanent deacons in five titles. The preliminary approved draft of particular laws on permanent diaconate is published in *Synodal News*, 10 (2002), pp. 47-56.

In this situation, what Varanath mentions on permanent diaconate is still to be underlined. The very aim of diaconate is to offer service and not to increase the standard of life those promoted to diaconate. In the same way their participation in the administrative system is a help to pastors. Because of the presence of married clergy in Eastern Churches, the introduction of married diaconate doesn't create special prejudices. See VARANATH, *The Threefold Function of a Pastor*, p. 87.

⁴⁴ See Ladislav ÓRSY, "The Meaning of *Novus habitus mentis*: The Search for New Horizons," in *The Jurist*, 48 (1988), pp. 429-447; "The Relationship Between Values and Laws," in *The Jurist*, 47

liturgy restricted to a priest or deacon? What are the values promoted by this law and by related laws?

While dealing with canon 767 §1 of CIC 1983, Huels explains that there are four key values behind the law restricting the homily to a priest or deacon.⁴⁵ The first is the theological value that an ordained person sacramentally represents Christ and preaches authoritatively in the name of the Church. In virtue of his ordination, the priest or deacon has a leadership role to play in the Church, and when he preaches during the liturgy he speaks with authority in the name of the Church.⁴⁶

The second is the liturgical value that the one who presides over the liturgy of the word is the one who ordinarily preaches on the word. Preaching at liturgy is primarily a presidential role, that is, it ordinarily and optimally is a function of the presider. The one who presides over the liturgy of the word of God ought to be the one who preaches the word of God. At Mass the priest presides over both the liturgy of the word and the liturgy of the Eucharist, and he relates one to the other through the homily. The presiding priest ordinarily gives the homily at Mass. By exception the law permits

(1987), pp. 471-481; "Moral Theology and Canon Law: The Quest for a Sound Relationship," in *Theological Studies*, 50 (1989), pp. 151-167; "Integrated Interpretation; The Role of Theology in the Interpretation of Canon Law," in *StC*, 22 (1988), pp. 245-264; "The Interpreter and His Art," in *The Jurist*, 40 (1980), pp. 27-56.

⁴⁵ See HUELS, "The Law on Preaching," pp. 70-73.

⁴⁶ The homily is an official, authoritative form of preaching at liturgy given only by the ordained. When the lay persons share in the teaching office of the Church, they typically teach, evangelize, or witness to the gospel in their own name as members of Christ faithful, unless they have been officially commissioned for a particular teaching function in virtue of a canonical mission or some other form of deputation. Thus, when lay persons have been authorized to preach by competent ecclesiastical authority in accord with the norm of law, they too preach in the name of the Church, not like the ordained in virtue of their ordination, but rather in virtue of their official deputation. Some key canons related to the deputation of lay persons for teaching, sanctifying, and other function and tasks are: CCEO cc. 979 §2; 408 §§1- 2; 404 §3; 403 §2; 709 §2; 610 §4; 636 §2; 644; and 668 §1.

another priest or deacon to give the homily. At Mass the priest who presides over both the liturgy of the word and liturgy of the Eucharist ideally brings the two together through his homily, drawing out the riches of the word of God and leading the assembly's response to that word in praise, thanksgiving, and communion.

The third value is to ensure that the preachers are qualified by means of a suitable formation. Those who preside at the Church's liturgy are acting in an official role in the name of the Church. So canon Law requires that such ministers receive an adequate formation.⁴⁷

The fourth value is the protection of the faithful's right to receive the word of God and the corresponding duty of the ordained ministers to preach the word of God. Canon 16 of CCEO speaks of the constitutional right of the faithful to receive from their pastors of the Church, assistance in receiving the spiritual goods of the Church, especially from the word of God and from the sacraments. In order to ensure that this right is not neglected, the Code insists in various canons on the duty of the pastors of the Church to see that the word of God is proclaimed and preached and taught.⁴⁸ The

⁴⁷ See CCEO cc. 668 §1; 409; 328-356.

⁴⁸ See CCEO cc.192, 196, 289, and 614. Here naturally arises the question regarding the possibilities of lay preaching. We can notice a sharper differentiation between the two Codes in regard to the lay preaching. With due regard for the reservation of the homily to clerics (CIC 1983 c. 767 § 1), the Latin Code is somewhat open to such a possibility if it is "necessary" in certain circumstances (e.g., non-presbyterial parish leadership figure in CIC 1983 517 §2) or "advantageous" in particular cases. The seriousness of the issue and a concern for a certain standardization of policy underlie the requirement that Episcopal conferences issue norms in this regard (CIC 1983 c. 766). However, there is a somewhat more restrictive approach to lay preaching options in the Eastern Code (CCEO c. 610 § 4). This is possible only in extraordinary circumstances, especially if there is a shortage of clergy. The language here (*ad supplendam penuriam clericorum*) is comparable to canon 517 §2 of Latin Code on the grounds for a bishop's entrusting parish administration to one who is not a presbyter. While the Latin Code speaks of the laity being "admitted" to preach, the Eastern Code refers to the granting of a "mandate." Also unlike the Latin Code provisions for Episcopal conferences, there is no reference to lay preaching norms being issued by a supra-eparchial authority such as the patriarchal synod or council of hierarchs. This seems

fourth value is the most important one.

In addition, since the pastor is obliged to be sure that canon 614 §1 is conscientiously followed, he is implicitly required to achieve a degree of certainty that his own and the homilies delivered by other priests or deacons present at least in a general way the subjects called for by canon 616.

Canon 614 explicitly sets down particular times and circumstances at which a homily is to be given. It is a grave obligation for any priest who celebrates Divine Liturgy in the circumstances indicated. The obligation is a grave one, since the canon specifies that a grave cause would be necessary to omit homily. This canon not only makes clear the pastor's personal obligation of preaching the homily but also imposes on him a grave obligation of seeing that other priests and deacons conscientiously preach homilies as required by law.

Since homilies are part of liturgy (Divine Liturgy), pastors have an implicit obligation to make the faithful aware of the fact that the homily is an important part of Divine Liturgy, and therefore, they should participate in it as well. We see a tendency among some faithful to come for the Divine Liturgy only after the homily; some others go outside the church during the homily. So the pastors of parishes are urged to prepare the homily properly and present it in an enjoyable manner so that the Church properly carries out the teaching function as intended. No doubt, unprepared or too lengthy and boring homilies of pastors cause disinterest among the faithful.

Pope John Paul II in his Apostolic Exhortation *Catechesi tradendae*, 16 October

related to the importance placed on the eparchial bishop's supervisory role over preaching as found in the first canon of the article I of title XV (CCEO c. 609).

1979, said:

Much attention must be given to the homily; it should be neither too long nor too short; it should always be carefully prepared, rich in substance and adapted to the hearers, and reserved to ordained ministers. The homily should have its place not only in every Sunday and feast day Eucharist, but also in the celebration of baptisms, penitential liturgies, marriages and funerals. This is one of the benefits of the liturgical renewal.⁴⁹

Pastors have an obligation to arrange series of preaching in the churches at suitable times for the spiritual renewal of the people (c. 615). Canon 615 refers to preaching during special liturgical seasons like lent or advent, or feasts or other such special occasions, or periodic retreats, "parish missions," etc., according to the norms determined by the eparchial bishop. This kind of ministry of the word takes many forms in various countries.

Preachers shall choose to speak not only on the fundamental doctrine as revealed by God, as it evolved and conveyed to the people of God, but also include topics such as the dignity of the human person, human rights, family life, social and civil life, sense of justice in work and economics, and whatever secures peace on earth and the progress of peoples (c. 616).⁵⁰ This canon concentrates on the explicit obligations of pastors to provide thematic preaching.

Canon 783 says pastors are obliged to see that the faithful are prepared for the matrimonial state. They may do it by preaching and catechesis adapted to youths and

⁴⁹ See *L'Osservatore romano*, (Weekly English Language edition), 12 November 1979, p. 7.

⁵⁰ See HUELS, "The Law on Preaching," pp. 61-79. See also POSPISHIL, *Eastern Catholic Church Law*, p. 370.

adults, and by personal preparation of the partners for and after the marriage.⁵¹

2.3. CATECHETICAL FORMATION IN GENERAL

It is the duty of the Church not only to develop and safeguard the deposit of faith but also to transmit it to the succeeding generations through instruction. The term “catechesis” has a technical meaning, which is quite complex. As was the case with the term “homily,” many Church documents comment on different aspects of catechesis, but none fully defines it. In addition, official Church documents use, with regularity and apparent inter-changeability, several different terms to identify the same subject: “catechetical formation,” “catechetical instruction,” “catechetics” and “instruction in Christian doctrine.” Catechetics or catechetical formation is as old as the Church itself. Decisions that affect the teaching of Christian doctrine appear at different times and occasions and through different normative sources in history.⁵² In recent decades, especially since Second Vatican Council, the Church issued several very significant and major documents that have helped to promote and shape the ministry of catechetical formation. Some of the documents are the following:

⁵¹ See POSPISHIL, *Eastern Catholic Church Law*, pp. 484-498.

⁵² A summary may be found in Auguste MOLIEN, “*Catéchisme*,” in *Dictionnaire de droit canonique*, Paris, Letouzey et Ané, 1937, cols. 1403-1433. For a brief note on the historical evolution of Catechesis from early centuries to the Second Vatican Council, see José Antonio FUENTES, “The Active Participants in Catechesis and their Dependence on the Magisterium,” in *StC*, 23 (1989), pp. 374-377. In the early centuries of the Church, “catechesis” occurred primarily via the family and the liturgy. Gradually it evolved into a specific expression of teaching doctrine, and began to be regulated by various Councils and Popes and Bishops. The Synod of Bishops in 1977 was dedicated to the theme “Catechesis in Our Times,” and it noted that the catechumenate is the model for catechetical programs, and “affirmed the direction taken by the modern catechetical movement, stating that it has produced excellent results for the renewal of the entire community of the Church.” See Catherine DOOLEY, “Catechesis, Catechetics,” in *The New Dictionary of Theology*, Wilmington, Michael Glazier, 1987, p. 165.

- (1) Sacred Congregation for the Clergy, *The General Catechetical Directory* (1971).⁵³ Its main impact was on methodology of catechesis. It is a document that provides more or less general “guidelines” for catechetical methods, especially with an awareness of Second Vatican Council’s teachings, linking renewal of catechesis with the renewal of the Church. This does not contain binding norms.
- (2) Sacred Congregation for Worship, *Rite of Christian Initiation for Adults* (1972). Here there is movement from catechesis with a focus on children and on adults who are in the process of conversion to the Catholic faith.
- (3) Paul VI, Encyclical *Evangelii nuntiandi* (1975).⁵⁴ This encyclical includes Church, schools, and the families within Catechetics.
- (4) John Paul II, Apostolic exhortation *Catechesi tradendae* (1979).⁵⁵ This is particularly relevant to the purpose of catechesis and those who catechize. Catechesis, it explains, is an activity involving the whole Church, in which the faithful exercise different functions.⁵⁶ Also these functions of the bishops are described, and the responsibility of the laity, especially families, is recognized.⁵⁷

⁵³ See SACRED CONGREGATION FOR THE CLERGY, *General Catechetical Directory*, Washington, DC, Publications Office, United States Catholic Conference, 1971.

⁵⁴ See PAUL VI, Apostolic exhortation, *Evangelii nuntiandi*, 8 December 1975, in *AAS*, 68 (1976), pp. 5-76.

⁵⁵ See JOHN PAUL II, Apostolic exhortation, Catechesis in Our Time *Catechesi tradendae* (=CT), 16 October 1979, in *AAS*, 71 (1979), pp. 1277-1340.

⁵⁶ See CT, nn. 16, 20.

⁵⁷ See CT, nn. 63, 66, and 68.

(5) *The Catechism of the Catholic Church* (1992).⁵⁸ It is intended as a “reference text” which bishops and publishers can use when writing local and regional catechisms. It is a statement of the Church’s faith and of Catholic Doctrine and a sure norm for teaching the faith.

(6) *The General Directory for Catechesis* (1997).⁵⁹ This directory provides normative orientation, guide, and support for the evangelization efforts of the individual Churches.

The formulation of the canons on catechetical formation (CCEO cc.617-626)⁶⁰ was helped very much by the above documents, especially the apostolic exhortation *Catechesi tradendae*.⁶¹ It supplied the notion of catechesis. According to *Catechesi tradendae*:

Catechesis is an aspect of evangelization whose purpose is to educate children, young people, and adults in the Christian faith, and involves teaching the Christian doctrine, generally in an orderly and systematic fashion.⁶²

Taking inspiration from various documents of the Church, Sweeny offers the following descriptive definition of catechesis:

⁵⁸ See *Catechism of the Catholic Church*, New York, Catholic Book Publishing Co., 1994.

⁵⁹ See SACRED CONGREGATION FOR THE CLERGY, *General Directory for Catechesis*, Vatican City, Typis polyglottis Vaticanis, 1997.

⁶⁰ See the corresponding canons in CIC 1983 cc. 773-780.

⁶¹ This Apostolic exhortation of John Paul II is particularly relevant to the purpose of catechesis and those who catechize. In 1985, on the occasion of the extraordinary synod of bishops, several expressed the desire that a catechism or compendium of all Catholic doctrine regarding both faith and morals be composed. The presentation of doctrine has to be biblical and liturgical. It has to be sound doctrine suited to the present life of Christians. Pope John Paul II took up the matter and in collaboration with all Catholic bishops of the world, their episcopal conferences or synods and of theological and catechetical institutes, after six years of intense work and after nine successive drafts, by virtue of his apostolic authority promulgated the *Catechism of the Catholic Church* on 11 October 1992.

⁶² See CT, n.18.

Catechesis is a cooperative activity of all members of the Church community focused on communicating, in an accurate, systematic and complete manner, the whole of God's revelation, adapted to the capacities of the listeners, to all who already have some belief in Christ; while at the same time leading them by individual and community example, shared prayer and love, to develop their own intense personal love of Jesus, moved by their deepening knowledge of his life and teachings, and their experience of sharing his followers' faith-filled lives.⁶³

CCEO gives special emphasis to the catechetical formation of all groups of Christian faithful. It clarifies the purpose of catechetical formation. It treats catechetical formation more fully, yet with some interestingly different provisions compared to its counter part in CIC 1983.

According to *Catechesi tradendae*, catechesis is regarded as:

[...] An expression of the Church's ministry of word and it is thereby related to the proclamation of the Gospel in general and the homily in particular even though these are given a distinct sphere in the life of the Body of Christ. Catechesis therefore remains a responsibility of the work of bishops, presbyters and deacons, but especially of pastors.⁶⁴

Catechesis aims at awakening, nourishing and developing the faith, which one has received at the time of Baptism. It also enables the faithful to build a personal relationship with Jesus and enter more fully with the mystery of salvation. Thus catechesis is that form of the ministry of the word, which is directed toward those who have heard the gospel message and responded to it in faith. It aims at rendering the faith alive, conscious and effective; in other words, it helps our faith to mature. And then the

⁶³ See SWEENEY, *The Obligations and Rights of the Pastor of a Parish*, pp. 72-73. Cfr. also CT, nn. 5, 18, 19, 21, 22, 24, 25, 29, 30; CD, n. 14; AG, n. 14; and SC, n. 64.

⁶⁴ See CT, nn. 18-20.

disciple of Christ is formed through a deeper and more systematic understanding of the teaching of Christ and through a closer union with the person of Christ. Once this union has deepened, it will be a real guiding force in the believer's life.

2.3.1. Catechetical Formation in Parish.

Since catechetical formation has a vital role to play in the formation of the faithful, CCEO makes it a grave responsibility of the eparchial bishops of the various *sui iuris* Churches and pastors of parishes to impart catechetical instruction to the faithful entrusted to their care.⁶⁵ The pastor should follow the norms determined by competent authority; he should make serious effort to provide catechesis to all persons entrusted to his pastoral care whatever their age or physical condition.⁶⁶ There are several canons throughout the Code that call our attention to the responsibility of the pastor to provide catechetical formation for his parishioners.⁶⁷

⁶⁵ After referring to the catechetical responsibility of each Church *sui iuris*, especially of the eparchial bishop, and describing the goal of catechesis (c. 617), the Eastern Code then treats briefly of the catechetical roles of parents (c. 618), the parish community (c. 619), Christian associations, movements and groups of the faithful (c. 620), the patriarchal synod/council of hierarchs (c. 621), a catechetical commission for each Church *sui iuris* (c. 622), the eparchial bishop (c. 623), and the pastor and other parish leadership personnel (c. 624). Two final canons highlight the importance of integrating various values in the catechetical enterprise: canon 625 with an ecumenically sensitive treatment of other Churches and ecclesial communities with due regard for the proper nature of Catholic catechesis, and canon 626 on the adaptation of catechesis to the needs of different audiences and cultures while communicating church doctrine in its entirety.

⁶⁶ CCEO c. 624 §1: "Parochus summam operam dare debet attentis normis ab auctoritate competenti statutis ad catechesim tradendam omnibus suae curae pastorali commissis, cuiuscumque sunt aetatis vel condicionis." The corresponding canon in CIC 1983 is c. 776, which makes some kind of grouping in accordance with ages in imparting catechetical instruction. CCEO does not make such a classification of groups. It states that catechesis should be imparted to all persons irrespective of age and conditions. Here one can note the mentality of the Code, that imparting catechesis is an ongoing process and should not be limited to a particular age group. This canon is more proximately drawn from LG, nn. 28-29; CD, nn. 30 and 35; AA, nn. 3 and 10; PO, nn. 4-9; CT, nn. 64-67.

⁶⁷ Cfr. CCEO cc. 14, 18, 19, 25, 281, 289 §1, 302§ 1, 401, 404, 406, 424, 591 §2, 608, 618, and 624.

Canon 281 of CCEO mentions that the pastor is to carry out his teaching function as the collaborator of the eparchial bishop in the parish. Canon 289 §1 says that the pastor is bound by obligation to preach the word of God; he is to lead the Christian faithful to the full knowledge of the mystery of salvation by catechetical formation. Canon 617 focuses on the role of catechism in the formation of the Christian disciple and in the deepening of one's commitment to the person of Christ.⁶⁸ This canon explicitly and precisely establishes the general obligation of pastors to give catechetical formation in their parishes. Canons 682 and 783 explicitly and in more precise detail, oblige the pastors to provide appropriate instructions in preparation for the reception of sacraments of baptism and marriage. Canon 617 also indicates what the results of effective catechetical formation should be. The pastor of a parish is not "canonically obliged" by c. 617 of CCEO to fully achieve such results; the pastor is, however, implicitly obliged to provide a catechesis which a prudent person would expect to produce such effects.

The phrase "adhering to the norms established by the competent authority," with which c. 624 §1 begins, affects the pastor of a parish in two ways. First, as a member of the *sui iuris* Church, he is explicitly obliged in a general way as pastor to cooperate with competent authority in forming and carrying out parochial and eparchial programs of catechetical formation. Second, as pastor and as legitimate ecclesiastical authority in his own parish, the pastor has a right and an obligation to supervise all catechetical programs in his own parish. Canons 624 §3 and 618 implicitly establish that the pastor

⁶⁸ This notion is taken from CT, nn. 18, 19, 20, 62, 63 and CD, n. 14. See NEDUNGATT, *A Guide to the Eastern Code*, p. 472; PINTO, *Comento al Codice dei canoni delle Chiese orientali*, pp. 509-510.

has the right to expect that, (a) other Christian faithful, all parents and all godparents, will fulfill their own particular responsibilities with regard to catechetical formation, and (b) will cooperate with the pastor's leadership in providing catechetical formation for all concerned.

Canon 624 §1 explicitly reiterates the obligation of the pastor to provide all parishioners with catechetical formation. It also requires him to foster in them, the role of parents especially in the family catechesis.⁶⁹ But in view of the amount of work involved in this and other areas, pastors can seek out collaborators from among members of religious institutes and societies of common life in the manner of religious and from the lay persons.⁷⁰ But the law places the central and co-coordinating responsibility at the parish level on the pastor.

In regard to the content of catechesis also, the Code offers some directions. The Code asks the synod of bishops and council of hierarchs of each *sui iuris* Church to form a *catechetical directory*⁷¹ for their faithful, observing the provision made by the

⁶⁹ A comparison between c. 624 and c. 618 of CCEO would indicate the extent of the pastor's catechetical obligation. Parents are specially obliged to provide Christian formation for their children, the pastor, however, is obliged to provide Christian formation for everyone even as they grow from childhood through youth into and during adult life. Among those entrusted to his responsibility are children, adolescents, and adults on the one hand and the displaced and the handicapped on the other. See NEDUNGATT, *A Guide to the Eastern Code*, p. 473.

⁷⁰ Cfr. CCEO cc. 289 § 1, 624 § 2, 381 § 3.

⁷¹ Regarding the *catechetical directory* of Syro-Malabar Church, a report by the secretary of the catechetical directory commission is mentioned in the bulletin of the Syro-Malabar Church. See *Synodal News*, 9 (2001), pp. 22-24. The secretary explained the draft of the Directory to the IX Synod of the Syro-Malabar Major Archiepiscopal Church, highlighting its structure and main points. The content of the catechism is presented following the order of the history of salvation. Several members proposed additions and amendments to the draft. The draft was on the whole accepted by the Synod. Finally, the same Synod approved the Catechetical Directory prepared by the commission for catechism with the proposed modifications and asked the commission to submit it to the Major Archbishop for promulgation. The same Synod decided to entrust the Commission for Catechism with the task of preparing and circulating among the bishops a syllabus for catechism and finalizing it within one year. The commission

supreme authority of the Church and this directory should mirror the special character of the Eastern Churches. Canon 621 §§1-2 insists that in imparting catechesis, biblical and liturgical dimension of catechesis as well as the traditions of the same *sui iuris* Church in patrology, hagiography and even iconography are taken into account. The assemblies of bishops are to prepare catechisms suited to various groups of faithful, along with appropriate teaching aids and means.

In order to implement the norms for the catechetical programs and to prepare qualified persons for catechesis, each Church shall establish a permanent catechetical commission, perhaps in collaboration with other Churches (c. 622 §1). The catechetical commission shall avail itself of a catechetical center, which will execute the catechetical plans within the pastoral units of the Church, including the ongoing formation of catechists (c. 622).

The Code also states that this catechesis should be imparted with ecumenical orientation and present the correct image of the other Churches and ecclesial communities, at the same time absolutely safeguarding Catholic principles (c. 625).

Ecumenism is a new subject in canon law. CCEO deals with this subject mainly in seven canons.⁷² It is really a canonical fulfillment of the mission or charge entrusted

then proceeded with the preparation of Catechism textbooks. See *Synodal News*, 9 (2001), pp. 36-37. During the concluding address, Major Archbishop Varkey Vithayathil said: "One great achievement of this session is the finalization of the Catechetical Directory of our Church. It is very important that we pay proper attention to our younger generation and help them grow in their faith." See *Synodal News*, 9 (2001), p. 39.

⁷² Cfr. CCEO cc. 902-908. On the elaboration of canons on "Ecumenism or Fostering the Unity of Christians," in CCEO, Cfr. *Nuntia*, 11 (1980), pp. 70-72; 12 (1981), pp. 13-14, 35-36; 17 (1983), pp. 62-65. For commentary on the the canons on ecumenism, see POSPISHIL, *Eastern Catholic Church Law*, pp. 657-668; PINTO, *Commento al Codice dei canoni delle Chiese orientali*, pp. 777-782; NEDUNGATT, *A Guide to the Eastern Code*, pp. 607-608. Nedungatt has also published a detailed bibliography on this

by the Second Vatican Council to the Eastern Catholic Churches to promote the unity of Christians, especially among Eastern Christians.⁷³

CCEO cc. 902-908 deal with the principles and norms governing the practice of ecumenism. They set the specific goal of ecumenism as the restoration of unity of the Christians of the Eastern Churches. Through CCEO, the recommendation of UR, n. 4, that is, restoration and promotion of Christian unity, becomes also a canonical obligation for all the Christian faithful of the Eastern Catholic Church, but especially for all pastors.⁷⁴

According to canon 192 §2 of CCEO, “The eparchial bishop is to see in a special way that all Christian faithful committed to his care foster unity among Christians according to principles approved by the Church.”⁷⁵ This unity must be realized in the eparchial community in such a way that all the faithful foster unity among all persons baptized in Christ and must proceed in conformity with the principles of the Catholic Church under the directives of the Roman Apostolic See (c. 904 §1). Eastern Catholic Churches have a special relationship to the Eastern non-Catholic Churches and must, therefore, exercise a prominent role in the ecumenical movement.⁷⁶ This role can be fulfilled through prayer, example of life, fidelity to their authentic traditions, respect for and knowledge of the non-Catholic Churches, fraternal

subject.

⁷³ See OE, n. 24.

⁷⁴ See CCEO c. 192 §2.

⁷⁵ Cfr. LG, n. 23.

⁷⁶ Cfr. OE, n. 24.

collaboration and sensivity (c. 903). As collaborator of the eparchial bishop, the pastor of a parish has much to do in this new area of pastoral ministry.⁷⁷

The pastor of a parish can make use of teaching aids and the modern means of social communication in the catechesis. Clearly he may make use of television, radio, press, tapes, literature, etc., according to the resources of his parish community.

In catechesis, the role of liturgy is important as the source of a living formation of faith. According to *Catechesi tradendae*, n. 23:

Catechesis is intrinsically linked with the whole of liturgical and sacramental activity, for it is in the sacraments, especially in the Eucharist, the Christ Jesus works in fullness for the transformation of human beings [...] sacramental life is impoverished and soon turns into hollow ritualism, if it is not based on serious knowledge of the meaning of the sacraments.⁷⁸

⁷⁷ Areas of his concern include sacramental sharing (cc. 671 and 681 §5), ecumenical marriages (cc. 813 and 833), spiritual care of baptized non-Catholics who are served by Catholic institutions (c. 907), works of charity and social justice (c. 908), the burial of baptized non-Catholics deprived of ministers of their Churches (c. 876 §1) and the sharing of facilities (c. 670 §2). Since the Second Vatican Council, the Roman dicastery for the promotion of Christian unity has issued two Ecumenical directories. The first Ecumenical directory was issued in two instalments in 1967 and 1970; and the second in 1993. For the text of these directories, see THE SECRETARIAT FOR PROMOTING CHRISTIAN UNITY, "Ad totam Ecclesiam," in *AAS*, 59 (1967), pp. 574-592; "Spiritus Domini," in *AAS*, 62 (1970), pp. 705-724. The second directory, issued by the same secretariat under its new name, THE PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY, *Directory for the Application of the Principles and Norms on Ecumenism*, 25 March 1993, Vatican city, Libreria editrice Vaticana, 1993; in *AAS*, 85 (1993), pp. 1039-1119. This directory brings together all the norms already established for implementing and developing the decisions of the council given up to the present and where necessary it updates them. It strengthens the structures that have been developed for the support and guidance of ecumenical activity at every level of the Church. This directory consists of 218 articles. It includes: (1) a declaration of the commitment of the Catholic Church to ecumenism (art. 9-36); (2) an account of the steps taken by the Catholic Church to put this commitment into practice through the organization and formation of its own members (art. 37-91); (3) the communion that exists with other Christians on the basis of the sacramental bond of baptism, and the norms for sharing in prayer and other spiritual activities, including in particular cases sacramental sharing (art. 92-160); (4) principles, different forms and norms for cooperation between Christians with a view to dialogue and common witness in the world (art. 161-218). For a brief commentary on the CCEO canons on ecumenism, see Marco BROGI, "Apertura ecumeniche del Codex canonum Ecclesiarum orientalium," in *Antonimum*, 66 (1991), pp. 455-468.

⁷⁸ See CT, n. 23.

Liturgy is the official public worship of the Church.⁷⁹ Some elements of liturgy recognized as elements of catechetical formation, the homily especially, and the readings and prayers of the liturgy are drawn from Sacred Scripture as the Council said:

And the visible signs which the sacred liturgy uses to signify invisible divine things, have been chosen by Christ or by the Church. Thus not only when things are read “which were written for our instruction” (Rom. 15: 4), but also when the Church prays or sings or acts, the faith of those taking part is nourished, and their minds are raised to God so that they may offer him their spiritual homage and receive his grace more abundantly.⁸⁰

The focal point of ecclesial life is liturgy, which is the source and summit of Christian endeavors on earth. In order to lead a proper ecclesial life as proposed by CT, each *sui iuris* Church has to formulate its own proper catechesis with an emphasis on the liturgical aspect which, together with the sacramental life, is pregnant with unique theological significance and rich symbolism. Furthermore, the stress on the ecclesial and liturgical aspects is necessary in the catechetical formation of the faithful.

According to CT, n. 67, the parish community is the prime mover, and it occupies the pre-eminent place for catechesis. The pastors have a significant role in imparting and organizing catechism for the various groups of the Christian faithful in their parishes. They should prepare the faithful for active participation in Divine Liturgy, as well as in sacramental life. It is their responsibility to encourage the faithful in introducing certain para-liturgical celebrations and pious devotions in the parish in accordance with the liturgical spirit. They should take initiative in celebrating

⁷⁹ See SC, n. 2.

⁸⁰ See SC, nn. 24, 33.

devotional exercises in the manner proposed by Second Vatican council.⁸¹

They should direct the faithful to conduct the family prayers according to the liturgical spirit of each *sui iuris* Church. Pastors of parishes can make the faithful aware of these things through his homilies.⁸² Pastors should give occasional instruction and classes to catechetical teachers on the need of imparting liturgical catechesis on proper ecclesial traditions. They must make an effort to occasionally visit catechetical classes and at times to take classes for the students in order to explain the meaning and symbols used in the liturgy, sacraments, etc. Thus real faith formation, which starts from the celebration of Divine Liturgy, is to be confirmed through catechetical classes and is to continue in the day-to-day life of the faithful. The success of these processes depends to a great extent on the interests of the pastors.⁸³

In collaboration with the bishop, the pastor is given the responsibility to encourage, coordinate and to direct the catechetical activities of the parish. Therefore he must know how to integrate those activities with other projects of evangelization.

As master and educator of the faith, the pastor of a parish should ensure that the catechism, especially where it concerns the sacraments, will be a primary part in the Christian education of the family, its religious instruction, its apostolic formation and

⁸¹ See SC, n. 13.

⁸² See CT, n. 48. This proposes homily as a good means of catechesis.

⁸³ The teaching function, which is carried out through preaching and catechesis by the pastor of a parish, is one and the same, in each *sui iuris* Church. But the differences are in the liturgical, theological, spiritual and administrative traditions. The individuality in all these fields are to be studied and the members of each Church *sui iuris* must be given adequate catechesis proper to the Church of their origin. Therefore, teaching and catechetical formation should be organized in such a way that the pastor may be able to help in the process of true Christian formation in the parish according to the liturgical and spiritual traditions of his *sui iuris* Church.

movements, and that it will be brought to all the faithful children, adolescents, adults, and the elderly. He should, moreover, know how to transmit the catechetical instruction, using all such means as teaching aids and instruments of communication which can be of use to the faithful, in a manner proper to their character, capacity, age and condition in life, so as to teach them more fully the doctrine of the Church and how to apply it in ways suitable to their condition.

In both the preaching ministry and the catechetical programs, the pastor of a parish should also take into account the non-Catholics and the non-baptized as well as those who have absented themselves from the sacraments or even those who have even fallen away from faith.⁸⁴ In a highly mobile and pluralistic society of today, the contacts of the pastor will not be restricted only to the members of his parish. Therefore, the pastor is to extend his concern for those beyond the membership of his parish. Following the example of Good Shepherd, he is to seek out those of his flocks who are absenting from the sacraments or who have even departed from the faith.⁸⁵ How the pastor is to reach those who are negligent in their duty is not specified in law, perhaps because it is so difficult given the unpredictable life styles people have today, with strange living schedules and work commitments and other social obligations. Nor is it said how the pastor is to reach those who do not profess the true faith. Surely they are in

⁸⁴ CCEO c. 293: "Memor sit parochus se debere sua cottidiana conversatione et sollicitudine baptizatis et non baptizatis, catholicis et acatholicis, exemplum ministerii vere sacerdotalis et pastoralis exhibere omnibusque testimonium veritatis et vitae reddere et ut bonus pastor illos quoque quaerere, qui baptizati quidem in Ecclesia catholica a susceptione sacramentorum se abstinere vel immo a fide defecerunt."

⁸⁵ In the Eastern Code the pastoral concern for non-Catholic Christians is specially mentioned. Cfr. cc. 681 §5, 671 §§3-4, 908 and 25 §2. In all of these areas, the pastor is to be a witness to the Gospel tenets of truth and life. See FARIS, *Eastern Catholic Churches*, p. 599.

a certain sense his responsibility, but how to reach them, how to care for their souls, without resorting to a kind of proselytism is a problem each pastor will have to face with utmost sensitivity. It is the clear teaching of *Christus Dominus*, though, that “[...] the care of souls should always be infused with a missionary spirit so that it reaches out in the proper manner to everyone living within the parish boundaries. If the pastor cannot contact certain groups of people, he should seek the help of others, including lay persons, who can assist him in the apostolate.”⁸⁶

2.3.2. Catechetical Formation in Catholic Schools.

The Second Vatican Council did not use the term “Catholic education,” in any of its documents. But it mentioned clearly that schools are a privileged means to educate.⁸⁷ It indicated the goal and function of true Christian education.⁸⁸ It treated in its documents the significant elements of Christian education and its method.

Taking inspiration from *Gravissimum educationis*, both Latin and Eastern Codes deal with Catholic education.⁸⁹ Among the canons on Catholic education, c. 628 of CCEO states the appropriateness of the Church’s role in education. The role of the Church in Catholic education is subsidiary to and at the same time concomitant with

⁸⁶ CD, n. 30.

⁸⁷ See GE, nn. 1-4.

⁸⁸ See GE, n. 8.

⁸⁹ See CCEO cc. 627-650; CIC 1983 cc. 793-821. They all state: the overriding importance of schools in the Church’s educational mission and its corresponding right to establish them; the primary parental responsibility to provide for the Catholic education for their children; the importance of parent-teacher collaboration in educating students; the key role of eparchial bishops in overseeing the Catholic educational enterprise with due regard for the legitimate autonomy of institutes of consecrated life.

(“*una cum*”) that of the parents.⁹⁰ The first milieu (or “school”) of Catholic education is the home, and primary rights and obligation belongs to the parents or those who lawfully take their place.⁹¹

It is the right and obligation of the pastors to help parents in educating their children, make them aware of their rights and obligations and provide for the religious education especially of young people.⁹² The real responsibility for making Catholic education available clearly rests on everyone in the community of faith; the pastors are to be the stimulators and coordinators of the effort.

A pastor of a parish is responsible for the Catholic education of all in the parish. Canons 630, 631 and 633 of CCEO implicitly express the obligation of the pastor of a parish to support the initiative of the Church in promoting education, especially in erecting, directing and supporting schools. Together with the mission of the Church pastors have an obligation to highlight the importance of the spirit of love and freedom in Catholic schools and a climate conducive to the development of a Christian personality of the students.⁹³ Canon 634 §1 stresses the importance of integrating appropriate cultural developments with an ever more refined sense of faith. Canon 634 §2 calls for appropriate academic adaptations, if majority of the students in Catholic schools are non-Catholics. Canon 636 §1 authorizes the eparchial bishop to issue

⁹⁰ See CCEO c. 628 §1.

⁹¹ Cfr. GE, nn. 2, 3 and 6.

⁹² CCEO c. 628 §2.

⁹³ CCEO c. 634 §1: “*Scholae catholicae est obligatio propria communitatis scholaris ambitum spiritu evangelico libertatis et caritatis animatum creare, adulescentes adiuvaré, ut in propria persona evolvenda una simul crescant secundum novam creaturam, quae per baptismum effecti sunt, atque universam culturam humanam ad nuntium salutis ordinare ita, ut cognitio, quam alumni de mundo, vita et homine gradatim acquirunt, fide illuminetur.*”

general norms on religious formation and education in Catholic schools.⁹⁴ It also enables the eparchial bishop to exercise an oversight role over such formation and education. More specifically canon 636 §2 permits him to name or approve teachers of Catholic religion as well as to remove them or to demand their removal for reasons of faith or morals.⁹⁵

Catechetical formation in all schools is subject to the authority of the eparchial bishop. But as collaborator of the bishop the pastor of a parish has an implicit obligation to cooperate with the bishop to name or approve the teachers of Catholic religious instruction, as well as to remove them or to demand their removal when this is necessary for reasons of faith and morals (c. 636).⁹⁶ He is also to see that where non-Catholic schools do not provide Catholic instruction, this is supplied there in some manner (c. 637). As collaborator of the eparchial bishop pastor should inspect all Catholic schools of his parish (c. 638).

2.3.3. Catechetical Formation in Catholic Faculties and Universities.

Somewhat like canon 813 of CIC 1983, canon 645 of the Eastern Code expresses the pastoral responsibility of hierarchs to care for the pastoral well being of students in the Catholic universities and faculties. Based on GE, n. 10, the pastoral concern extends to students attending both Catholic and non-Catholic colleges and

⁹⁴ CCEO c. 636 §1: "Institutio catechetica in scholis quibuslibet Episcopi eparchialis auctoritati et vigilantiae subjecta est."

⁹⁵ CCEO c. 636 §2: "Episcopi eparchialis quoque est nominare aut approbare magistros religionis catholicae eosque, si ratio fidei vel morum id requirit, amovere vel exigere, ut amoveantur."

⁹⁶ See CCEO cc. 597, 598.

universities. The canon specifies what the eparchial bishop has to do in this context. He is to establish a university parish for the students, or at least assign priest chaplains on a stable basis for this ministry. Catholic university centers are also to be provided with such chaplains to assist students studying at Catholic and non-Catholic institutions. Where the eparchial bishop does establish a “university parish,” the regular canonical obligations and rights of pastors would become the responsibilities and prerogatives of the pastor of such a parish.⁹⁷

Apostolic constitution *Ex corde Ecclesiae* refers to “pastoral ministry” as a “constitutive element of a Catholic university,”⁹⁸ a part of the mission of the Church within the university, and an opportunity for all members of the university community to “integrate faith with life.”⁹⁹ The apostolic constitution views this ministry as indispensable for Catholic students as they prepare themselves for “active participation in the life of the Church.”¹⁰⁰ It urges close cooperation between the university and the local Church in providing pastoral care for the university community and invites all members of the university community “to assist in the work of pastoral ministry and to collaborate in its activities.”¹⁰¹

⁹⁷ CCEO c. 645: “Hierarcharum est collatis consiliis providere, ut etiam apud alias universitates convictus et centra universitaria catholica habeantur, in quibus christifideles accurate selecti et praeeparati iuventuti universitariae spirituale et intellectuale adiutorium permanens praebeant. »

⁹⁸ ECE, n. 38. For an analysis of the constitution ECE, see James H. PROVOST, “A Canonical Commentary on *Ex corde Ecclesiae*,” in *Catholic Universities in Church and Society: A Dialouge on Ex corde Ecclesiae*, ed. John LANGAN, Washington, DC, Georgetown University Press, 1993, pp. 105-136.

⁹⁹ See ECE, n. 38.

¹⁰⁰ See ECE, n. 41.

¹⁰¹ See ECE, n. 6 §2.

2.3.4. Use of Instruments of Social Communication Especially Books

The twentieth century has given us a whole new world of means of communication between individuals within our human community. The Church vindicates the right to make use of the media, e.g., printed materials, books, press, cinema, television, etc. The Church also has the right to use and own any media, which are necessary or useful for the formation of her followers and for her pastoral activity. Pastors have the task of instructing and directing the faithful on how to use these media in a way that will ensure their own salvation and perfection and that of all humankind. The faithful shall cooperate in this apostolate (c. 651). It is the duty of the bishops to see that the faithful are taught to use these media. Eparchial bishops, the Apostolic See and the heads and synods of *sui iuris* Churches are competent to prohibit the faithful from using or passing on to others the means for social communication to the detriment of the mission of the Church (c. 652). Particular law is to enact norms for the use of media with regard to their use when dealing with Catholic doctrine or morals (c. 653). Even though, these norms are applicable to bishops, pastors of parishes are also to share in the work under the bishop's authority.

Because the bishop's obligations and rights with respect to speaking for the Church are primary, pastors of parishes would need to follow eparchial directives in such matters and it might be prudent on their part to confer with their eparchial bishop before using the instruments of social communication for the purpose of evangelization. Canons 656 §2, 658 and 665 do not place obligations directly upon pastors of parishes. Nevertheless, a pastor has obligations and rights concerning teaching and also

sanctifying the Christian faithful and providing them with a Catholic education. A pastor, then, has the right, obligation, and consequently, authority to require that parishioners or parish groups or any other organs of the parish observe the norms of c. 656 §2 with regard to publishing prayer books for public or private use. He has a similar right and obligation to see that the books to be used in the parish schools or for catechetical instruction conform to the norms of c. 658.

Pastors of parishes are not discouraged from prudently making good and even frequent use of any or all of the various means of social communication in spreading the word of God. With respect to “[...] any other writings or messages whatever reproduced by any technical means and intended for public distribution [...]”¹⁰² they are subject to the same regulations as are all other members of the faithful.

2.4. SHARING OF RIGHTS AND OBLIGATIONS RELATED TO THE MINISTRY OF THE WORD OF GOD

It is the right and obligation of the pastor of a parish to build up the Christian community and to actualize the message of Christ in the parish entrusted to him. He can fulfill this task more effectively by sharing in accord with the norms of law his responsibilities associated with the functions of teaching, sanctifying, and governing with other presbyters or deacons, or members of religious institutes or societies of common life in the manner of religious, and also lay persons.

It must be carefully noted, however, that some rights and obligations of the pastor of a parish arise from his ordination as a priest or cleric and, therefore cannot be

¹⁰² See CCEO cc. 654 and 662.

shared with others who are not in sacred orders. In extraordinary circumstances, which usually arise from a scarcity of priests and deacons, lay Christian faithful may be permitted, in accordance with the norms of law, to collaborate in the ministry of the pastor by carrying out certain tasks usually carried out by a priest or a deacon.

The exercise of the ministry of the word of God is the primary duty of the pastor of a parish, which arises from the obligations flowing from the ecclesiastical office of pastor. He carries out these obligations through preaching and catechetical formation. The pastor's obligation to preach is personal, and he cannot habitually entrust this duty to others. The homily is to be preached by a priest or a deacon (c. 614).¹⁰³

Ecclesiae de mysterio, while dealing with homily, explicitly indicates that it is not permitted to entrust "[...] the preaching of the homily to seminarians or theology students who are not clerics. Indeed, the homily should not be regarded as training for some future ministry [...]," and that "In no instance may the homily be entrusted to

¹⁰³ See CCEO c. 624. The Congregation for the Clergy, in collaboration with seven other Roman dicasteries (Congregation for the Eastern Churches is not one of them), issued a detailed instruction on the collaboration of lay people with the ministry of priests. The instruction is called *Ecclesiae de mysterio*. Though this instruction does not concern the Eastern Catholic Churches, much of it will be relevant (e.g. theological principles) and certain norms (e.g., about homily) may freely be received into their particular law. See CONGREGATIO PRO CLERICIS, PONTIFICIUM CONCILIUM PRO LAICIS, CONGREGATIONES DE DOCTRINA FIDEI, DE CULTU DIVINO ET DISCIPLINA SACRAMENTORUM, PRO EPISCOPIS, PRO GENTIUM EVAGELIZATIONE, PRO INSTITUTIS VITAE CONSECRATAE ET SOCIETATIBUS VITAE APOSTOLICAE and PONTIFICIUM CONCILIUM DE LEGUM TEXTIBUS ITERPRETANDIS, Instruction, On Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priest *Ecclesiae de mysterio*, 15 August 1997, in *AAS*, 89 (1997), pp. 852-877. English translation, in *Certain Questions Regarding Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priest*, Vatican City, Libreria editrice Vaticana, 1997. This instruction gives the theological principles on (1) the common priesthood of the faithful and ministerial priesthood; (2) unity and diversity of ministerial functions; (3) the indispensability of the ordained ministry; and (4) the collaboration of the non-ordained faithful in pastoral ministry. It also gives some practical provisions in 13 articles. They are mainly on the ministry of the word of God, the homily, the parish priest and the parish, the structures of collaboration in the particular Church, liturgical celebrations, Sunday celebrations in the absence of a priest, the extraordinary ministers of holy communion, the apostolate to the sick, assistance at marriages, the minister of baptism, and leading the celebration at funerals.

priests or deacons who have lost the clerical state or who have abandoned the sacred ministry,”¹⁰⁴ According to the Eastern Code, the pastor of a parish can share his duty of preaching homilies only with other priests, or deacons if the particular law allows it.

Catechetical formation in the parish plays an important role in the ministry of a pastor. All canons on the ministry of teaching oblige the pastor of a parish, other clerics, religious and lay persons to work together in providing catechetical formation and catholic education.¹⁰⁵ Canon 14 affirms the duty of the Church as a whole and of all the Christian faithful to spread the divine message of salvation. Canon 18 enunciates, first, the right of Christian faithful to found and direct associations, and second, their right to hold assemblies or meetings for charitable and religious purposes or for the promotion of the Christian vocation in the world. The Christian faithful have the right and duty to exercise some apostolate by taking the initiative or supporting in the mission of the Church. This is implicitly mentioned in c.19. Canon 25 speaks of the right and obligation of the faithful to promote the principles of social justice and charity. Canon 401 enunciates the primordial right and duty of lay people to seek the kingdom of God in the temporal world by regulating it according to the divine order. Canon 406 makes it a special obligation of the lay person to “make known the gospel and the person of Christ in places where they alone are able to do so.” Special obligation of lay persons to contribute to the edification of the kingdom of God in their conjugal and familial life is explicitly mentioned in c. 407. Canon 281 §1 indicates that the pastor is to carry out his

¹⁰⁴ See *Ecclesiae de mysterio*, art. 3, nn. 1 and 3.

¹⁰⁵ Cff. CCEO cc. 14, 18, 19, 25, 401, 406, 407, 627 §1, 281§1, 289 §1, 404§1, 302 §§1,3, 618, and 624.

duty of teaching the word of God subject to the eparchial bishop's authority and in accord with the norm of law. Canon 289 deals with the pastor's threefold function. Canon 302 speaks about the rights and obligations of parochial vicars. First paragraph of c. 404 devotes the first notion of religious instruction given to a child. Therefore, there is no question that the pastor can share, in conformity with the prescripts of law, almost all of his duties in this regard with any other qualified persons, and in fact the pastor is encouraged by canon law to do so.¹⁰⁶ Presbyters and deacons who are attached to the parish, with a canonical mission to be in the service of the parish, are obliged to help the pastor in the catechetical formation. Due to heavy work involved in promoting family catechesis, a pastor should seek the collaboration of members of religious institutes and societies of common life and from lay persons.¹⁰⁷ But the law places the central and coordinating responsibility on the pastor.

As a collaborator with the bishop, the pastor can share his obligations with other members of the Christian faithful in imparting catechetical formation of his parishioners. The pastor has the responsibility to encourage, coordinate and direct the catechetical activities of his parish community. Therefore he must know how to integrate those activities with other projects of evangelization, guaranteeing, at the same time, a close communion with the bishop and the universal Church.

If the pastor of a parish legitimately shares some of his obligations of ministry of the word of God with others, because of the nature of the office he holds, he is

¹⁰⁶ See CCEO c. 624.

¹⁰⁷ Cfr. CCEO cc. 289 §1; 624 §2; and 381 §3.

personally obliged to see that the people with whom he shares his obligation fulfill it properly.

CONCLUSION

In our attempt to determine the leadership role of the pastor of a parish in the teaching ministry we tried to identify the rights and obligations inherent in his office as minister of the word of God. There are in the Codes specific rights and obligations related to preaching the word of God. Within the context of his teaching function the principal right and duty of every pastor of a parish is to preach the word of God. This right/duty is at the heart of his ministry. As collaborator of the eparchial bishop, the pastor is the teacher in matters of faith in the parish. He has the right and obligation to present and to explain to the faithful the truths of faith they are to believe in and apply to their daily lives, and this right/obligation is personal. He is also responsible for the way in which preaching is carried out in his parish.

Among the different forms of preaching the word of God, the homily is important and this task is reserved to a priest, but a deacon can do so only if it is allowed by particular law. In this lies an important difference between the Eastern Code and the Latin Code. According to Latin Code homily is reserved to clerics, who would include bishops, priests and deacons, while the Eastern Code allows deacons to preach the homily only if the particular Church *sui iuris* provides for it. But both Codes consider homily as an official, authoritative form of preaching reserved to the ordained at liturgy.

The second set of rights and obligations of a pastor in the ministry are related to catechetical formation. To develop, safeguard, and transmit the deposit of faith to succeeding generations is the duty of the Church. CCEO makes it clear that this is a grave responsibility of the eparchial bishop and pastor of a parish of the various *sui iuris* Churches. The pastor should follow the norms determined by the competent authority; he should make serious effort to provide catechetical formation to all persons entrusted to his pastoral care whatever their age or physical condition. The Latin Code makes some kind of grouping in accordance with ages in imparting catechetical formation. Four groups of people are mentioned as the objects of the pastor's catechetical concern, namely, adults, young people, children and parents who are responsible for their own "family catechesis." This itemization clearly implies the need for different kinds of instructional programs for each of the age groups, appropriately adapted to their needs and abilities. According to CCEO, imparting catechetical formation is an ongoing process and should not be limited to a particular age group. It places the responsibility for catechetical formation on "the parish itself and every ecclesial community." In collaboration with the eparchial bishop the pastor of a parish has the right and obligation to encourage, coordinate and direct the catechetical formation of the faithful of his parish. It is his duty first to study the individuality and differences in the liturgical, theological, spiritual and administrative traditions of his *sui iuris* Church so as to be able to help in the process of true Christian formation according to those traditions. The pastoral concern for non-Catholics and non-baptized as well as for those who have drifted away from the sacraments or those who have abandoned

their faith should be an important aspect of the pastor's teaching ministry. He should stimulate the catechetical formation and coordinate, in accord with the norm of law, the Catholic education of the faithful of his parish as well as of those who are in schools and universities.

An important element of a pastor's ministry of teaching is his obligation to share with other Christian faithful his rights and obligations. As stated above, the obligation of preaching on the part of pastor is personal, and he cannot habitually entrust it to others. He can share his obligation to preach homilies only with a priest or a deacon. But with respect to sharing in other areas of his teaching function, we should emphasize that the pastor has a right to seek not only the assistance of members of religious institutes or societies of common life in the manner of religious, but also the cooperation of lay faithful of the parish. This is one of the ways in which the pastor can recognize and use to full extent the abilities, talents, education and charisms of lay persons and provide them with opportunities to be involved actively in spreading the word of God through their own example and efforts. Even though the pastor has the right to seek out the assistance of the parish community at large in carrying out his ministry of teaching, the ultimate responsibility in this regard rests with the pastor. It is his responsibility to see that catechetical formation in his parish is properly done.

The pastor of a parish is the mediator between God and the parish community entrusted to his care. His ministry of the word of God announces a special way of life, a life of holiness. The ministries of teaching the Word of God and of leading the faithful to a life of holiness are intrinsically linked. Hence, the rights and obligations of the

pastor of a parish related to the promotion of holiness as the minister of sanctification will be the focus of the next chapter.

CHAPTER THREE

THE PASTOR OF A PARISH AS MINISTER OF SANCTIFICATION

INTRODUCTION

Jesus desired not only the sanctification of his disciples but also of those who believed in him through the preaching of his disciples. He has expressed this desire clearly in his priestly prayer.¹ The Church from her very beginning has been trying to fulfill his desire and to achieve his goal through her ministry of sanctification. The goal of priestly task of the Church is worship of God and sanctification of the faithful. Jesus' death on the cross was the ultimate sacrifice and the highest form of worship.² In other words, the glorification of God and the sanctification of human beings are truly concretized in Christ's death and resurrection. The Church carries out her sanctifying task through the sacraments, sacramentals and other acts of worship. The pastor of a parish plays an important role in this sanctifying ministry of the Church. This role carries with it certain rights and obligations for the pastor.

The principal focus of this chapter is on the rights and obligations of the pastor of a parish as minister of sanctification. The pastor of a parish assumes the priestly ministry of Jesus here on earth by leading the community of faithful in the worship of God through the celebration of Divine Liturgy, the sacraments, sacramentals and other acts of worship.

¹ See John 17: 1-26.

² See SC, n. 10.

3.1. GENERAL CONSIDERATION

Although the pastor's rights and obligations in the ministry of sanctification are not limited to liturgical celebrations, his approach to the liturgy is of critical importance. The pastor's attitude toward liturgy will impact every liturgical celebration in the parish. As expressed by Sweeny, "The pastor is required to know, to protect and, if necessary, even to enforce the right of the parishioners to liturgical practices that are detailed by the Church and promote true communion of people within the Church. In addition just as it is necessary for the pastor to appreciate and develop the catechetical element of the liturgy, he needs to be very familiar with the liturgy as a form of worship."³

Canon 17 of CCEO states: "The Christian faithful have the right to worship God according to the prescriptions of their own Church *sui iuris* and to follow their own form of spiritual life in accord with the teaching of the Church."⁴ Two distinct but related rights are affirmed in this canon. The first is the right of the Christian faithful to worship God according to the prescriptions of their own Church *sui iuris*. The second is the pursuit of a personal spirituality. These rights of the Christian faithful impose certain obligations on their pastors to celebrate the sacraments in conformity with the prescriptions of their Churches.

³ See SWEENEY, *Obligations and Rights of pastor*, p. 108.

⁴ See CCEO c. 17: "Ius est christifidelibus, ut cultum divinum persolvant secundum praescripta propriae Ecclesiae sui iuris utque propriam vitae spiritualis formam sequantur doctrinae quidem Ecclesiae consentaneam."

Canon 674 requires faithful observance of the prayer and actions as prescribed in liturgical books approved by the proper ecclesiastical authorities.⁵ This forbids anyone to make any changes in approved prayers or liturgical books “on personal authority”⁶ and directs pastors to celebrate the sacraments according to their own rite. Canon 289 §2 taken together with canons 668 §2, 657, and 199 impose a precisely detailed obligation and confer a right identified with equal precision on the pastor of a parish carefully to supervise liturgical celebrations in the parish according to the norms of the approved liturgical texts. There is also implied a right of the pastor to expect that other celebrants of liturgy in the parish will willingly accept and put into practice any needed corrections which the pastor may call for on the basis of instructions, rubrics and directions found in the approved texts.⁷

⁵ The various Eastern Churches have rituals for the sacraments different from each other and the ministers are obliged to adhere strictly to the rite of their own Church, unless they have obtained a bi- or multi ritual indult from the Apostolic See to celebrate sacraments in the rite of another.

⁶ The following canons demand the seriousness of the Church’s concern for a devoted, accurate and consistent use of approved texts for the liturgy. See (a) CCEO c. 17, which enunciates the right of the Christian faithful to worship God according to the prescriptions of their own rite; (b) cc. 192 §1-3, 193 §2, and 678 §2, which remind the bishop to show his concern for all the faithful, foster the unity of all Christians, and care for the non-baptized; (c) c. 201, which remind the eparchial bishop of his obligation to prevent abuse from affecting “[...] celebrations of sacraments, sacramentals, worship of God and the cults of saints, as well as the execution of pious wills,[...]”; (d) cc. 655 §1, 656 §1, 657 §3, 657 §2, and 668 §2, which declare the right of Holy See to review all translations of liturgical books; (e) cc. 668 §2 and 674, which require the faithful observance of authorized liturgical books and forbid any changes; (f) cc. 676, 693, 737 §1, 836, 875, and 876 §3, which specifically oblige the use of approved liturgies for sacraments and sacramentals.

⁷ For further information regarding the liturgical legislation of Eastern Churches, see CCEO cc. 3, 40, 656, 657, and 662 §1. For detailed commentary on these canons see FARIS, *Eastern Catholic Churches*, pp. 110-111, 184-189; and POSPISHIL, *Eastern Catholic Church Law*, pp. 86-87, 123-126, 380-382. NEDUNGATT, *A Guide to the Eastern Code*, pp. 75, 110-117, 484-485. On 6 January 1996, the Congregation for the Eastern Churches published an instruction explaining and situating the general liturgical norms found in the Eastern Code. The intention of this instruction is to help the Eastern Catholic Churches fully realize their own identity by a general orientation concerning liturgical laws valid for all Eastern Churches. Up to the publication of this instruction the principles and norms of a liturgical nature have been imbedded in various liturgical books of each Church *sui iuris*. The present instruction, therefore, attempts to gather them in a systematic whole, completing them with further clarifications. See

The office of the pastor actually finds its fulfillment in the sanctifying office of the Church. The entire pastoral ministry has its end in the sanctification of people and glorification of God.⁸ The second part of c. 289 of CCEO elaborates the sanctifying function of the pastor of a parish. The canon reads as follows:

In discharging the sanctifying function, the pastor is to take care that the celebration of the Divine Liturgy is the center and culmination of the whole life of the Christian community. He is to strive to ensure that Christian faithful are nourished with spiritual food through devout and frequent reception of the sacraments and through conscious and active participation in the divine praises. He is also to be aware of the great role the sacrament of penance has in fostering Christian life; therefore, he is to make himself readily available to administer this sacrament, calling upon, if necessary, also other priests who are versed in various languages.⁹

Here the Code emphasizes four means of sanctification: first, the celebration of Divine Liturgy, which is the center and culmination of the whole life of Christian community; second, the sacraments in general as means of sanctification; third, Divine Praises as means of sanctification; fourth, celebration of the sacrament of penance.

CONGREGATION FOR THE EASTERN CHURCHES, *Instruction for Applying the Liturgical Prescriptions of the Code of Canons of the Eastern Churches*, Vatican City, Libreria editrice Vaticana, 1996. This instruction consists of 112 articles. Articles 35-94 deal with Divine Worship and Sacraments. It is very useful for preparing the particular law of *sui iuris* Churches. For an overview of significant differences between the Eastern and Latin Codes concerning the administration of the Sacraments, see David MOTIUK, "The Code of Canons of the Eastern Churches: Some Ten Years Later," in *StC*, 36 (2002), pp. 198-222.

⁸ To sanctify means both "to make holy" and "glorify the holy (God)." See SC, n. 7.

⁹ CCEO c. 289 § 2: "In perficiendo munere sanctificandi curet parochus, ut celebratio Divinae liturgiae centrum sit et culmen totius vitae communitatis christianae; itemque allaboret, ut christifideles spirituali pabulo pascantur per devotam et frequentem sacramentorum susceptionem atque per consciam et actuosam in laudibus divinis participationem; meminerit etiam parochus quam maxime sacramentum paenitentiae ad vitam christianam fovendam conferre; quare facilem se praebeat ad hoc sacramentum ministrandum vocatis ad hoc, si opus est, aliis etiam sacerdotibus, qui varias linguas callent."

3. 2. THE CONTENT OF THE PASTOR'S MINISTRY OF SANCTIFICATION

In Title XVI of CCEO, "Divine Worship and Especially the Sacraments," rights and obligations of the pastor are set forth with respect to the sanctifying function (cc. 667-895).¹⁰ This title consists of eight chapters, which speak of (1) Baptism (cc. 675-691), (2) Chrismation with Holy Myron (cc. 692-697), (3) Divine Eucharist (cc. 698-717), (4) Sacrament of Penance (cc. 718-736), (5) Anointing of the Sick (cc. 737-742), (6) Sacred Ordination (cc. 743-775), (7) Marriage (cc. 776-866), and (8) Sacramentals, Sacred Times and Places, Veneration of the Saints, a Vow and an Oath (cc. 867-895).

3.2.1. Celebration of Sacraments

The whole liturgical life of the Church revolves around the Eucharistic sacrifice and the sacraments.¹¹ The sacraments are the means by which the Church dispenses the mystery of Christ in the form of visible signs. Jesus Christ sanctifies people by the power of the Holy Spirit, making them true worshippers of God the Father, incorporating them within the mystical body of Christ. The ministers, as well as the faithful, are bound to celebrate and receive the sacraments in accordance with the laws of the Church (CCEO c. 667).¹² The fundamental aspects of the sacraments are of a theological nature (biblical,

¹⁰ For the corresponding canons in the Latin Code, see CIC 1983 cc. 834-1253. The Liturgy is first treated as a whole, then, (1) Sacraments (cc. 840-1165), (2) Other acts of Divine Worship (cc. 1166-1204), (3) and Sacred Places and Times (cc. 1205-1253). These three headings constitute the three parts of Book IV of CIC 1983.

¹¹ See SC, n. 6.

¹² CCEO c. 667: "Per sacramenta, quae Ecclesia dispensare tenetur, ut sub signo visibili mysteria Christi communicet, Dominus noster Jesus Christus homines in virtute Spiritus Sancti sanctificat, ut singulari modo Dei patris veri adoratores fiant, eosque sibi ipsi et Ecclesiae, suo Corpori, inserit; quare christifideles omnes, praesertim vero ministri sacri, eisdem sacramentis religiose celebrandis et suscipiendis praescripta Ecclesiae diligenter servent."

dogmatic, moral, pastoral, etc.), but in order to safeguard this reality, which is a fundamental part of the common good of the Church, law properly regulates their celebration. The sacraments are the same for the entire Church and belong to the divine deposit of revelation. Their substance is immutable, and therefore it belongs only to the supreme authority of the Church (Roman Pontiff or the ecumenical council) to approve and determine the requirements for their validity.¹³ The pastoral action of the Church hinges principally on the sacraments. Therefore, canonical discipline on the sacraments is concerned above all with the relationship which is established between the pastors and the faithful. This discipline establishes rules for the valid and licit celebration of the sacraments and for their fruitful reception by the faithful, so that the latter can receive the abundance of grace offered by sacraments.

The sacraments can be grouped in this manner:

(1) Sacraments of Initiation so called because they are conferred on entering the Church: baptism, chrismation with holy myron and Divine Eucharist.

(2) Sacraments of reconciliation, by which a Christian re-establishes the state of grace: sacrament of penance and anointing of the sick.

(3) Sacraments of vocation, the manner by which the Christian directs his/her earthly life towards God: holy orders and marriage.

Hence the sacraments are the pastor's "tools" to sanctify Christian faithful. The Code says that the pastors should feed the Christian faithful with spiritual food through the devout and frequent reception of the sacraments (c. 289 §2). The ministry of

¹³ See CCEO cc. 669, and 42-54.

sanctifying is proper to pastors who have received the sacrament of order. Some of the priestly functions can be exercised by other persons who do not share in the ministerial priesthood but share in the common priesthood of Christ; for example, the administration of the sacrament of baptism.¹⁴ According to the tradition of the Eastern Churches, all sacraments except baptism are to be ministered by a *sacerdos* (bishops and priests).¹⁵ Thus the pastor of a parish has the special duty to sanctify the faithful entrusted to him in the parish through the celebration of the sacraments.

3.2.1.1. Sacraments of Christian Initiation

The three sacraments of Christian initiations in all Eastern Catholic Churches are: baptism, chrismation with holy myron, and the Divine Eucharist. These sacraments lay the foundations of every Christian life. These are very distinct sacraments but they have been administered together from antiquity even when infant baptism was introduced. The faithful are born anew by baptism, strengthened by the sacrament of Chrismation with holy myron and receive in the Eucharist the food of eternal life. By means of these sacraments of Christian initiation, they thus receive in increasing measure the treasures of divine life and advance toward perfection in holiness.

“In the sacraments of Christian initiation we are delivered from the powers of darkness and joined to Christ’s death, burial and resurrection. We receive the spirit of

¹⁴ See CCEO c. 677 §2

¹⁵ See “The Celebration of Divine Liturgy” (CCEO c. 699), “absolution in the sacrament of penance” (CCEO c. 722§1), “Conferring of Chrismation with Holy Myron” (CCEO c. 696), the administration of the sacrament of Anointing of the Sick (CCEO c. 739). Concerning the sacrament of marriage in the Eastern Churches only those marriages are valid which are celebrated with a sacred rite (the very intervention of a priest who assists and blesses is regarded a sacred rite); see CCEO c. 828 §§1-2).

adoption of children and celebrate with the whole people of God the memorial of the Lord's death and resurrection."¹⁶

3.2.1.1.1. The Sacrament of Baptism

The sacrament of baptism incorporates us into Christ and forms us into God's people. This first sacrament pardons all our sins, rescues us from the power of darkness, and brings us to the dignity of the spirit of adoption of children,¹⁷ a new creation through water and the Holy Spirit. Hence we are called and are indeed the children of God.¹⁸

Baptism is the sacrament that must be received for the validity of the other sacraments.¹⁹ The rite of baptism contains other prayers and actions that may be omitted only in case of urgent necessity.²⁰ Baptism is licitly administered by pouring water over the candidate's head and pronouncing the Trinitarian baptismal formula. No mention of a baptismal name (as in CIC 1983 c. 855) is made in CCEO. There was a suggestion that the need for giving a Christian name be included in c. 675. It was rejected on the basis that if it is necessary, norms regarding Christian names could be put in particular law.²¹

The ordinary minister of baptism is the priest (CCEO c. 677 §1). It may be noted that the term used in the original is "*sacerdote*." Throughout the Code, the term *sacerdos*, refers to bishops and priests. Whereas when the term presbyter is used, it denotes only

¹⁶ See AG, n. 14.

¹⁷ Colossians 1:13; Romans 8:15; Galatians 4:5; Council of Trent, Session 6, Decr. *De justificatione*, Chapter 4.

¹⁸ 1 John 3:1

¹⁹ See CCEO c. 675. This canon describes the dogmatic and theological aspects of Baptism.

²⁰ See CCEO c. 676.

²¹ See *Nuntia*, 28 (1989), p. 83.

priests; deacons are not included. During the discussion of this canon there was a suggestion that deacons should be mentioned as ordinary ministers of baptism. “The proposal was not supported by any consultor in view of genuine oriental traditions concerning the competence of deacons.”²² In CIC 1983 c. 861, the ordinary minister of baptism is the bishop, priest or deacon. The Latin canon makes immediate reference to c. 530 §1, according to which the pastors have the duty of administering baptisms. CCEO also states that it is the duty of the pastor of a parish to administer the sacraments of Christian initiation (CCEO c. 290 §2). Canon 290 §2 of CCEO is explicit about the obligation/right of the pastor of a parish to administer the sacrament of baptism. Against this background, c. 677 of CCEO adds a second clause, namely: “with due regard for particular law, the pastor of the person to be baptized,²³ or another priest with the permission of the same pastor, or the local hierarch, is competent for its administration.” In the earlier draft of the canon 290 §2 there was no mention of the pastor of a parish. During the formulation of the canon, it was specified *ex officio* that the administration of baptism is under the competency of the pastor of the person baptized, unless particular law provides otherwise. The particular law of the Syro Malabar Church states:

Ordinarily the pastor of the parish of the person to be baptized is the competent minister for baptism. If the person to be baptized is below 14 years of age the pastor of the father’s and of the mother’s parishes of origin are competent ministers of baptism.²⁴

²² See *Nuntia*, 15 (1982), p. 15. “la proposta non é sostenuta da alcun consultore date le genuine tradizioni orientali riguardanti le competenze dei diaconi.”

²³ See *ibid.*

²⁴ See *Synodal News*, 7 (1999), p. 101.

The pastor or the local hierarch may permit another priest to baptize and such permission may be lawfully presumed, i.e., when “for a serious causes,” such permission cannot be secured (CCEO c. 677 §1). The permission cannot be denied to a priest of another *sui iuris* Catholic Church who has been requested to confer baptism to a person who belongs to his Church according to the law (CCEO c. 678 §1). If the number warrants it, it is the duty of the bishop of the *sui iuris* Church to assign a priest of the other *sui iuris* Church to which the faithful belong for the purpose of conferring baptism (CCEO c. 678 §2).

Eastern Catholic tradition does not ordinarily permit a deacon to baptize, inasmuch as, baptism must always be conferred together with the sacraments of chrismation with holy myron, which is ordinarily administered by a priest. However, in case of necessity a deacon, or even another cleric, or a member of an institute of consecrated life, or any other Christian faithful may baptize. Even the mother or father may confer baptism if another person is not available who knows how to baptize (CCEO c. 677 §2).

The above canon implicitly reminds pastors that outside of their own territory they are not to baptize anyone, even their own subjects, unless they have the required permission or it is a case of genuine necessity. Hence they have an obligation to refrain from such baptisms. In a case of necessity, however, they have a duty and a concomitant right to baptize.

Canons 679-682 of CCEO answer to the question: “Who can be baptized?” Every person not yet baptized may receive baptism (c. 679). An aborted fetus, if it shows signs

of life, should be baptized (c. 680). For an infant to be licitly baptized it is necessary that: (1) there is a “founded” hope that the infant will be brought up in the Catholic Church. Assurance of relatives, e.g.: grand parents, is not acceptable without the consent of at least one of the parents; (2) At least one parent, or the person representing the parent, requests the baptism; (3) An abandoned infant or a foundling are to be baptized, as are those who lack the use of reason from infancy; (4) Those who lack the use of reason from infancy may be baptized as infants; (5) Infants of non-catholic Christians may be baptized if the parents request it and it is physically or morally impossible for them to approach their own minister (c. 681).

Adults and those who are no longer infants must express a desire to receive baptism, must be adequately instructed in the faith, be tested in the Christian life, and shall be admonished to evoke sorrow in themselves for personal sins (c. 682 §1) because forgiveness requires sorrow or contrition and baptism forgives or washes away the sins of a contrite person.

Baptism is to be celebrated according to the liturgical norms of the *sui iuris* Church, into which the person is to be ascribed (c. 683). According to c. 29 of CCEO, persons who have not completed their fourteenth year are to be ascribed by baptism to the Church *sui iuris* of their parents, or guardians, or tutors or adoptive parents. In the case of a child of parents belonging to different Churches *sui iuris*, ascription is to the Church of the father, unless only the mother is Catholic; or both parents may freely agree to choose the child’s ascription to the Church of the mother. The child, younger than fourteen years, of an unmarried mother is ascribed to the Church of the mother. The child

of unknown parents is ascribed to the Church of the persons entrusted with the upbringing of the child. The child of non-baptized parents, assuming that they do not object and perhaps even request the baptism, shall belong to the Church of the persons who are responsible for the raising of the child in the Catholic faith.

CCEO has two types of requisites for a person to be a sponsor in baptism: requisites *ad validitatem* (to assume validly the role of a sponsor) and *ad liceitatem* (to assume licitly the role of sponsor). The requisites *ad validitatem* are enumerated in c. 685 §1; whereas the requisites *ad liceitatem* are to be determined by particular law (c. 685 §2).²⁵

Canon 685 §1 of CCEO establishes six conditions required to fulfill validly the function of sponsor. First of all, it is necessary that the sponsor has received the sacraments of Christian Initiation; be a Catholic; have the intention of fulfilling the responsibility of sponsor; be designated by the person to be baptized or by the parents or guardians, not be the father, mother or spouse of the person to be baptized; not to be excommunicated, suspended, deposed or deprived of the right of acting in the function as sponsor.

For a person to function licitly as a sponsor, he or she should have the minimum age required by particular law and lead a life in harmony with the faith and the role to be undertaken (c. 685 §2).²⁶

²⁵ Since the earliest times of the Church, sponsors from among the Christian community presented persons who wished to be baptized. Sponsors assumed the obligation to help the new Christian lead a life in harmony with the obligations incumbent on a member of the Church. See POSPISHIL, *Eastern Catholic Church Law*, p. 390.

²⁶ As per the particular law of the Syro-Malabar Church, besides the qualifications mentioned in CCEO c. 685 to act as godparents or sponsors, one should have completed the age of 18. Godparents from

Regarding the question when is a child is to be baptized, c. 686 §1 states that, “Parents are bound by the obligation that the infant be baptized as soon as possible according to legitimate custom.” The decision is made by the parents and not by the pastors. However, the parents should decide according to the legitimate custom of the Church. The particular law of the Syro Malabar Church has not given any norms on this matter.²⁷ CIC 1983 states that a child should be baptized “in the first few weeks” (CIC 1983 c. 867 §1). Canon 686 implies a right/obligation of pastors because it states: “as soon as possible after the birth or even before it, parents are to go to the pastor to request the sacraments for their child and to be prepared for it properly.” There is also an implication here that the pastor is entitled to expect that the parents will participate actively in a parish program designed to prepare the parents for the liturgy and the responsibilities, which the parents are expected to live out in raising their child as an active Catholic.

Except in case of necessity, baptism is to be celebrated in the parish church with the active participation of the Christian faithful (c. 687 §1). Baptisms in private houses are not included in common law, which does not exclude them either: the matter is left to particular law or to the judgment of the local hierarch. When baptism is celebrated in

outside the parish of the place of baptism should present a testimonial letter from their own pastors. See *Synodal News*, 7 (1999), p. 101. According to CIC 1983 c. 874 §1, 2°, the minimum age of sponsors in Baptism is 16.

²⁷ The custom of the Syro-Malabar Church regarding the baptism: Children were generally baptized on or after the 40th day after birth. They were given biblical names with modifications suited to Malabar tastes, in particular, those of the paternal and maternal grand parents for the first and second child respectively. See THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 52.

private houses, the prescriptions of particular law should be followed (c. 687 §2).²⁸

It is the duty of the pastor of a parish to write the account of all baptisms performed in the parish in the baptismal register and he should sign it. As a rule, the baptismal record should contain names of the baptized, the minister, parents, sponsors, and the witnesses, if any, the place and date of baptism, together with the place of birth and also the Church into which the baptized person is to be ascribed. The particular law of the Syro Malabar Church has not established norms regarding the inclusion in the Baptismal register of an adopted child and the names of the adoptive parents. So it should be done according to c. 689 §3 of CCEO. As per this canon an adopted child is baptized and is ascribed in the same manner as a natural child of the parents.

Canon 690 states, if baptism has been celebrated neither by pastor of a parish nor in his presence, the one who administered it according to c. 677 must inform the pastor of the place, who is to see to the annotation of the baptism according to c. 689.

3.2.1.1.2. The Sacrament of Chrismation with Holy Myron

The very day of his resurrection, Jesus came into the midst of the disciples, he breathed on them and said, "Receive the Holy Spirit."²⁹ The imposition of hands and the

²⁸ See *Synodal News*, 7 (1999), p. 101. According to particular law, only for a just and grave reason shall baptism be administered in a private house. For baptism in private homes CIC 1983 has explicitly mentioned certain conditions: (a) there should be a grave cause, (b) necessity, (c) permission of the local ordinary (CIC 1983 c. 860 §1). A second paragraph is added about baptism in hospitals. These details are not found in CCEO. But canon 687 §2 reads: "Baptisms can be administered in private homes according to the prescripts of particular law or with the permission of the local hierarch. One of the members of the commission expressed the fear that the norm gave too much freedom for celebrating baptism in private houses, and suggested ("*Per non aprire troppo la porta al battesimo*") that the canon be modified. The response of the commission was that, if necessary, such limitations could be stipulated in particular law. See *Nuntia*, 28 (1989), p. 86.

²⁹ John 20:22

anointing with oil seals us with the Holy Spirit in the sacrament of chrismation with holy myron. This sacrament endows its recipient with the sevenfold gift of the Holy Spirit. In chrismation, we are offered the grace to live as committed witnesses of Christ through a deeper union with him and to be involved with conviction in the mission of the Church. As the council said: “ By the sacrament of chrismation [we] are more perfectly bound to the Church and are endowed with the special strength of the Holy Spirit. Hence [we] are, as true witnesses of Christ, more strictly obliged to spread the faith by word and deed.”³⁰

Chrismation ratifies baptism. This connection with baptism is expressed strongly in the renewal of the baptismal promises made by those who are about to be confirmed. This public manifestation of a desire to live more deeply the life of the Church expresses the common priesthood of all believers initiated in baptism. Members of the faithful are now strengthened for greater witness as disciples of the Lord and as partakers in the mission of the Church.

Canons 692-697 of CCEO speak of chrismation with holy myron. It is to be administered to the baptized members of the Church as the gift of the Holy Spirit, directing them toward external witness and active “co-builders of the Kingdom of Christ.” The “matter” of this sacrament is a mixture of pure olive oil and balm. Other aromatic ingredients, the perfumes of the Orient, are added, at times numbering as many as thirty.³¹ For the sacrament of chrismation with holy myron, the “Myrrh” is confected by the bishop (c. 693 of CCEO). However, particular law can reserve this privilege to the

³⁰ See LG, n.11

³¹ For a list of ingredients of holy myron, see Dimitrios SALACHAS, *L' iniziazione cristiana nei Codice orientale e latino, Battesimo, Cresima, Eucaristia nel CCEO e nel CIC*, Roma, Edizioni Dehoniane, 1991, p. 109.

patriarch. According to Pospshil, accepting the holy Myron from the head of the Church or the local bishop signifies the unity of the local community with the entire Church.³²

The ordinary minister of chrismation is the priest, whether administering it together with or separately from Baptism (c. 694). According to c. 695 §1 of CCEO, chrismation must be administered together with baptism, except in case of necessity, in which case it should be administered at the earliest possible time. If the chrismation is celebrated separately from baptism, canon 695 establishes the obligation of the minister to inform the pastor of the place where baptism was administered, so that he can, according to c. 689 §1, register it in the book of baptisms. The particular law of the Syro-Malabar Church says: "The sacraments of baptism and chrismation are to be administered together as per norms of CCEO cc. 694-695 and according to the prescriptions in the liturgical text."³³

Chrismation is validly administered by all presbyters of the Eastern Churches (Catholic or non-Catholic), together with or separated from baptism, to all Christians of any Church, including the Latin Church (CCEO c. 696 §1). Priests of the Latin Church may validly administer chrismation also to Eastern Catholics and non-Catholics, provided they enjoy this faculty according to the Latin law (c. 696 §2).³⁴ Canon 696 §§1-2 deals with the valid administration or reception of chrismation with holy myron, while §3 concerns its licit administration.

After baptism, the sacramental initiation into the mystery of salvation is

³² POSPSHIL, *Eastern Catholic Church Law*, p. 392.

³³ See *Synodal News*, 7 (1999), p. 101.

³⁴ Cfr. CIC 1983 cc. 882 and 883.

perfected by the reception of the Divine Eucharist (c. 697). According to the c. 697, Divine Eucharist, like chrismation, is to be administered as soon as possible after baptism according to the norms of particular law. The particular law of the Syro Malabar Church is: “[...] The sacrament of Holy Eucharist is to be solemnly administered at the age of reason. There is however a provision for giving Holy Eucharist earlier together with baptism.”³⁵

3.2.1.1.3. Divine Liturgy

While speaking of sanctifying functions, CCEO c. 289 §2 places celebration of the Divine Liturgy as the center and peak of the whole life of the Christian community. The CCEO, while dealing with the section on Divine Eucharist (cc. 698-717), allows ample opportunities for the particular laws of each *sui iuris* Church.³⁶

The ecclesiastical function of sanctifying is carried out in and through the liturgy. The power to celebrate liturgy is proper to the pastor by virtue of his participation in the priesthood of Christ. Hence in the liturgical functions he acts in the name and person of

³⁵ See *Synodal News*, 7 (1999), p. 120.

³⁶ Cfr. CCEO cc. 707 §1, 709, 710, 713 §2, 714 §1, and 717. All the liturgy of the Church finds its central and culminating point in the celebration of the Eucharist. What is said in this section of the Eucharist or Divine Liturgy applies naturally to its equivalent in other Eastern Languages, like qurbana/qurbano in Syriac. The term “Qurbana” is used in Syro-Malabar Church to signify the Divine Liturgy or the Eucharistic Liturgy or Mass. The Syro-Malabar “Qurbana” has three different forms of celebration: the most solemn (Raza), Solemn and simple. The rubrics of the various forms and directives for the celebrations are given in the “Qurbana” text. The liturgy commission for the Syro- Malabar Church had collected the opinions from various groups for the revision of the text of “Qurbana” and the text was published for the benefit of the faithful. See *Synodal News*, 3 (1994), pp. 19-29. According to canon 699 of CCEO, only bishops and presbyters have the power to celebrate the Divine Liturgy. Deacons have their part in the celebration of the Eucharist according to the prescripts of the liturgical books of each *sui iuris* Church. The faithful are empowered by virtue of baptism and chrismation to participate actively in the celebration of the Divine Liturgy in the manner determined by the liturgical books and the particular law of their Church; in addition, they participate in it more fully when they receive holy communion during the liturgy.

Christ.³⁷ SC, n.10 says:

The liturgy is the summit toward which the activity of the Church is directed; it is also the fount from which all her power flows. For the goal of apostolic endeavor is that all who are made sons of God by faith and baptism should come together to praise God in the midst of his Church, to take part in the sacrifice and to eat the Lord's Supper.

The perfection of the Christian community is expressed in the celebration of the Eucharist because as the council says, "the other sacraments as well as every ministry of the Church and every work of the apostolate are linked with the Holy Eucharist and are directed towards it."³⁸ The Eucharistic sacrifice remains the most important, the crowning action in the life of a pastor of a parish.³⁹ "Divine Liturgy is the source and summit of all Christian worship and life."⁴⁰ Hence pastors of parishes, who have the care of souls, have the obligation to see that the faithful are nourished through their devout celebration and reception of the Eucharist after having been well prepared and properly instructed. The words and gestures in the liturgy should be capable of touching the hearts and illuminating the minds of the faithful in the present time.

Certain separate matters are addressed in the canons, which deal with the rights and obligations of the pastor of a parish. The first is the obligation to offer the *Missa pro populo* (Divine Liturgy for the people of the parish). Canon 294 of CCEO legislates: "The pastor is frequently to celebrate the Divine Liturgy for the people of the parish entrusted to him, but he is bound to celebrate it for them on the days prescribed by the

³⁷ SC, n. 33

³⁸ PO, n. 5.

³⁹ LG, n. 28; PO, n. 4.

⁴⁰ LG, n.11; SC, n.10; PO, n. 5; CD, n. 30.

particular law of his Church *sui iuris*.”⁴¹ The obligation begins after the pastor has taken possession of the parish. If legitimately prevented, “he is to apply the Mass on the same days through another priest or he himself is to apply it on other days.” The pastor cannot be freed from this obligation because canon 1542 rules out prescription, and canon 294 directs that he is frequently to celebrate the Divine Liturgy for his people. Canon 294 implicitly specifies that a pastor who is caring for several parishes is obliged to apply only one Divine Liturgy for all the people entrusted to him on those days.

Another concern addressed by these canons involves an interesting contrast between c. 703 §1, which is applicable to even an unknown priest (stranger) who wishes to celebrate the Divine Liturgy, and c. 610 §§2 and 3, which legislates about priests, or deacons who wish to preach. A priest who is not known must present credentials, called a *celebret*,⁴² from his proper hierarch or superior, or establish his identity in another suitable manner, such as by his demeanor. Canon 703 §1 requires that even a stranger may be allowed to celebrate the Divine Liturgy if “the pastor is satisfied in some other way about his propriety.” Adding another important element to the question of whether to allow the unknown priest to celebrate, c. 378 of CCEO implicitly affirms that priests have

⁴¹ Pastors in the Syro-Malabar Church are asked to offer 10 Qurbana for the faithful according to the directions of CCEO c. 294. Those days are: (1) Christmas; (2) Epiphany of the Lord; (3) Easter; (4) Ascension of our Lord; (5) Pentecost; (6) Assumption of Our Lady; (7) Dukrana, Feast of St. Thomas; (8) Feast of the patron of the parish; (9) Feast of St. Joseph on March 19; and (10) Feast of holy Qurbana. Pastors are reminded that no offerings are to be accepted for these ten “Qurbana” and the application of the binated or trinated “Qurbana” should not be counted as fulfillment of the obligation. However, if one pastor is in charge of two parishes, he is bound to apply only ten “Qurbana” for all the people under his care. Pastors are asked to inform the people about this custom. See *Synodal News*, 12 (1998), p. 59.

⁴² A *celebret* is a letter of recommendation from the proper hierarch or superior, which attests to the priest’s ordination and good standing, and certifies that there is nothing to prevent him from celebrating Divine Liturgy. To be valid, a *Celebret* must be dated within a year of its presentation to the rector of the church where the priest wishes to celebrate.

a right to celebrate the Divine Liturgy frequently, especially on Sundays and holy days of obligation; indeed, it encourages daily celebration. How is the pastor to be satisfied about the propriety of a stranger priest? The eparchial bishop is free to make more specific norms concerning this matter that are to be observed by all priests, even those who are exempt in any way (c. 703 §2). If there are no eparchial guidelines, the pastor of a parish might be well advised to have a parish policy on the matter. Clearly, it would also be important for a traveling priest to be more careful about having a letter of recommendation from his hierarch or superior.

Observance of the rite of the Church is another matter treated in the canons. The celebration of the Divine Liturgy has to proceed in the manner as prescribed in the liturgical books of that *sui iuris* Church. For Eucharistic gifts, bread of wheat alone and natural wine produced from grapes is to be used (c. 706). The Eucharistic bread must be prepared with yeast (leavened) in all Churches except the Armenians. The liturgical prayers, the observance of Eucharistic fast, the liturgical vestments, the time and place of celebration and other such circumstances are to be prescribed in the liturgical books of each Church.⁴³ It is also forbidden to make use of the liturgical vestments and the Eucharistic bread of another ritual tradition except when there is some justifying need and always provided that any undue bewilderment on the part of the faithful is avoided

⁴³ Particular laws of the Syro-Malabar Church on these matters became effective on 1 January 2000. See *Synodal News*, 7 (1999), pp. 102-103. According to the particular law, Eucharistic bread should be made of wheat flour and be sufficiently thick. The vestments approved by the synod of bishops of the Syro-Malabar Church are to be used for the liturgical celebrations. Holy Qurbana is to be celebrated only in Churches as per CCEO c. 869. Eparchial norms should be followed if it is to be celebrated in other places. Regarding the time of the celebration of the Qurbana, the eparchial norms are to be followed. Regarding the Eucharistic fast: Though one hour fasting is obligatory before receiving the Holy Eucharist, the faithful are exhorted to have a longer period of fasting and preparation.

(c. 707).

It is the obligation of the pastor of a parish to instruct the faithful that they have a duty to receive holy communion in danger of death, as *viaticum* and at other times in accordance with the custom or law of their own Church, especially during Easter time (c. 708).⁴⁴ This duty on the part of pastors is stated explicitly in various canons.⁴⁵

Who is to be the minister of Holy Communion is another matter for consideration. As per canon 709, priests are the ordinary ministers to distribute communion, and the deacon can do this only if the particular law of that Church permits it.⁴⁶

The particular law of the Syro-Malabar Church states: "The sacrament of Holy Eucharist is to be solemnly administered at the age of reason."⁴⁷ It is the duty of the pastor to reach a decision regarding the age of reason. In reaching the decision, a pastor needs to consider c. 909 §§1-2 which establishes that a person is presumed to have

⁴⁴ Syro-Malabar synod instructs: "Besides the Divine Eucharist during paschal time, frequent reception of Holy Eucharist, especially on Sundays and other days of obligation and solemn occasions, is to be fostered." See *Synodal News*, 7 (1999), p. 102.

⁴⁵ Cfr. CCEO cc. 197, 198, 289 §2 and 294.

⁴⁶ According to the particular law of Syro-Malabar Church, "besides priests, deacons also can distribute the Holy Eucharist. In case of necessity, religious and trained laypersons approved by the eparchial bishop can distribute the Holy Eucharist. But only the priest has the right to take and receive Holy Communion by himself. Whenever there is sufficient number of ordinary ministers, extra ordinary ministers shall not be deputed to distribute Holy Communion. As per the particular law of the Syro-Malabar Church, the following categories of persons may be commissioned as extraordinary ministers. (1) Major seminarians who have received at least the order of *karoya*; (2) Religious brothers who have made their final profession; (3) The superior or assistant superior of a convent or any religious sister who has made her final profession; (4) Lay people of good standing, generally acceptable to the pastor of a parish and to the people." The particular laws continue as follows: "Religious brothers and sisters, and lay people who are to be extraordinary ministers of Holy Communion must be presented by the pastor of a parish and commissioned by the eparchial bishop. All extraordinary ministers of Holy Communion should be given special training as decided by the eparchial bishop. All extraordinary ministers shall wear a special but simple vestment approved by the bishop during the distribution of Holy Communion. The extraordinary ministers have to perform their service according to the direction of the pastor." See *Synodal News*, 7 (1999), pp. 102-103.

⁴⁷ See *Synodal News*, 7 (1999), p. 101.

reached the use of reason by the completion of his or her seventh birthday. Although any canonical presumption must yield to evidence to the contrary, the burden of proof is borne by the person who would hold in any given case that a particular seven-year-old child does not possess the use of reason. With respect to a judgment about either use of reason or proper disposition, it would also be necessary to consider CCEO c. 23 about a person's rights to a good reputation and to privacy and c. 26 with respect to conflicting rights. Any decision about the use of reason or sufficient disposition must be based on objective facts and reviewed with the parents or guardians of the child involved.

The priest is a mediator between the faithful and God, and in this role he prays for the community, and thereby earns his livelihood. Canon 715 §1 declares it permissible to accept offerings for the celebration of the Divine Liturgy for the intentions which the Christian faithful make according to the approved custom of the Church. The Syro-Malabar Church has declared: "With due regard for the decisions of the synod of bishops taken from time to time, the norms in each eparchy are to be followed regarding the offering for the divine liturgy."⁴⁸

All offerings and the intentions must be entered into a register of mass offerings, which is subject to the bishop's inspection. It is forbidden to accept more offerings than can be celebrated in that Church within one year; what is beyond that number has to be given to other priests. The priest is obliged to observe all the pertinent norms of that Church from which he has received offerings for celebrating liturgies, unless the donor has agreed to some different stipulation (c. 717).

⁴⁸ See *Synodal News*, 7 (1999), p. 103.

3.2.1.2. Sacraments of Reconciliation

Baptism, chrismation with holy myron and the Divine Eucharist initiate us in to the Christian community, but this initiation is only the beginning of a process. We are not yet fully matured in Christ by the mere fact of having been baptized, anointed, and invited to share the Lord's Supper. Being human, we are prone to moral and physical weakness. We are vulnerable to sin, illness and death. The Church, as a sign and instrument of God's healing power, celebrates the sacraments of penance and anointing of the sick. The sacrament of penance or reconciliation is for those whose bond with the Church, and ultimately with Christ, has been weakened or even severed by sin. The sacrament of the anointing of the sick is for those whose bond with God and the Church has been weakened by illness or physical incapacity. In either case, the purpose of the sacraments of reconciliation is to heal and to restore the morally and/or physically sick member to full communion with the Church so that once again he or she can participate in its life and mission.

3.2.1.2.1. The Sacrament of Penance

The Church exercises the ministry of the sacrament of penance through bishops and presbyters. By preaching God's word, they call the faithful to conversion; in the name of Christ and by the power of the Holy Spirit, they declare and grant the forgiveness of sins. Canons 718-736 of CCEO deal with the sacrament of penance. The parallel of these CCEO canons are cc. 959-997 in CIC 1983.

Canon 914 of CIC 1983 declares that parents and those who take their place have the primary obligation to see to it that children who have reached the use of reason be

correctly prepared to receive sacramental confession. Both cc. 914 and 777, 2° of CIC 1983 specifically state the pastor's obligation to prepare children to receive the sacrament of Penance.

In addition to the requirements of c. 914 of the Latin Code, the pastor is bound explicitly to the positive function called for in c. 289 §2 of CCEO: the pastor "is to strive so that the Christian faithful are nourished with spiritual food through devout and frequent reception of the sacraments [...]." A devout celebration must include spiritual preparation as well as intellectual preparation.⁴⁹ In the case of children, who are preparing to begin to make use of the sacrament of penance as an important element of their spiritual lives and growth, accurate spiritual preparation would be very important, and therefore, a pressing obligation.

Canon 722 §1 of CCEO states: "only a priest is the minister of sacrament of penance." However, as per c. 722 §3 "for presbyters to act validly, they must have the faculty, which is conferred either by law itself or by a special grant from the competent authority"; that is, they exercise such power to the extent that they have received the faculty. This canon implicitly mentions the right of the pastor to receive the faculty from his local hierarch of the eparchy to administer the sacrament of penance (c. 724). In virtue of his office then, the pastor enjoys the faculty to administer the sacrament of penance. This enables him, in accord with cc. 722-727, to administer the sacrament of penance everywhere, except in a particular case where the local ordinary denies it.⁵⁰

⁴⁹ CCEO cc. 289 §§1-2, 617, and 624 declare the pastor's obligation to provide adequate catechetical instruction and formation in preparation for the reception of the sacraments.

⁵⁰ There are other priests who enjoy the faculty to celebrate the sacrament of penance not in virtue

When the pastor absolves someone's sin, it is the Church that absolves it. The pastor is only a spiritual guide, a teacher, a judge, and a physician.⁵¹ By reason of his office the pastor of a parish shall make himself available at any reasonable time for administering the sacrament of penance (c. 735).

In CIC 1983, the obligation of the faithful to receive the sacrament of Penance is prescribed as being "at least once a year" (c. 989). The CCEO has a strong recommendation to all the Christian faithful to receive the sacrament of Penance frequently, especially during the times of fast and penance observed in their own Church, as determined by particular law (c. 719).

There is no specific norm in CCEO as regards the confessional. Particular law can make provision for the place of the celebration of the sacrament of Penance. If no mention is made in a particular law, the proper place for celebrating the sacrament of penance is the church (c. 736).⁵²

The pastor of a parish should have knowledge of sins reserved to eparchial bishops and Apostolic See (c. 728). Absolution from the sin of procuring a completed abortion is reserved to the eparchial bishop.⁵³ The absolution of the following sins are

of an office. See CCEO cc. 722-724.

⁵¹ See Mathew MANKUZHIKARY, *Ajapalana Dharmam* (Malayalam), Vadavathoor, St. Thomas Book Stall, 1989, pp. 167-174.

⁵² The details regarding the place of the celebration of the sacrament of penance in the Latin Church can be found in CIC 1983 c. 964 § 2.

⁵³ According to cc. 728 §2 and 1450 §2 of CCEO, procuring a completed abortion is a grave sin and its absolutions reserved to the eparchial bishop. But in response to a request from one of the eparchies of the Syro-Malabar Church, the synod in its assembly in November, 1994, ordered that "nevertheless in view of the good of the penitents all confessors are hereby granted the faculty of absolving the sin of abortion during the seasons of annunciation and lent and on special occasions like retreats, the main feast of the parish, charismatic and bible conventions (and at centers of retreat). A confessor may absolve this sin

reserved to the Apostolic See: (a) direct violation of the seal of confession; (b) absolution given to an accomplice from a sin against chastity. In the Latin Code, there are no sins that are directly reserved, nor is the possibility foreseen of such reservations to the bishops. Instead, *latae sententiae* excommunication is foreseen for the sins mentioned in the canon.⁵⁴

3.2.1.2.2. The Sacrament of the Anointing of the Sick

Application of oil to the body was common in many cultures, and also in the Old Testament, for the purpose of healing, for consecration and for ordination. The early Church practiced it too, justifying it with what the apostles did when Jesus sent them out (Mk. 6:13- “anointed with oil many who were sick and healed them”); the apostle James also recommended the use of oil (5:14-17). Thus, anointing of the sick was seen as a sacrament of the Church.

Pastors are bound by c. 738 of CCEO: “Pastors of souls and relatives of the sick are to see to it that the sick find relief in this sacrament at an opportune time.” For pastors this canon echoes c. 289 §2: “[...] He is to strive to see that the Christian faithful are nourished with spiritual food through devout and frequent reception of sacraments; [...].” The obligation of the pastor is not simply to anoint the sick but to make sure that (a) the sick are supported by this sacrament, and (b) receive it at an opportune time. The emphasis is on early reception of the sacrament of the anointing of the sick so that the

even at other times if in his prudent judgment the faculty can not be requested from the bishop without grave inconvenience to the penitent or without danger of violation of the sacramental seal. A confessor is to do so only after having made the penitent realize the gravity of the sin. On all other occasions, faculty has to be sought from the bishop in each individual case.” See *Synodal News*, 4 (1995), p. 126.

⁵⁴ Cfr. CIC 1983 cc. 1388 §1, 1378 §1, and 1398.

sacrament's spiritual and physical effects may assist the seriously ill person as soon as possible and at a time when the sick person can actively participate in the liturgy. This reflects the teaching of the Second Vatican Council:

[...] "anointing of the sick" is not a sacrament intended only for those who are at the point of death. Hence, as soon as any one of the faithful begins to be in danger of death from sickness or old age, the fitting time for him to receive this sacrament has certainly already arrived.⁵⁵

3.2.1.3. Sacraments of Vocation

All Christians are initiated into the Church through the same process, but not all Christians are called to live as Christians in the same status in life. Most are called to live in intimate union with another in marriage. Some others are called to a life of service to the Christian community itself, especially through a ministry, which attends directly to the order and mission of the Church. So fundamental are the call to married life and the call to religious and pastoral leadership of the Church that each of these calls and their corresponding commitment are celebrated as sacraments. These are the sacraments of Matrimony and Holy order.

Like all sacraments, the sacraments of Vocation are also directed to the nature and mission of the Church. Through Matrimony, the Christian community is built up and manifested at its most natural, familial level. In holy order, the Christian community is

⁵⁵ See SC, n. 73. English translation in FLANNERY 1, p. 22. In the chapter on the sacrament of anointing of the sick, particular law is mentioned only once, that is, in regard to blessing of the oil used for this sacrament. It is to be blessed by the priest himself who administers the sacrament, unless particular law warrants otherwise. See CCEO c. 741. According to Latin Code, the bishop blesses the oil. See CIC 1983 c. 999. However, the canons regulating the administration of the Anointing of the Sick is much the same in both Codes, though the actual rite differs considerably in the Eastern Churches from that of the Latin Church. For example, the Eastern Churches' usage anticipates the celebration of the sacrament by several priests. See CCEO c. 739 §2.

provided structure and direction for the exercise of the Church's salvific mission.

3.2.1.3.1. The Sacrament of Holy Order

The sacrament of holy order is a sacrament divinely instituted, in which through the invocation of the Holy Spirit by the bishop and with the imposition of his hand upon a given man, particular power is conferred on him who is worthy and legitimately called and elected for administering the sacraments, teaching publicly the word of God and for the edification of the Body of Christ.⁵⁶ The section dealing with Sacred Ordination (cc. 743-775 of CCEO) entrusts the pastor only one obligation, i.e., to announce the names of the candidates according to the norm of particular law (c.771 § 1). Article 16 of the particular law of the Syro-Malabar Church on divine worship and sacraments states:

The names of candidates to Sacred Orders whether eparchial or others are to be announced during the sacred liturgy on two consecutive days of obligation in the parish church of the candidate. This publication is to be made at least two months before the date of ordination. After the publication the pastor of the parish shall submit a report about the candidate to the authorities concerned as early possible.⁵⁷

Canon 329 § 2 of CCEO declares that pastors are to strive to discern and foster vocations both in adolescents and in others, even of a more advanced age. This imposes an explicit obligation on pastors to foster vocations in the parish and to guide the seminarians during their vacation.⁵⁸ To do this well, pastors should lead exemplary lives

⁵⁶ See CCEO c. 743.

⁵⁷ See *Synodal News*, 7 (1999), p. 103. In CIC 1983 c. 1051 §2 this procedure is not obligatory. One member requested that c. 771 of CCEO be suppressed. The answer of the commission was that if this practice was not in use in a *sui iuris* Church, it can be provided by particular law (*ad normam iuris particularis*). See *Nuntia*, 28 (1989) p. 103.

⁵⁸ Mathew Mankuzhikary suggests many ways of fostering and promoting vocations in the parish. Some of them are: the good example and holiness of pastors, teaching of different types of vocations to the

and convince the faithful about the dignity of and need for vocations.

One important point which has great witnessing value, and which can be applicable to all eparchies, is the celebration of sacred order in the respective parish churches of the candidates as prescribed by CCEO c. 773. It says that sacred ordinations should be celebrated with the greatest number of Christian faithful present in a church on a Sunday or feast day, unless a just cause suggests otherwise.

3.2.1.3.2. The Sacrament of Marriage

Canon 776 of CCEO presents the most fundamental notions of Christian Marriage. This canon basically incorporates the teachings of the Second Vatican Council, especially *Gaudium et spes*.⁵⁹ According to c. 776 of CCEO, “the sacrament of marriage is a covenant by which a man and woman by irrevocable personal consent establish between themselves a partnership of their whole life.”

With respect to the spiritual and sanctifying aspects of the sacrament of marriage, c. 783 of CCEO sets out several general obligations on the pastor directly and on the members of his parish community indirectly. The obligations imposed by c. 783 have the same canonical binding force as most other canons, which place obligations on the pastor but do not contain certain special wording that expresses a particular gravity or seriousness of the obligation. The importance of marriage and family to the common good of all, together with the increasing number of failed marriages and broken-homes

children from early age onwards, celebration of vocation day, encouraging the children who are members of various associations like Holy Childhood, Altar Boys Association, Mission League, etc., through prayer groups, meetings, debates, competitions and through picnics, etc. See MANKUZHAKARY, *Ajapalanadharmam*, pp. 220-222.

⁵⁹ See GS, n. 48.

throughout the world, however, render the fulfillment of the obligations of c. 783 an extremely important matter in practice.

The pastors are obliged to see that the Christian faithful are prepared for the matrimonial state: (1) by preaching and catechesis adapted to youths and adults; by instructing them concerning the meaning of Christian marriage and of the obligations of spouses to each other. They are to be instructed also in the primary right and obligation which the parents have concerning the upbringing of their children in their physical, religious, moral, social and cultural dimensions; (2) by personal preparation of the partners for the marriage so that they may be predisposed to their common call and new status in life. It is strongly recommended to the Catholic partners that they receive the Divine Eucharist in celebrating the marriage (c. 783 § 2).

Once the marriage has been celebrated, pastors should provide assistance to the couple, so that, while faithfully maintaining and protecting the marriage covenant, they may day by day come to lead holier and fuller lives in their families (c. 783 § 3). Canon 816 imposes an even more detailed obligation on local hierarchs and other pastors “to see that the Catholic spouse and the children born of a mixed marriage do not lack spiritual help in fulfilling their obligations of conscience and are also to assist the spouses to foster the unity of partnership in their conjugal and family life.”⁶⁰

⁶⁰ Members of the community must also work with the pastor as described in cc. 786, 787 and 816. Canon 786 stipulates that all members of the faithful must reveal to the pastor or the local hierarch any impediments they know of before the marriage is celebrated; the pastor has a right/obligation to see that the faithful act as directed. Canon 787 requires that if someone other than the pastor has conducted the pre-nuptial investigation, that person is to notify the pastor of the results by means of authentic documentation. Canon 816 places the responsibility on the pastor, among others, to assist the Catholic spouse and children born of a mixed marriage by providing spiritual help to enable them to fulfill their obligations and to aid the spouses as they foster unity in their conjugal and family life.

The obligations and the goals outlined for the pastor are extremely challenging and certainly he alone cannot accomplish them, nor are they his alone. They extend to the whole parish community, and then require its dedicated work. As serious and important as this work is, it is good to call attention to the statement of Pope John Paul II concerning marriage preparation:

Although one must not underestimate the necessity and obligation of the immediate preparation for marriage [...] nevertheless, such preparations must always be set forth and put into practice in such a way that omitting it (immediate marriage preparation) is not an impediment to the celebration of marriage.⁶¹

The preparation and sustaining programs are to be developed keeping in mind that the couples need to be attracted to the programs by the subject matter and the manner, both formal and informal, in which they are presented. Along with the presentation, personal experiences and prayers are to be shared. Simple failure to attend such programs cannot become a reason for refusing the celebration of a marriage.

Before assisting at a marriage, pastors are obliged by c. 784 to know that the norms set by the particular law of each *sui iuris* Church concerning the examination of the couple and other norms for the required pre-nuptial investigations “[...] are to be diligently observed.”⁶²

According to the particular law of the Syro-Malabar Church, prior to betrothal the parties have to fill in the prenuptial enquiry form before their respective pastors in order

⁶¹ JOHN PAUL II, Apostolic Exhortation, *The Christian Family in the Modern World, Familiaris consortio*, 22 November 1981, in *AAS*, 74 (1982), pp. 81-191, here at n. 66, p. 159. English translation in *FLANNERY I*, p. 871.

⁶² As decided in the Synodal session held from 9 to 21 June 1997, at the pastoral Orientation Center, Palarivattom, the particular laws concerning marriage in the Syro-Malabar Church were promulgated and the text of the laws are published in the bulletin. See *Synodal News*, 10 (1997), pp. 44-59.

to make sure that they enter into the marriage covenant with due preparation, knowledge and consent. Those who have lived for more than one year outside the eparchy after reaching marriageable age, have to produce a free state certificate. If one has lived in different places after reaching the marriageable age, he/she has to produce a free state certificate at least from the pastor of that place where he/she lived for the last one year. He/she also has to make an affidavit regarding his/her free state covering the period of his/her stay in other places. Though the certificate of pastor is normally required for this purpose, the certificates of civil authorities, or other persons beyond suspicion, may be accepted in case of the non-availability of the former. Exemption from the above norm may be granted only by the local hierarch of the party on any appropriate arrangement decided by him.⁶³

Pastors of the Syro-Malabar Church have certain obligations concerning the celebration of marriage betrothal too.⁶⁴ Considering the provision of c. 782 of CCEO in the Syro-Malabar Church, certain particular laws have been published. The celebration of marriage shall be preceded by betrothal, which is to be celebrated sufficiently in advance

⁶³ See *Synodal News*, 10 (1997), pp. 44-46.

⁶⁴ In connection with marriage there are several ceremonies on the day and on the eve of the marriage at the home of both the bride and the groom. The marriage ceremonies of the Thomas Christians were indicative of their identity. For marriage they displayed their privileges and noble status more than on any other occasion. The southists are more conservative regarding this. The wedding ceremonies stress that marriage is not just a sacrament and a covenant between the boy and the girl only, but it also links together the families of the boy and the girl. Betrothal, for instance, is an initial agreement and engagement in which are involved not only the boy and the girl, but also their parental relatives. Betrothal itself is called *Kaipidutham* (clasping of hands), which is indicative of the clasping of hands by the paternal uncles of both the boy and the girl in the presence of the priest in the church. The idea is that the paternal uncles assume the responsibility to conduct the marriage according to the agreement made at that time. It is to respect the elders and to stress the idea of entering into family relationship. It means that not just the fathers but also all the close kith and kin of the couple are involved in the new relationship. For details on cultural heritage and wedding customs, see Jacob VELLIAN, *Knanite Community History and Culture*, Bangalore, Syrian Church Series, 2001, pp. 16-26. For details on rites for marriage, see THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, pp. 54-58.

in order to give time for the publication of marriage banns. Betrothal is to be held before the local hierarch or the pastor of either of the parties or a delegated priest or deacon, in the presence of two witnesses in the parish church or with the permission of the pastor at another church convenient to the party. However, in places other than churches, it cannot be celebrated without the permission of the local hierarch. The betrothal may be conducted only on obtaining the *form A*⁶⁵ or a corresponding document. In case of *sui iuris* Church marriages, the law or custom of the other party shall be respected regarding betrothal or engagement. The celebration of betrothal should be entered in the register maintained for the purpose and be signed by the parties, witnesses and the officiating priest or deacon. After the celebration of betrothal, the pastor of the parish of the other party should be intimated through *Form B*. In *Forms A* and *B*, date of birth and date of baptism shall be entered. The betrothal has to be solemnized according to the liturgical text.

The local hierarch of either of the parties may grant dispensation from betrothal for just and sufficient reasons on written application of both parties. In case of need, the local hierarchs may grant permission to the parties separately, to have betrothal in writing, regarding their willingness for the proposed marriage before their proper pastors in the presence of two witnesses. The pastors shall communicate the matter to each other.

⁶⁵ In connection with the celebration of marriage, five kuries (Forms A-E) must be exchanged among the concerned pastors. Form A - for betrothal; Form B - for information regarding the betrothal conducted and the proposed dates of the publication of banns and the celebration of marriage; Form C - for *Desa Kuri* or *Kettu Kuri*, that is, no objection certificate for the licit celebration of marriage; Form D - for certificate for entry of the celebration of the marriage in the registers of the parishes of the spouses as well as in the baptismal registers of the parishes where the baptism of the couple took place; Form E - for notification to be sent back to the pastor of the place of celebration of marriage regarding the entry of Form D in the baptismal and marriage registers of the concerned parishes of the spouses. See *Synodal News*, 10 (1997), pp. 44- 45.

If a party does not want to proceed to marriage after betrothal, he/she has to obtain permission from the local hierarch in order to enter marriage with another person (CCEO c. 782 §2).

Canon 785 §1 says that before the celebration of marriage it must be established that nothing stands in the way of its valid and licit celebration. In other words, the pastor should have the moral certainty that there exists no circumstance that either invalidates or makes illicit the celebration of the marriage. In the Syro-Malabar Church, the system of “marriage kuries” and publication of banns helps both parties to make prenuptial enquires and thereby prevent invalid and illicit marriage celebrations. In connection with the celebration of marriage, five kuries (forms A, B, C, D, and E) must be exchanged among the concerned pastors. Marriage banns are published in order to bring to the attention of the parish community of the proposed marriage and to give the community an opportunity to bring to the attention of the pastors any impediments, which might impede the celebration of the said marriage.

Permission may be granted by the local hierarch of either of the parties for the publication of banns even before betrothal, on written application of both the parties. Banns are to be announced on three Sundays or days of obligation during the Sacred Liturgy in the parish churches and, if needed, also in the filial churches of the parties concerned. Alternatively, they may be announced once and published on the notice board of the church for a period covering two more days of obligation. For just and sufficient reasons, the publication of banns could be dispensed. The pastor of a parish can dispense

from one of the banns and the protopresbyter from two. Only the local hierarch may grant dispensation from all the three banns.

If banns are published only once, the marriage cannot be celebrated on the same day without the permission of the local hierarch. In order to obtain dispensation from banns stated above, either of the parties must submit a petition, stating the reasons, to the competent authority of the place where the marriage is celebrated. If dispensation from banns is to be obtained, it has to be entered in the register for betrothal and in *Form B*. If dispensation is received, the matter shall be communicated to the concerned pastors of parishes. If marriage did not take place within six months from the completion of the publication of banns, they have to be repeated unless the local hierarch dispenses from this norm. During the course of the publication of banns, if the existence of a public impediment comes to light, the publication of banns is to be stopped. If, however, the impediment is occult and dispensation is possible, the publications of banns are to be continued and completed. The pastor shall proceed to the celebration of the marriage only after the dispensation has been duly obtained.⁶⁶

Pastors should see to it that the celebration of marriage should take place only after obtaining the *Form C*.⁶⁷ According to CCEO c. 828 §1, only those marriages are valid which are celebrated with a sacred rite, in the presence of the local hierarch or

⁶⁶ See *Synodal News*, 10 (1997), pp. 47-49.

⁶⁷ For the valid celebration of marriage, it is necessary that the partners be present at the same time and mutually manifest marriage consent. According to CCEO, marriage cannot be validly celebrated by proxy unless particular law of one's own *sui iuris* Church establishes otherwise, in which case it must provide the conditions under which such marriage may be celebrated. In the Syro-Malabar Church also, marriage through proxy is not allowed. See CCEO c. 837 and *Synodal News*, 10 (1997), p. 58. According to Latin Code marriage by proxy is admitted. See CIC 1983 cc. 1104-1105.

pastor of a parish, or a priest who has been given the faculty of blessing the marriage by either of them, and at least two witnesses.⁶⁸ The pastor can bless a marriage validly only within the territory under his jurisdiction.⁶⁹ If he delegates a priest to bless a marriage, that delegation is to be made in writing in clear terms.

Marriage should be blessed with proper liturgical texts.⁷⁰ The marriage is to be celebrated in the parish church of either of the spouses according to the custom in the eparchy, or with the permission of the proper pastor in any other church convenient for the parties. In extraordinary circumstances, the local hierarch may grant permission for the celebration of marriage at a suitable place other than the church.⁷¹

Regarding the administration of mixed marriages (marriages between two baptized persons, one of whom is Catholic and the other a non-Catholic) and also inter faith Marriages, CCEO and particular law of the Syro-Malabar Church prescribe certain norms.⁷² In general, these norms discourage mixed marriages and inter faith marriages

⁶⁸ A deacon cannot bless a marriage in the Eastern Church. But according to CIC 1983 c. 1108 § 1 a deacon is allowed to assist at marriages.

⁶⁹ According to canon 829 of the CCEO, from the day of taking canonical possession of office and as long as they legitimately hold office, everywhere within the limits of their territory, pastors and local hierarchs validly bless the marriage of partners whether they are subjects or non-subjects, provided at least one of the partners is ascribed to his Church *sui iuris*.

⁷⁰ For Liturgical texts of Syro-Malabar Church, see *Synodal News*, 3 (1994), pp. 35-51.

⁷¹ See CCEO c. 831 §2 and *Synodal News*, 10 (1997), p. 58. Canon 838 §2 mentions the time of marriage. In accordance with the tradition of the Church and keeping the penitential spirit of the liturgical seasons of Annunciation (Suvara) and Lent (Sauma), the celebration of marriage is prohibited in the Syro-Malabar Church from the 1st to 24th December inclusively and from 1st Monday of Lent until Holy Saturday inclusively. However, for just and sufficient reasons, the local hierarch of the place of celebration of marriage may give permission for marriage during these periods on written petition by either of the parties and on the undertaking that the marriage will be celebrated without pomp and show. The special regulations given by the eparchial bishops regarding the time of the celebration of marriage on certain days, like Sundays, must be carefully observed. See *Synodal News*, 10 (1997), p. 58.

⁷² See CCEO cc. 813-816 and *Synodal News*, 10 (1997), pp. 50-57.

and ask the pastors to discourage the faithful from doing so. As per CCEO c. 813, mixed marriages are prohibited without prior permission of the competent authority.

Canon 814 says that for a just and reasonable cause the local hierarch can grant permission for a mixed marriage. He can give the permission if the conditions mentioned in c. 814 are fulfilled. In all cases of mixed marriages, the pastor shall see that the partners are duly prepared for the marriage. When the parties apply for a mixed marriage, they should be informed of the fact that the marriage within the same faith is better for harmony within the family and the upbringing of the children. If they insist on having the mixed marriage, they should be instructed properly about the faith of the couples, the celebration of marriages, the duties toward children, and about the special agreements made between the Churches, if any. It should be stressed that while each partner holds his/her ecclesial faith as supreme or paramount, he/she should respect the ecclesial faith of his/her partner. A pre-marriage preparatory course and a premarital counselling session are highly recommended. The bride/bridegroom shall produce her/his baptism certificate. The priest must ensure that the bride/bridegroom is qualified for marriage.

For mixed marriages, the parties shall submit a written petition, together with the endorsement of the pastor of the Catholic party, to the local hierarch. Together with this petition, the Catholic party shall submit a written declaration regarding the promises and obligations (the Catholic party declares that he or she is prepared to remove dangers of falling away from the faith and makes a sincere promise to do all in his or her power to have all children baptized and educated in the Catholic Church). Before endorsing the petition for permission for mixed marriage, the pastor of the Catholic party shall inform

the non-Catholic partner about the declaration of the Catholic party and shall note the matter in the petition. If the non-Catholic party has no objection, he or she may be invited to counter-sign the declaration of the Catholic party to the effect that he or she is aware of the promises made by the Catholic party. The parties should, in the course of their contact, be invited and encouraged to discuss the Catholic baptism and education of the children they will have: and, when possible, they should come to a decision on this question, before marriage (CCEO c. 815). Betrothal and publication of banns may be allowed in these cases at the discretion of the local hierarch after duly considering the nature and circumstances of the petition; if these are allowed, their form also shall be stipulated in the same rescript. The form of the celebration of marriage prescribed by law is to be observed, if at least one of the parties celebrating the marriage was baptized in the Catholic Church or was received into it (CCEO c. 834 §1). A marriage between a Catholic and a member of an Eastern Church is valid if it has been celebrated with a sacred rite by a priest, as long as all other requirements of law for validity have been observed. In these cases, the canonical form of celebration must be observed for lawfulness. Canonical form is required for the validity of marriages between Catholics and non-Catholics.⁷³

Before or after the canonical celebration of marriage, it is forbidden to have another religious celebration of the same marriage to furnish a new consent; likewise, a

⁷³ Dispensation from the canonical form for the celebration of a mixed marriage and Inter-Church marriages (marriage between an Eastern Catholic party and a baptized Western non-Catholic or a non-baptized party) required by law is reserved to the Apostolic See or the Patriarch or the Major Archbishop, who is not to grant it except for a most grave reason (CCEO c. 835). Petition for this dispensation must have the endorsement of the pastor of the Catholic party and of the hierarch of the place of marriage. Even if dispensation from the form of celebration of marriage is granted for a most grave reason, there should be a public form of celebration and a sacred rite. See *Synodal News*, 10 (1997), p. 53.

religious celebration is forbidden in which both the Catholic priest and non-Catholic minister ask for the consent of the parties (CCEO c. 839). However, avoiding scandal, the officiating Catholic priest may invite a non-Catholic minister to read a scriptural passage or to give a brief exhortation and bless the couple. In like manner, the Catholic priest may participate in a mixed marriage when a dispensation from the canonical form has been obtained.

A mixed marriage celebrated according to the Catholic canonical form ordinarily takes place outside the Eucharistic liturgy. However, for a just cause, the local hierarch may permit the celebration of the Holy Qurbana, if it is a marriage with a member of an Eastern Orthodox Church. There shall be no celebration of Holy Qurbana in connection with the marriage between a Catholic and a Christian who is not a member of a Eastern Orthodox Church. The norm of CCEO c. 671 and special norms, if any, given by the Apostolic See or by the Synod of bishops, if any, are to be observed regarding the reception of Holy Communion on the occasion of such marriages (CCEO c. 671 §§1, 2, 5).

For marriages between members of the Catholic Church and the Malankara Syrian Orthodox Church, the pastoral guidelines agreed upon by these two Churches are to be followed.⁷⁴ For marriages with dispensation from the impediment of disparity of cult, the norms and conditions for mixed marriages between a Catholic and a non-Oriental Christian are also to be fulfilled (CCEO cc. 803 and 814). Whenever a pastor of a parish comes to know that a Catholic party of his parish has contracted marriage with a

⁷⁴ For the particular law of Syro-Malabar Church on this matter, see *Synodal News*, 10 (1997), pp. 55-57.

non-Catholic or a non-Christian without the required permission or dispensation, he shall report the matter to the local hierarch. Ecclesiastical penal action may be taken against those responsible for the violation of law and possibly the consequent scandal.

The CCEO and particular legislation of the Syro-Malabar Church remind the pastors of parishes that immediately after solemnization of the marriage, the details are to be carefully entered in the proper parish registers.⁷⁵ *Form D* must be completed and sent to the concerned pastors so that relevant information may be entered in the baptismal and marriage registers. The concerned pastor shall return *Form E* to the pastor of the place where the marriage took place. The priest who blesses the marriage or the pastor of the place of marriage who discovers any error in the form or substance of any entry in the marriage register (Marriage Certificate Book) may, within one month of the discovery of such error, in the presence of the persons married or, in case of their death or absence, in the presence of two other witnesses, correct the error by entry in the margin, without any alteration of the original entry and shall sign the entry in the margin and add thereto the date of such correction. The witnesses in whose presence the correction was made shall attest every such correction.

3.2.2. Administration of Sacramentals and Other Acts of Worship

There are several other occasions in Christian life that are important but not as significant as those involving the sacraments. Since faith in Jesus Christ is essential for Christian living, many occasions that cause changes in a devout Christians' life may

⁷⁵ See CCEO cc. 841-842 and *Synodal News*, 10 (1997), pp. 49-50.

merit special celebrations. The Church helps a Christian to celebrate such occasions with sacramentals.

According to *Sacrosanctum Concilium*, sacramentals are no longer defined as things or actions but rather as sacred signs that bear resemblance to the sacraments. They signify effects, particularly of a spiritual nature, which are obtained through the Church's intercession.⁷⁶ Through sacramentals, the faithful, disposed to receive the principal effect of the sacraments in the various circumstances of life, are sanctified (CCEO c. 867 §1).

Sacramentals are different from sacraments. Christ did not institute sacramentals, directly or indirectly, i.e., through the apostles. The Church gradually introduced and incorporated them into its Liturgy. Sacramentals produce their effect through the action of the minister and the one using the sacramentals (*ex opere operantis*) and not through the mere execution of the sign (*ex opere operato*). The administration of sacramentals in a *sui iuris* Church is governed mostly by particular law (CCEO c. 867 § 2). We will examine some of the sacramentals of the Church in which pastors have a specific role to play.

3.2.2.1. Divine Office

Canon 289 §2 of CCEO gives due importance to the divine office⁷⁷ as a means of sanctification. Through the divine office, priests pray to God in the name of the whole

⁷⁶ See SC, n. 60.

⁷⁷ "Divine Praises," "Divine Office," "Canonical Hours," "Canonical Prayers," "Breviary," "Liturgy of the Hours," are synonymous. See Thomas PUTHIYAKUNNEL, *Syro-Malabar Clergy and Their General Obligations*, Ernakulam, Vincentian Publishing Bureau, 1964, pp. 120-121.

Church on behalf of the people entrusted to them and for the whole world.⁷⁸ *Sacrosanctum Concilium* emphasizes the importance of the liturgy of the hours as a means of sanctification both for pastors and faithful.⁷⁹ In addition to c. 289 §2, we see in c. 881 §1 the divine office as an obligation placed on the Christian faithful according to the prescripts or legitimate customs of their own *sui iuris* Church, and as a means of their sanctification. Again, while speaking of the clerical obligation, c. 377 says that all clerics are to celebrate the liturgy of the hours according to particular law of their own *sui iuris* Church. According to the particular law of the Syro-Malabar Church, “the clerics in major orders shall celebrate the liturgy of the hours, preferably in common.”⁸⁰

3.2.2.2. Ecclesiastical Funerals

Canon 290 §2 of CCEO considers the ecclesiastical funeral rites as a function of greater importance reserved to pastors. CCEO does not go into detail regarding funerals in churches other than the deceased’s parish. Canon 875 says: “Ecclesiastical funerals, [...] must be given to all the deceased Christian faithful and catechumens, unless they have been deprived of it by law.” By its wording, c. 875 simultaneously declares it a right of each Christian and as an obligation on the Church’s part. The right to ecclesiastical funerals and the obligation of the Church to provide them are set-aside only by c. 877, which also enumerates conditions under which the right to an ecclesiastical

⁷⁸ See PUTHIYAKUNNEL, *Syro-Malabar Clergy and Their General Obligations*, pp. 120-160.

⁷⁹ See SC, nn. 84 - 86.

⁸⁰ See *Synodal News*, 12 (1998), p. 57. For a standard work on “Divine office,” see Robert F. TAFT, *The Liturgy of Hours in East and West: The Origin of the Divine Office and Its Meaning for Today*, Collegeville, Liturgical Press, 1986; revised and updated Italian edition, *Liturgia delle ore in Oriente e Occidente: le origini dell’ufficio divino e il suo significato oggi*, Roma, Lipa, 2001.

funeral can be denied to members of the faithful. According to c. 877, public sinners who have not shown any sign of repentance, especially those whose ecclesiastical funeral might cause bewilderment or even reinforce a bad example to others, cannot receive an ecclesiastical funeral. Of course, what constitutes a manifest, public sinful behaviour is to be decided in accordance with the principles of moral theology. Generally, those who live in concubinage or in unions not recognized by the Church are considered to be public sinners if they have not given any sign of repentance. It should also be taken into consideration that in numerous instances few persons remember the sinful actions and that the denial of the funeral would aggrieve members of the family. Also, the denial of a funeral, even though justified, could sometimes be a cause of injury to the Church. One could organize the funeral rite in such a way that it will lessen on the one hand the embarrassment to the family members, and on the other hand will protect the common good.

The denial of a funeral excludes also the publicized celebration of memorial services, such as the Divine Liturgy, for such persons. Private services are not forbidden.⁸¹

The pastor of the parish has an implied obligation arising from c. 875 and c. 876 §3 to see to it that an ecclesiastical funeral is carried out according to the proper liturgical norms. During funeral rites, the Church prays for the spiritual support of the deceased, she honours their bodies, and at the same time brings to the living the comfort of hope. In CCEO there are no details of such matters as the place or the priest who should conduct

⁸¹ See POSPISHIL, *Eastern Catholic Church Law*, p. 635.

funeral rites as determined in CIC 1983.⁸² During the final plenary session, a proposal was put forward to include such details in the Code; since these details were considered “too general,” the proposal was rejected. It was explained that if needed, particular law or the eparchial statutes could specify them.⁸³

With respect to funerals, which are conducted in his parish, the pastor has an implied right from canons 290 §2, 677 §1, and 739 §2. Since the performing of funerals is entrusted especially to the pastor, another priest who might wish to celebrate that liturgy should obtain his permission.

Canons 875, 876 §§1 and 2, and 877 concern those to whom ecclesiastical funeral rites are to be granted or to be denied. Those canons are not addressed specifically to pastors; nevertheless since the application of these canons is always connected with funerals, pastors are likely to be the ones asked first for decision about granting or denying ecclesiastical funeral rites. When he takes a decision it should be on

⁸² According to CIC 1983 c. 1177 §1: “A funeral for any deceased member of the faithful must generally be celebrated in his or her own parish church. §2. Any member of the faithful or those competent to take care of the funeral are permitted to choose another church for the funeral rite with the consent of the person who governs it and after notification of the proper pastor of the deceased. §3. If a death occurred outside the person’s own parish, and the body was not transferred to it nor another church legitimately chosen for the funeral rite, the funeral is to be celebrated in the church of the parish where the death occurred unless particular law has designated another church.”

⁸³ See *Nuntia*, 28 (1989) p. 120. There are three phases in the funeral service of the Syro-Malabar Church: 1) the pastor goes to the house of the dead person to initiate the funeral ceremonies at home and then the dead body is brought to the parish church in a solemn procession. 2) Prayers in the parish church. 3) Prayer and funeral at the grave. There is a touching ceremony in the funeral service in the second phase where the body is placed in the parish church and the minister prays on behalf of the deceased person in which the deceased person bids farewell to the pastors who had brought him up with spiritual food, and to the church from where he was nourished with sacraments. See ABEL, *Marichavarkkuvendiulla Tirukkarmangal* (Malayalam), Ernakulam, Kuiuakose Elias Press, 1998, p. 26. Some of the customs preserved in the Syro-Malabar Church even today before and after the funeral, such as Blessing at the death bed, Pattinikanni (Repast), Mourning and other functions, pulakuli, and Sradham (Chattam), can be put in to the eparchial statutes. For more details on these customs, see THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, pp. 58-59; VELLIAN, *Knanite Community History and Culture*, pp. 30- 31.

the basis of the norm of law. Unless there are guidelines covering the granting of ecclesiastical funerals, as treated in c. 876, pastors must always refer questions, together with all available information about the people and circumstances involved, to the local hierarchy, who is the only one authorized by that canon to decide what is to be done about granting ecclesiastical funeral rites in any questionable case.

Canon 877 concerns denial of an ecclesiastical funeral and does not require that the matter be referred to the local hierarchy unless there are doubts. The pastor of a parish should, however, always exercise great care in such circumstances, because the point at issue is whether or not to deny a right. Canon 1500 says: "Laws which establish a penalty, restrict the free exercise of rights [...] are subject to a strict interpretation." That means that each word in the text cannot be extended beyond its strictest, most precise – and thus most limited meaning.

If persons otherwise liable to suffer the effects of c. 877 had given some signs of repentance, the law governing denial of an ecclesiastical funeral is not applicable. Canon 877 of CCEO simply says: "Unless before death they had given some signs of repentance, sinners who cannot be granted an ecclesiastical funeral without public scandal to Christ's faithful, are to be deprived of it."⁸⁴

⁸⁴ The seriousness of this obligation can be illustrated by a civil court decision on the following concrete case, which involved denial of ecclesiastical funeral to a Catholic. A prominent member of the Syro-Malabar Church died of a heart attack on 29 January 1996. While in the hospital, the sacrament of "extreme unction" [anointing of the sick] was administered to him by the chaplain. When approached by the family members of the deceased for the funeral arrangements, the pastor of the parish stated in unequivocal terms that he was not going to give the deceased an ecclesiastical funeral because he was a "public sinner," and in accord with canon law he was not entitled to it. An appeal against this decision was lodged before the competent eparchial bishop, who upheld the decision of the pastor. The aggrieved family of the deceased filed a case in civil court for damages under civil law for defamation and emotional hurt. The civil court in fact found the pastor and the eparchial bishop guilty of the charges brought against them and the family members of the deceased were awarded a substantial sum of money in punitive damages.

In accord with c. 877, cremations are not grounds for denial of an ecclesiastical funeral except in the case of “persons who had chosen the cremation of their own bodies for reasons opposed to the Christian faith.” Even if such reasons were the person’s basis for choosing cremation, that fact would have to be notoriously known for denial of ecclesiastical funeral rites. There was an attempt to leave to particular law the provisions regarding those who choose to be cremated. It was decided, however, that the authorities of each *sui iuris* Church should be granted freedom to decide on this delicate matter.⁸⁵ Similarly, a modification to c. 877 with regard to suicide was proposed. This too was not accepted, leaving the matter to particular law.⁸⁶

After the funeral an entry is to be made in the parish death register, in accordance with particular law (CCEO c. 879). The Syro-Malabar Church has decided, “The cause of death is also to be recorded in the remarks column of the death register.”⁸⁷

3.3.3. Feast Days and Days of Penance

The feast days and days of penance are important means for the faithful in the parish to attain sanctity. Festive celebrations are occasions of public proclamation of the faith experience. Observing the days of penance by fasting and abstinence have an

See “In the Court of the Sub Judge, Pala, Kerala, Present: Smt. K. Sakunthala, Sub Judge, Thursday, 8 October 1998, O.S. No. 171/96.” This civil court judgment is long as it enters into several complicated issues related to both canon law and civil law. The very fact that the issue was referred to civil court should remind pastors of parishes how important it is to be extremely circumspect in making decisions involving matters that are pastorally and spiritually so delicate and crucial to the faith life of a Christian.

⁸⁵ See *Nuntia*, 28 (1989), p. 120.

⁸⁶ See *Nuntia*, 28 (1989), p. 121. The new law no longer makes explicit mention of persons who committed suicide. The reason perhaps is that one does not commit suicide with full deliberation.

⁸⁷ See *Synodal News*, 9 (2001), p. 116.

important role in ascetical and penitential life and thereby work towards the sanctification of the Christian faithful. It is the responsibility of the pastors to educate the faithful on the need and manner of observing the days of penance by keeping fasting and abstinence. Canon 882 of CCEO gives ample opportunity for each *sui iuris* Church to observe fast or abstinence in its own manner.

The right to establish, transfer and suppress feast days and days of penance, which are common to all Eastern Churches, pertains to the supreme authority of the Church. The authority of each *sui iuris* Church which is competent to establish particular law in this respect can constitute, transfer and suppress feast days and days of penance for that Church, after having sought the opinion of other *sui iuris* Churches, provided c. 40 is observed. Canon 40 of CCEO imposes on these Churches the obligation to conserve and protect their own authentic heritage.

The holy days of obligation are enumerated in c. 880 §3. These are, besides Sundays, the Nativity of Our Lord Jesus Christ, the Epiphany, the Ascension, the Dormition of the Holy Mary Mother of God, and the feast of Saints Peter and Paul. The Syro-Malabar Church has added the Assumption and the Martyrdom of St. Thomas the Apostle (July 3) as additional days of obligation.

The particular law of the Syro-Malabar Church declares that the obligatory feasts of Epiphany, Ascension, and Saints Peter and Paul are to be observed on the Sunday following their date. The feasts of Blessed and Saints of the Syro-Malabar Church are important and are to be celebrated with due solemnity.⁸⁸

⁸⁸ For particular law regarding Feast and Penance of the Syro-Malabar Church, see *Synodal News*, 9 (2001), pp. 116-117.

The days of penance are to be observed in the manner established by particular law (c. 882). According to this law, penance in the form of fast and abstinence in the Syro-Malabar Church is observed as follows: "On days of fasting only one full meal may be taken. Abstinence is observed by abstaining from meat and meat products."

Again, according to c. 882, the following are the days fixed for fasting and abstinence: "Fasting is obligatory on the first day of Lent and on Good Friday. Fasting is recommended on all Fridays in Lent. Abstinence is obligatory on all Fridays except the Friday between Christmas and Epiphany and the first Friday after Easter. Abstinence is recommended on all days of Lent, the period of Annunciation, all days of *Moonnunombu*,⁸⁹ *Ettunombu*⁹⁰ and *Pathinanju nombu*."⁹¹

3. 3. SHARING OF RIGHTS AND OBLIGATIONS RELATED TO THE MINISTRY OF SANCTIFICATION

The pastor of a parish has many and varied obligations to fulfill. He strives to make the means and experiences for sanctification available to every one within his parish community. The faithful cannot have access to certain sacraments in their parish unless a priest is present to celebrate them. Celebrating the sacraments of Divine Liturgy, penance or reconciliation, anointing of the sick, Christian initiation and marriage are the ones that fall within the ministry of a pastor of a parish. He may share his obligations in these areas only with other priests.

⁸⁹ This refers to three days' fast of the Ninivites or of Jonas the prophet. See THAZHATH, *The Juridical Sources of Syro-Malabar Church*, p. 62.

⁹⁰ This refers to seven days fast in honor of Our Lady from the first of September. St. Thomas Christians, especially their women, observed this fast. See *ibid.*

⁹¹ This refers to fourteen days fast before the Assumption of Our Lady. See *ibid.*

With special terminology cc. 290 §2, 677 §1, and 739 §2 entrust the pastor with the celebration of sacred functions of greater importance. They explicitly oblige on the pastor to make these “sacred functions of greater importance” identified in c. 290 §2, available to his parishioners when they need them. As the above cited canons imply that through these “sacred functions” the Church intends to link the pastor with the faithful, especially in the faith related moments of their lives. For that reason, an obligation is placed on the pastor personally to carry out these sacred functions, unless he has a just cause for not doing so.

The expression “sacred functions of greater importance” is also broad enough to support the interpretation that the pastor may, at times, seek the cooperation of other clerics and faithful in carrying out those functions as situations require and/or relevant norms permit. In certain circumstances, it may be necessary for the pastor to share with other priests, those liturgical functions, in order to meet the needs of all of the members of his parish community.⁹²

Although the priest is the official leader in the celebration of the Divine Liturgy, sacraments of Christian initiation, marriage, reconciliation and anointing of the sick, the celebrations themselves are part of the liturgy of the universal Church. Both clergy and Christian faithful have their respective roles to play in all of those sacred functions.

As the teaching of the Second Vatican Council points out, the pastor is the servant leader of the parish community; he only enables the baptized to share in Christ’s priestly, prophetic and kingly function in their own personal and individual manner. In view of the

⁹² CCEO c. 302 §§1 and 3 envisions broad assistance of parochial vicars.

numerous obligations of the pastor to provide for the sanctification of his parish community, he should be commended for whatever contribution he might make to the personal sanctification of the faithful under his care.

There are several canons in CCEO, which clearly oblige pastors of parishes to share with other members of the faithful their sanctifying task. Canon 289 §2 says: “[...] He is to strive to ensure that the Christian faithful are nourished with spiritual food through devout and frequent reception of sacraments and through conscious and active participation in the divine praises [...].” Canons 403 §2, 709 §2 explicitly treat, but do not exhaust, the various ways in which the lay Christian faithful may participate in the liturgical functions. The same canons implicitly suggest comparable and perhaps even broader roles in para liturgical and extra liturgical prayer services and similar activities.

Canon 13 speaks of the obligation of all Christian faithful “to live a holy life and to promote the growth of the Church and its members continual sanctification.” In those words, the canon implies an obligation on the part of the Christian faithful to share in the Church’s ministry of sanctification. Canon 15 §3 speaks of a general right/duty the Christian faithful have to manifest their views to pastors: “[...] in keeping with their knowledge, competence and position, they have the right and at times even the duty, to manifest their views on matters regarding the good of the Church to the pastors of the Church [...]”; Canon 408 §§1-2 says that lay persons may hold ecclesiastical offices and those “who excel in the necessary knowledge, experience and integrity are qualified to be heard by ecclesiastical authority as experts or consultors [...].” As the Code stipulates,

lay persons may offer counsel to pastors, and pastors may certainly seek their expert advice.

A special case is noted in c. 287 §1 that treats of the possibility of a pastor being required to take on the spiritual care of more than one parish due to a dearth of presbyters or for other circumstances. A pastor in that position would need to share a great portion of his rights and obligations with the Christian faithful.

Nevertheless, the pastor cannot share the fulfillment of his rights and obligations to the extent that he no longer has any canonical responsibility for doing all that he can to carry out the requirements specified in the canons of the Code. Where the pastor lawfully shares his rights and obligations with others, he must supervise and periodically evaluate ministries performed by his co-workers to assure effective provision of the pastoral care he owes to his flock. In all candour, we must admit that, except in cases of small parishes, it does not seem possible for one or two persons to fulfill all pastoral needs of large parishes. What the canons prescribe concerning the pastor's rights and obligations with respect to the sanctification of the members of a parish imply that the pastor will need, and would be wise to accept, all help he can get from his competent parishioners in accord with the norms of law.

CONCLUSION

The principal focus of this chapter has been on the rights and obligations of the pastor of a parish as minister of sanctification. The Eastern Code and the particular law of Syro-Malabar Church have established certain rights and obligations of pastors of

parishes with respect to their participation in Jesus' priestly work of sanctification. Several general conclusions about the pastor's ministry of sanctification may be drawn from the analysis of relevant canons of CCEO. In brief, the pastor bears the primary responsibility for the sanctification of the parish community entrusted to his care, and he is duty bound to share this responsibility when and where necessary with other members of the Christian faithful in accord with the norms of law. As collaborator of the eparchial bishop, a pastor is first and foremost bound to set an example of personal sanctity and then to foster the sanctity of his parishioners in accord with his role as the principal dispenser of the mysteries of God in the parish.

With respect to works of sanctification, the principal rights and obligations concern sacred liturgies. That includes not only celebrating liturgical services with and for the Christian faithful, but also preparing parishioners for conscious and active participation in the sacred liturgy through appropriate formation. His goal in performing this function is the sanctification of his parishioners; he has to make them realize that Divine Liturgy is the centre and culmination of parochial and spiritual life. The canons do not present the pastor as the "provider of the sacraments" for the Christian faithful, but rather the parish community's "leader in their sharing together" of the celebrations of the sacraments.

The pastor's specific duties with respect to the spiritual formation of parishioners for their sharing in the sacramental/liturgical life of the parish, include, but are not limited to, raising in them an awareness of their active participation in diverse liturgical ministries. All parishioners must be prepared spiritually for special experiences of sharing

in divine life. Such a spiritual preparation is essential to their first reception of the sacraments, especially penance, holy eucharist and chrismation with holy myron. Parents and prospective godparents are themselves in need of special spiritual formation for assuming their respective roles. They have to be well prepared not only for the actual celebration of the sacrament, (“baptism,” for instance,) but also for living lives worthy of their new responsibilities. They have to introduce and guide the child (children) or the recipients of the sacrament in his/her personal life. This is all the more necessary as the baptized person grows into his/her adulthood. Adults approaching baptism also need appropriate formation in order to be received into full “communion” with the Catholic Church. Parishioners who are planning to get married also need information and spiritual guidance to understand and to embrace their vocation and the sacrament of marriage with sufficient knowledge and appreciation, and to be faithful to marriage vows and in family life.

The pastor, also, has a general obligation toward the growth in spiritual life of the recipients of sacraments and sacramentals. He has the obligation to motivate, inspire and organize parishioners in a way that they will in fact live “the sacraments and sacramentals” they have received. This would include, among many other possibilities, encouraging family prayer, reciting divine office in common, fostering religious vocations, and founding small Christian communities, etc.

The pastor is also required to use liturgical texts properly approved by competent ecclesiastical authority and carefully to avoid any abuse creeping into liturgical celebrations. The same canons, which stipulate the above, also suggest, by implication,

that the pastor has a right to receive full and willing cooperation from all members of his parish, including clerics and lay Christian faithful in fulfilling his sanctifying ministry.

There are in the Codes various canons, which require and authorize the pastor of a parish to make administrative decisions about works of sanctification. There are, also, many other canons in the Codes that charge the pastor with the carrying out of administrative duties both in spiritual order and temporal order. In discharging these obligations the pastor's service of leadership shares in Jesus' kingly or governing ministry. Hence the pastor's rights and obligations related to parish administration, as minister of governance, will be the focus of the next chapter.

CHAPTER FOUR

THE PASTOR OF A PARISH AS MINISTER OF GOVERNANCE

INTRODUCTION

Proper organization, structure and direction of all its activities to achieve its intended goal(s) are intrinsic to every society. The Second Vatican Council has clearly taught that the Church is not only a “spiritual community” but also a hierarchically organized society “which is governed by the successor of Peter and by the bishops in communion with him.”¹ The Council said: “[...] the bishops, together with Peter’s successor, the Vicar of Christ and the visible head of the whole Church, direct the house of the living God.”² The direction or governance of the universal Church, therefore, clearly befalls the Supreme Pontiff and the college of bishops in communion with him. At the level of the local Church, the bishops “as vicars and legates of Christ, govern the Churches assigned to them.”³ In virtue of their power received through episcopal consecration, “bishops have a sacred right and duty before the Lord of legislating for and passing judgment on their subjects, as well as of regulating everything that concerns the good order of divine worship and apostolate.”⁴ In other words, in virtue of their consecration the bishops are empowered to direct all activities in the living house of God incarnate in a particular Church. Therefore, this teaching seems to imply that the direction or governance of the particular Church would involve more than just exercising

¹ LG, n. 8; also see n. 14.

² LG, n. 18.

³ LG, n. 27.

⁴ LG, n. 27.

legislative, judicial and executive power.

The same council also taught that the salvific mission of the Church is not carried out by bishops alone. The priests are their “prudent cooperators [...] dedicated it is true to a variety of distinct duties.”⁵ Preeminent among these “prudent cooperators” are pastors of parishes who share in his power of governing or directing the living house of God at the local level. The Council said that in each local assembly of the faithful the pastors of parishes represent in a certain sense the bishop, with whom they are associated in all trust and generosity. Therefore, they “under the authority of the bishop, sanctify and govern that portion of the Lord’s flock assigned to them under the universal Church visible in their locality and contribute especially toward building up the whole body of Christ.”⁶

From a theological and canonical perspective it seems clear that pastors of parishes share in the governing function of the bishop in the faith communities committed to their care. They are certainly responsible for organizing and directing parish life in its spiritual and temporal aspects under the leadership of their bishop. This would naturally include the day-to-day activities related to the pastoral care of their flock.

The central theme of this chapter is the leadership of the pastor of a parish in governing ministry and the right and obligations, which flow from it. The chapter includes therefore, three fundamental issues: (a) the source of a pastor’s power of governance; (b) the content of the pastor’s ministry of governance and his rights and

⁵ LG, n. 28.

⁶ LG, n. 28.

obligations related to it according to CCEO and the particular law of the Syro-Malabar Church; (c) the extent to which a pastor may, and sometimes should, share with other Christian faithful his obligations and rights relative to his governing ministry.

4. 1. GENERAL CONSIDERATION

Canon 281 of CCEO establishes that in virtue of his office the pastor is the foremost collaborator of the eparchial bishop in the parish under the authority of the same eparchial bishop, which implies that the pastor shares in the governing function of the bishop in his parish.

The possession of sacred orders qualifies one to assume the task of governance in the Church, a power which was historically called jurisdiction and in the new Codes is called power of governance (*potestas regiminis*).⁷ This power exists in the Church by divine institution and is to be exercised by those who have been constituted in sacred orders, in accordance with the norm of law. Canon 979 does not state that only those in sacred orders are capable of exercising such power; rather, it provides that the other members of the Christian faithful (c. 7 §1) – in virtue of their baptism, proper to their state, become sharers in Christ's priestly, prophetic and royal functions. Hence, the Christian faithful who are not in sacred orders share in the mission of the Church, which would necessarily include a share in the responsibilities of ecclesial governance. They can cooperate in the exercise of power of governance according to the norms of law.⁸

⁷ Cfr. CCEO c. 979 § 2.

⁸ See LG, n. 33.

Canon 129 of the Latin Code and c. 979 of the Eastern Code are substantially identical.⁹

Canon 980 explicitly distinguishes between two areas of operation of the power of governance: the external forum, in relation to the ecclesial community, and the internal forum, relating more to the individual concerned. When the power of governance is exercised for the common good, it is said to be in the external forum; when it operates primarily for the private good of an individual, ordering that person's relationship with God, it is generally called the internal forum. In certain situations, and according to special provisions of law, actions placed in the internal forum can have effects in the external forum.¹⁰ The internal forum is most frequently invoked in matters relating to the absolution of sin, the remission of penalties, or the dispensation from impediments, vows, and irregularities, etc., or when an individual's reputation could be at stake.¹¹

Power of governance can be ordinary and delegated (c. 981). The power attached to an ecclesiastical office by law itself is called ordinary power of governance. Delegated power is the power committed either in whole or in parts, to a person by an act of a competent authority. The two categories of power of governance are mutually

⁹ Cfr. CCEO c. 979 and CIC 1983 c. 129. According to the study of Mammen Varghese, the only three differences between the two canons are: (1) the part "*et etiam potestas iurisdictionis vocatur*" of CIC 1983 is omitted in CCEO. Perhaps such an omission may have been because of the observation made by one of the organs of consultation that the traditional term "*potestas iurisdictionis*" was wider than the term "*potestas regiminis*." Therefore, it would be too simplistic to equate them with a simple "*etiam*" or "*seu*." See *Nuntia*, 18 (1984), pp. 41-42. (2) The term "*insigniti*" in CIC 1983 is substituted with "*constituti*" in CCEO. (3) In §2: CIC 1983 "*christifideles laici*" becomes "*ceteri christifideles*" in CCEO to include not only laity but also those religious who lack sacred orders. For a detailed study on the power of governance in the Church according to CIC 1983 and CCEO, see Mammen VARGHESE, *The Laity and Their Cooperation in Church Governance According to the Provisions of CCEO and the Tradition of the Malankara Catholic Church*, Excerpta ex Dissertatione ad Doctoratum, Romae, Pontificium Institutum Orientale, Facultas Iuris Canonici Orientalis, 1996, pp. 6-25.

¹⁰ See, for instance, CCEO c. 799 in relation to dispensed matrimonial impediments.

¹¹ See CCEO c. 23.

exclusive. Power of governance is either ordinary or delegated and it cannot be both in the same person. Of course, the same person can hold ordinary power for certain matters by virtue of an office, and delegated power in other matters by virtue of delegation. For example, a pastor of a parish who has ordinary power can also be the eparchial bishop's delegate for matters relating to religious.

Canon 981 §2 states that the ordinary power of governance can be either proper or vicarious. Both types of power enjoy a common element: both are ordinary; that is to say, attached to an office by the law itself. They differ in the fact that one who enjoys proper power, acts in his own name, while the one who enjoys vicarious power, acts in the name of the one whose vicar he is. In this sense the vicar resembles the delegate who likewise acts in the name of another; the delegate, however, does not act by virtue of a power attached by law to the office, and in this the delegate differs from the vicar.

Canon 985 speaks of the different aspects of power of governance. This canon is derived from the conciliar teaching of *Lumen gentium*.¹² The power of governance is distinguished as legislative, executive and judicial.¹³ According to canon 979 §1, those who have been constituted in sacred orders are capable of exercising the power of governance in accordance with the norm of law. Since the pastor of a parish has been constituted in sacred order he is capable of the power of governance according to the norms of law. However, in Canon Law neither the legislative power nor the judicial

¹² Cfr. LG, nn. 21 and 27.

¹³ CCEO c. 985 §1: "Potestas regimnis distinguitur in legislativam, exsecutivam et iudicialem."

power is proper to the office of the pastor of a parish (c. 985 §§2-3).¹⁴ In accord with canon 281 of CCEO, a pastor's care for his parish community includes the function of governing under the authority of the eparchial bishop and in accord with the norm of law; in other words, in order to fulfill his responsibilities, the pastor should have a share in the exercise of the executive aspects of the power of governance.

The principles governing the exercise of executive power, also called administrative power, are to be found in cc. 986-995 of CCEO. Executive or administrative power could be defined as that portion of the power of governance which, within the limits of the law, secures the common good, either by executing laws, interpreting them, supplying them, resolving controversies involving hierarchical organs, or finally by imposing, if necessary, certain precepts and penalties.¹⁵ This function is not unlimited, because it is governed by the principle of legality. In other words, even executive power is to be exercised within legal limits.

Canon 986 determines the sphere of competence, personal and territorial, in the exercise of administrative function. According to this canon, therefore, executive power can be exercised over one's subjects. For example, an eparchial bishop can exercise his executive power of dispensing over his subjects. This he can do even when he himself is

¹⁴ CCEO c. 985 §2: "Potestas legislativa exercenda est modo iure praescripto et ea, quam in Ecclesia habet legislator infra supremam Ecclesiae auctoritatem, delegari valide non potest, nisi aliter iure communi cavetur; a legislatore inferiore lex iuri superiori contraria valide ferri non potest."

CCEO c. 985 §3: "Potestas iudicialis, quam habent iudices aut collegia iudicialia, exercenda est modo iure praescripto et delegari valide non potest nisi ad actus cuius decreto aut sententiae praeparatorios perficiendos." For a detailed study on the various types of power of governance and their exercise, see POSPISHIL, *Eastern Catholic Church Law*, pp. 686-687; NEDUNGATT, *A Guide to the Eastern Code*, pp. 664-673; PINTO, *Commento al Codice dei canoni delle Chiese orientali*, pp. 829-834.

¹⁵ NEDUNGATT, *A Guide to the Eastern Code*, p. 666.

outside his own territory, or even when his subjects may be outside his territory. For example, according to c. 1538 §1, the eparchial bishop can dispense from all disciplinary laws excepting those reserved to the authority that issued the laws. This concession can be exercised over his subjects even though he himself might be outside the eparchy. Thus the eparchial bishop can grant a dispensation from some matrimonial impediment or from the obligation of observing a holy day or day of penance for the entire eparchy or to a particular community even when he is outside his own eparchy.

The norms of law with regard to the exercise of executive power found particularly in various canons of the Eastern Code¹⁶ that empower the pastor of a parish to exercise executive power in special situations, will be treated later.

4.1.1. The Content of the Pastor's Ministry of Governance

CCEO c. 289 §3 provides broad outlines for the governing tasks of the pastor of a parish. The canon reads as follows:

In fulfilling the governing function, the pastor is to ensure first of all that he knows his flock. Being a servant for all the sheep, he is to foster the growth of the Christian life both in individual members of Christian faithful and in their associations, especially those directed to apostolate, and in the entire parish community. He is to visit the homes and schools in keeping with his pastoral function; be eager to provide for the needs of adolescents and youths; seek out with paternal love the poor and sick. Finally, he is to take measures so that Christ's faithful offer assistance in the works of the apostolate.¹⁷

¹⁶ For example, delegation to validly bless the marriage, cc. 829-830; dispensing from certain matrimonial impediments, cc. 795-797; and dispensing from private vows, cc. 893-894.

¹⁷ CCEO c. 289 §3: "In adimplendo munere regendi imprimis curet parochus, ut proprium gregem cognoscat; cum autem omnium ovium sit minister, vitae Christianae incrementum foveat tum in singulis Christifidelibus tum in consociationibus praesertim apostolatu addictis tum in tota communitate paroeciali; domos igitur et scholas visitet, prout munus pastorale id exigit; adolescentibus et iuvenibus studiose prospiciat; pauperes et infirmos paterna caritate prosequatur; specialem denique curam de opificibus habeat

This canon describes several aspects of the pastor's governing function. This canon highlights the idea of a pastor of a parish as a "spiritual father" and a "good shepherd." According to the canon, the pastor is to know his flock; he is to foster growth in the Christian life both in individual members of the Christian faithful and in associations and in the entire parish community. Therefore, he is to visit the homes and schools, to look out zealously for adolescents and youngsters, to exercise paternal love for the poor and sick. Finally, he is to have a special care for laborers and strive to offer assistance to the Christian faithful in his works of the apostolate. He has to encourage the faithful to offer assistance to the needy. In this canon the governing function of pastors is related mainly to the spiritual well being of his flock.

In this context, it is helpful to recall the tradition that existed in many Eastern Churches, where pastors were only the spiritual heads, while various councils formed predominantly of lay persons directed the administration of the temporal goods of the Churches.¹⁸

atque allabet, ut Christifideles operibus apostolatus auxilium praestent."

¹⁸ In the East Syrian Church, priests had limited influence or role in the administration of the Church's temporalities. An oeconomus carefully chosen from among the community, often a lay person, carried out the daily administration. In the Syro-Malabar Church and the Malankara Church in India, they had the system of Idavaka Yogam in which the lay faithful had the predominant role in the administration of the parish, especially temporal matters. This system, which existed in these Churches of India, helped the study group who codified CCEO c. 295. See *Nuntia* 9 (1979), p. 76. See, for details on the system of Idavaka Yogam, FARIS, *Eastern Catholic Churches*, p. 591; and on the administration of the temporal goods of the Syro-Malabar Church, see VARANATH, *The Threefold Function of a Pastor*, pp. 75-82.

4. 2. PASTOR OF A PARISH AS SHEPHERD OF THE FAITHFUL

The Eastern Code makes it quite clear that, subject to the authority and supervision of the eparchial bishop, the pastor is canonically in charge of the parish, which he is to govern it. Canon 279 establishes that the pastoral care of a parish is entrusted to the pastor and refers to the pastor as the parish's own shepherd. According to c. 281 §1, the pastor is the proper shepherd of the parish. He has been called to share the eparchial bishop's ministry of governing.

Canon 1023 states, "The administration of ecclesiastical goods of a juridic person pertains to the one who immediately governs it, unless the law provides otherwise."¹⁹ Canon 290 §1, which designates the pastor as the person responsible for the administration of the goods of the parish, is a specification of the general principle stated in c. 1023. Undoubtedly, the above canons express that the pastor of a parish is the real administrator of the parish, unless the law provides otherwise, which refers to particular law, approved custom, and provisions of civil law. However, he has to fulfill it in accord with the spirit and model of Jesus Christ, who is the shepherd *par excellence*.²⁰

The pastor carries out the shepherding responsibility for the enrichment of the parish community. He concretizes Christ's power in the faith community. However, the success of his ministry depends upon the efficacious coordination of all the resources, such as time, people, organizations, materials and occasions available to him. In the

¹⁹ CCEO c. 1023: "Administratio bonorum ecclesiasticorum personae iuridicae ei competit, qui immediate eam regit, nisi aliter iure cavetur."

²⁰ Cfr. John 10: 1-18 and CCEO c. 289 §3.

following sections we shall consider the duty of the pastor to work in collaboration with the other clergy of the parish and members of consecrated life.

4.2.1. Duty to Work in Collaboration with the Other Clergy of the Parish

The most immediate persons who assist pastors in their ministry are the parochial vicars.²¹ Normally one or several presbyters can be appointed parochial vicars. Such a vicar can be appointed for the entire parish or for only some part of it or for a group of people, even for some defined activity or activities. The eparchial bishop freely appoints the parochial vicar.

As the shepherd of the faithful, it is the right and obligation of the pastor of a parish to work in collaboration with the parochial vicar(s). The Second Vatican Council enunciates the basic principle for the harmonious relationship and ministry of the pastor and parochial vicar(s). The decree on the pastoral office of the bishops in the Church, *Christus Dominus*, states:

In exercising the care of souls, parish priests and their assistants should carry out their work of teaching, sanctifying, and governing in such a way that the faithful and the parish communities may feel that they are truly members both of the diocese and of the universal Church. [...] Curates, as co-workers with the parish priest, should be eager and fervent in their daily exercise of their pastoral ministry under the authority of the parish priest. There should therefore be a fraternal relationship between the parish priest and his curates; mutual charity and respect should prevail, and they should assist each other by advice, practical help and example, providing with harmonious will and a common zeal for the needs of the parish.²²

²¹ "Associate pastor," "Assistant pastor," "Curate," these terms are used in different countries to denote parochial vicar. CCEO cc. 301-303 are on parochial vicars. The canons on parochial vicar in the Latin Church are in CIC 1983 cc. 545-552.

²² CD, n. 30.

The parochial vicar shares with the pastor the threefold ministry of teaching, sanctifying, and governing. However, there are certain distinctions in exercising these functions. For example, certain sacramental and liturgical functions are reserved to the pastor according to the norm of law. They are the celebration of the sacraments of Christian initiation, the blessing of marriages and the ecclesiastical funeral rites. Therefore, parochial vicars are not allowed to carry them out except by the permission, at least presumed, of the pastor himself. As leader of the parish, the pastor represents the parish in all juridic affairs. He is responsible for the frequent celebration of the Divine Liturgy for the people. The administration of the anointing of the sick is also the pastor's responsibility.²³

The working relationship between a pastor and a parochial vicar is directly treated in c. 301 of CCEO. The parochial vicar is described in canon 302 §3 as a fraternal cooperator or a fraternal co-worker of the pastor. The parochial vicar(s) has the duty to support the pastor in all aspects of the pastoral care of the parish. As a coworker in the Lord's vineyard, the parochial vicar should make himself readily available to the pastor in carrying out the day-to-day pastoral activities (c. 302 §3). The relationship between the pastor and the parochial vicar should be fraternal; mutual love and respect are to prevail always between them; they are to assist each other with advice, support and example so that they are of one mind and one heart in providing pastoral care to their flock. This

²³ Cfr. CCEO cc. 290 §§1- 2, 294, 677 §1, and 739 §2.

should be evident in all their joint pastoral endeavors.

Both the pastor and the parochial vicars are equally responsible for the pastoral care of their parishioners, though the pastor is directly in charge. The rights and obligations of the parochial vicars are stipulated in CCEO.²⁴ The parochial vicar is to carry out his responsibilities under the direction of the pastor. If the pastor is absent from the parish due to some unforeseen reason or if he is on vacation, the parochial vicar substitutes for him and thereby enjoys the faculties of the pastor. However, the parochial vicar is not obliged to celebrate the Divine Liturgy for the people even in this situation (c. 294).

The blessing of marriages is generally reserved to the pastor (c. 290 §2) and the parochial vicar does not have the faculty to bless them in virtue of his office. However, the local hierarch or the pastor can delegate him either in a general way (i.e., for all marriages to be celebrated in the parish) or on an individual basis to bless marriages. Contrary to the general principle applicable to sub delegation,²⁵ the parochial vicar can subdelegate another priest to bless a marriage in an individual case, even if he himself had been delegated for a single act(c. 302 §2).

Those pastors, who have parochial vicars, should guide and encourage them in spiritual and temporal affairs and support them in all their efforts in promoting their own good and the good of the parish. This would enable the parochial vicars to become aware of the true nature of their relationship with the pastor, and get to know the practical ways

²⁴ Cfr. CCEO c. 301 §1; c. 390 §§ 1-2; c. 1021 §; c. 302 §4; cc. 289-290.

²⁵ See CCEO c. 988 §§3-4.

of administering the spiritual and temporal affairs of the parish.

In order to provide effective pastoral care for the faithful of the parish, pastor has a general obligation to reside in the rectory near the parish church.²⁶ In many countries, it is a common practice for all the priests attached to a parish to reside together in a house near the parish church.²⁷ Such a practice conforms to the recommendation that the celibate clergy live a common life.²⁸ According to Thomas Puthiakunnel, “The common life among clerics is an aid to piety, a safeguard to chastity and a mutual advantage in the work of the ministry.”²⁹ In certain cases, after taking into consideration the concerns of the priests and the parishioners, the eparchial bishop can permit the pastor or parochial vicars to reside elsewhere, either in common or individually.

Canon 392 affirms the right of the clerics to a vacation from work every year, but leaves to particular law to determine its length. But according to canon 292 §2, the pastor’s right to an annual vacation is affirmed very clearly. The Code allows the same by stating that unless there is a grave reason to the contrary, the pastor of a parish may each year be absent on holiday from his parish for a period not exceeding one month, continual

²⁶ Cfr. CCEO cc. 292 §1 and 302 §4.

²⁷ For a historico-juridical evolution of the cleric’s obligation of residence in the Church, see PUTHIYAKUNNEL, *Syro-Malabar Clergy and their General Obligations*, pp. 200-214.

²⁸ CCEO c. 376: “Vita communis inter clericos caelibes laudanda, quatenus fieri potest, foveatur, ut ipsi in vita spirituali et intellectuali colenda mutuo adiuventur et aptius in ministerio cooperari possint.” Canon 376 proposes for celibates common life primarily as a safeguard to chastity. Though this is not stated explicitly, that such is the primary aim of the canon is clear from canonical tradition and the context of the canon. See in CS c. 75; CIC 1917 c. 134. According to the decree on the ministry and life of priests, common life is presented as a safeguard against the dangers of solitude, as well as an aid to the practice of brotherly love, spiritual and intellectual stimulus, pastoral collaboration and the actuation of the unity of the presbyterium in miniature. See PO, n. 8.

²⁹ See PUTHIYAKUNNEL, *Syro-Malabar Clergy and their General Obligations*, p. 117.

or otherwise.³⁰ The pastor should make sure that his parochial vicar(s) get his due vacation; he is entitled to, according to the norms of law. In respect to the duration of their annual vacation, the bishop, the pastor and the parochial vicars possess the same right.³¹

Canon 292 specifies that the eparchial bishop is to formulate eparchial norms regarding the absence of the pastor from the parish. Of primary importance is the substitution of the pastor for that period (which is the responsibility of the eparchial bishop). The priest substituting the pastor must be given faculties necessary to fulfill his ministry and, arrangements should be made for the remuneration to which the substitute is entitled. The eparchial norms must also spell out the care of a parish during an unforeseen absence of the pastor due to illness or some other legitimate reason.

In addition to the time of vacation allowed to the pastor, he is entitled to make a spiritual retreat for a period of time determined by particular law (c. 369 §2).³²

After completing the formation required for sacred orders, presbyters are expected to continue their interest in sacred sciences. Indeed they are to take measures to acquire a

³⁰ According to the particular law of the Syro-Malabar Church, priests have the right for an annual vacation of 30 days with remuneration. The arrangement for their substitute must be done in collaboration with the eparchial curia. With regard to the time of their vacation, however, they have to get prior approval of the local hierarch. The remuneration of the substitute shall be paid from the parish. See *Synodal News*, 12 (1998), p. 58. According to CCEO c. 1545 §1, in law, a day means the span of time consisting of twenty-four continuous hours, and it begins at midnight. A week is a span of seven days, a month is a span of thirty days; and a year is a period of three hundred and sixty five days, unless it is stated that the month and the year are to be taken as in the calendar. If the time is continuous, the month and the year are always to be taken as in the calendar. See CCEO c. 1545 §2.

³¹ See CCEO cc. 204 §2, 292 §2, and 302 §4.

³² The particular law of the Syro-Malabar Church states: "An annual spiritual retreat for at least four days shall be made by clerics. They shall also make monthly recollections in accordance with the eparchial norms." See *Synodal News*, 12 (1998), p. 56.

more profound and updated knowledge and use them through formative courses approved by their own hierarch (372 §1). They are to attend the conferences that their hierarch has judged suitable for promoting the sacred sciences and pastoral affairs. Also, they are not to neglect to acquire for themselves as much knowledge of profane sciences, especially those sciences connected more intimately with the sacred sciences, such as those known to cultured people.³³

In addition to parochial vicars, presbyters and permanent deacons committed full time or part time and those who retired from the active ministry may reside in a parish rectory or within the boundaries of the parish. The cooperation between pastor and parochial vicars and other clerics could make the parish more dynamic. The assistance they provide gives more time to pastors in fulfilling their pastoral duties mentioned in c. 289 §3.

Canon 379 states that clerics, united by the bond of charity with their fellow brothers of whatever Church *sui iuris*, are to cooperate in achieving the same purpose, namely, the building up of the Body of Christ. Consequently, whatever their condition, and though handling different offices, they are to cooperate among themselves and help one another.³⁴ From this flows a mutual obligation that pastors should accept others and

³³ CCEO c. 372 §1: "Institutione, quae ad ordines sacros requiritur, peracta in scientias sacras incumbere ne desinant clerici, immo profundiorum et ad diem accommodatam earundem cognitionem et usum acquirere satagant per cursus formativos a proprio Hierarcha approbatos.

§2 Frequentent quoque collationes, quas Hierarcha opportunas iudicavit ad scientias sacras et res pastorales promovendas.

§3 Scientiarum profanarum quoque, earum praesertim, quae cum scientiis sacris artius cohaereant, talem sibi copiam comparare ne neglegant, qualem excultos homines habere decet. "

³⁴ CCEO c. 379: "Clerici confratribus cuiuslibet Ecclesiae sui iuris vinculo caritatis uniti ad unum

help them in facing the tasks and responsibilities of their ministry. They should make an effort to understand their associates' vision, even though and different from their own and support them in their projects. Other priests, especially parochial vicars, are to respect the age and experience of their pastors; they ought to consult with them, and share with them their concerns related to the care of souls of the parish.

4.2.2. Duty to Work with Members of Consecrated Life

The members of the institutes of consecrated life and societies of apostolic life residing within the parish can offer much assistance to the pastor in the exercise of his functions. According to the Second Vatican Council, "Religious are called by God so that they may enjoy a special gift of grace in the life of the Church and may contribute, each in his/her own way, to the saving mission of the Church."³⁵

As mentioned above, one of the duties of the pastor is to acknowledge and promote the proper role of each religious. To do that, the pastor should acquire appropriate knowledge of religious states,³⁶ especially those who are part of his parish. When necessary he should encourage them to grow in unity and work for the good of the Church.

omnes conspirent, ad aedificationem nempe Corporis Christi, et proinde, cuiuscumque sunt condicionis, etsi diversis officiis fungentes, inter se cooperentur seque invicem adiuvent."

³⁵ LG, n. 43. CCEO deals with religious institutes under title XII, namely, "Monks and other Religious as well as Members of Other Institutes of Consecrated Life." See CCEO cc. 410-572. The institutes of consecrated life in general connote a specific and organized way of leading the Christian life through the public profession of the three evangelical counsels of obedience, chastity and poverty in one of the five types of institutes, namely, monks and other religious, societies of common life according to the manner of religious, secular institutes, other forms of consecrated life and societies of apostolic life, approved by the Church.

³⁶ See CCEO c. 410 for a canonical understanding of "religious state."

The pastor has the primary responsibility for the catechetical formation in the parish, but in consideration of the amount of work to be done in this and other areas; he can seek collaborators from among the members of religious institutes and societies. On their part, members of institutes of consecrated life and societies of common life in the manner of religious should bear in mind c. 624 §1's directive that "the pastor of a parish in his efforts to provide catechetical formation for parishioners is, among others, to call the members of religious institutes with due regard for the character of each institute [...]." "[...] And those members are not to refuse to furnish their services willingly unless they are legitimately impeded."³⁷ Mutual cooperation and understanding between the pastors and the religious is necessary for the dynamic growth of the parish.

4.2.3. Duty to Utilize Appropriate Councils Involving all Faithful

The vitality of parish ministry depends on the pastor's ability to design a working plan and to execute it effectively. A pastor can do this through councils which deal with pastoral and financial matters, in accord with the norms of particular law of the proper Church *sui iuris* (c. 295).³⁸

The Latin Code has provision for two councils to assist the pastor in his ministry: the parish pastoral council (obligatory only if the diocesan bishop so judges) and the parish finance council (obligatory in all parishes by the universal law).³⁹ The former

³⁷ Cfr. CCEO cc. 479 and 542.

³⁸ See AA, n. 26.

³⁹ See in CIC 1983 cc. 536 and 537. For details on parish councils, see William DALTON, "The Parish Councils or Parish Pastoral Councils," in *S/C*, 22 (1988), pp. 169-186.

assists in pastoral planning, and the latter in the administration of parochial goods. Since these are distinct bodies, they should focus on their respective roles and work, in collaboration with one another.

The Eastern Code refers only to “appropriate councils dealing with pastoral and financial matters, according to the norms of the particular law of its own *sui iuris* Church.” Although parish councils are not specified in detail in the conciliar documents, *Apostolicam actuositatem*, n. 26, promotes the idea of councils at the parochial level. The main objective of this provision for such councils is to foster a relationship of communion between the pastor and lay persons in the apostolate of the Church. In order to foster this communion, the pastor of a parish is urged to recognize the particular role, which lay persons have in the mission of the Church, and to encourage them to offer their gifts and experience to promote the good of the Church. Thus c. 381 §3 states:

Clerics are to recognize and promote the dignity of lay persons and the specific role they have in the mission of the Church, especially by acknowledging the manifold charisms of lay persons and by directing their competence and experience for the good of the Church, especially in ways foreseen by the law.⁴⁰

Likewise, lay persons, in accord with their knowledge, competence and position, have the right, and even at times, the duty to make their opinion known to the pastors of the Church and even to the other members of the Church (c.15 §3).⁴¹ John D. Faris

⁴⁰ CCEO 381 c. §3: “Clerici laicorum dignitatem atque propriam partem, quam in missione Ecclesiae habent, agnoscant et promoveant praesertim charismata laicorum multiformia probantes necnon competentiam et experientiam eorum in bonum Ecclesiae vertentes speciatim modis iure praevisis.”

⁴¹ CCEO c. 15 §3: “Pro scientia, competentia et praestantia, quibus pollent, ipsis ius est, immo et aliquando obligatio, ut sententiam suam de his, quae ad bonum Ecclesiae pertinent, Ecclesiae Pastoribus manifestent eamque, salva integritate fidei et morum ac reverentia erga eosdem Pastores attentisque utilitate communi et personarum dignitate, ceteris christifidelibus notam faciant.”

writes:

Appropriate councils in the parish are an institutionalization of the exchange of opinion that should take place between the pastor, the clerics attached to the parish and the laity. In consideration of the sociological and cultural diversity among the various *sui iuris* Churches, specific stipulations are relegated to the particular law. Particular law could also be enacted on an eparchial level to address such matters. In addition to the issue of whether the pastoral and financial councils are obligatory for each parish, it is also appropriate for particular law to determine the composition of the councils, who is to preside over it and the competency of the councils.⁴²

Whether these councils are to be obligatory or not is to be determined by the particular law. Similarly, each council's composition, competency, presidency etc., are left to the determination of the particular law.

In accordance with c. 295 of CCEO, the Synod of Bishops of the Syro-Malabar Major Archiepiscopal Church in its session held on 16 January 1998 approved and decreed its Particular Law on this matter with the title: "The *Palliyogam* –Procedural Rules."⁴³ This law came into effect on 3 July 1998. It is divided into four parts, and some parts are further divided into various sections.

⁴² See FARIS, *Eastern Catholic Churches*, p. 601.

⁴³ The "*Palliyogam*" refers to the body constituted in the Syro-Malabar Church through tradition as a specific expression of the communion of the people of God in the parish, to advise and assist the pastor of a parish in exercising the pastoral ministry and administering the financial matters of the parish. *Potuyogam* and *Pratinidhiyogam* are its two forms. See *Synodal News*, 11 (1998), p. 46. The system of *Palliyogam* is a laudable heritage of the Syro-Malabar Church by which it expresses in a tangible way the ecclesial communion of all Christian faithful in the Church. The rules to regulate matters relating to the *Palliyogam* are called "The *Palliyogam*-Procedure Rules – of the Syro-Malabar Major Archiepiscopal Church." See *Synodal News*, 11 (1998), pp. 44-74. The text of this legislation was framed after receiving suggestions from the *presbyterium/presbyteral* and pastoral councils and from similar bodies in the eparchies as well as from the representatives of the institutes of consecrated life in the Syro-Malabar Major Archiepiscopal Church. These rules apply to all parishes within the proper territory (*territorium proprium*) of the Syro-Malabar Major Archiepiscopal Church. For the genesis of the *Palliyogam* Procedure Rules, see George NEDUNGATT, *Laiety and Church Temporalities: Appraisal of a Tradition*, Bangalore, Dharmaram Publications, 2000, pp. 335-340.

The first part gives preliminary notions on *Palliyogam*. Definitions of different terms used in the *Palliyogam* rules are also explained. The second part deals mainly with the structure, functions and duties of *Palliyogam*. The third part provides the procedural laws for conducting the meeting of the *Potuyogam*⁴⁴ and the *Pratinidhiyogam*.⁴⁵ The last part is on *Kaikkarans*,⁴⁶ administration of the temporalities of the parish and general and transitory norms.

As per the particular law of the Syro-Malabar Church, at present in every parish there shall be two forms of *Palliyogam* (councils) to provide assistance and advice to the pastor. They are known as *Potuyogam* and *Pratinidhiyogam*. Both are consultative bodies to express the communion of the people of God in the parish. They are intended to offer advice and help to the pastor. These councils work in cooperation with the pastor, in matters of pastoral ministry and administration of the finances of the parish. In small parishes, however, the *Palliyogam* may function as *Potuyogam* alone, with the permission of the local hierarch. Similarly, for grave reasons or in large parishes, the *Palliyogam* may function as *Pratinidhiyogam* alone, with the permission of the eparchial

⁴⁴ *Potuyogam* means a body of all the heads of families in the parish and members of all the *Pratinidhiyogam* and others. See *Synodal News*, 11 (1998), pp. 50-51.

⁴⁵ *Pratinidhiyogam* means a body consisting of those elected by the *Potuyogam* or by the heads of families in the ward/family unit meetings, and others duly elected or nominated or posted *ex-officio* as members and approved by the local hierarch as per eparchial statutes. See *Synodal News*, 11 (1998), p. 50.

⁴⁶ According to the particular law of the Syro-Malabar Church, *Kaikkaran* means a member of the parish, elected by *Potuyogam* or *Pratinidhiyogam* and confirmed and appointed by the local hierarch, or directly appointed by him under special circumstances, to help the pastor of a parish in keeping and administering parish properties and incomes according to the norms of ecclesiastical law and in conducting the programmes and affairs of the parish and to work in cooperation with the pastor of a parish in exercising pastoral ministry and administering financial matters of the parish. See *Synodal News*, 11 (1998), p. 48. There should be at least two *Kaikkarans* in a parish. The *Potuyogam* shall determine the number of the *Kaikkarans* according to the size of the parish and norm of the law. See *Synodal News*, 11 (1998), pp. 65-67.

bishop. In the latter case, the *Potuyogam* has to be convened at least once a year for a general review. The *Potuyogam* and the *Pratinidhiyogam* have also the right to form special committees or commissions for specific purposes and when these are achieved, those committees or commissions formed shall be dissolved.⁴⁷

The particular laws of the Syro-Malabar Church on *Palliyogam* give details regarding the membership, objectives, rights and obligations, and manner of functioning, etc., of *Potuyogam* and *Pratinidhiyogam*.⁴⁸

The following persons shall be the members of the *Potuyogam*:

Pastor of the parish, parochial vicars, resident priests of the same eparchy serving in the institutions of the parish by appointment, priests from the parish incardinated in the same eparchy present in the parish at the time of *Potuyogam*, superiors of the houses of the Institutes of Consecrated Life/Societies of Apostolic Life, heads of families,⁴⁹ *Kaikkarans* of the year and members of *Pratinidhiyogam*.⁵⁰

The following members shall not be entitled to become members of any of the meetings of the *Potuyogam*:

Those who stand publicly against the faith and teachings of the Church, or those who are under ecclesiastical censure, or public sinners, or persons convicted of offenses involving moral turpitude until reformed and certified by the pastor of the parish, or persons who have defaulted annual paschal duties, or persons who are of unsound mind, or willful defaulters

⁴⁷ See *Synodal News*, 11 (1998), pp. 50-51.

⁴⁸ See *Synodal News*, 11 (1998), pp. 51-65.

⁴⁹ Ordinarily only the head of the family (senior member of the family, male or female, who is responsible for the running of the family and who has attained 21 years of age) shall represent the family in the *Potuyogam*. However, the husband and wife can mutually agree who is to represent the family in the *Potuyogam* on a stable basis and that has to be communicated to the pastor in writing. If the head of the family is permanently disabled to attend such meetings he/she can nominate on a stable basis another senior member of his/her family who is not below the age of 21 to attend such meetings, on behalf of the family. Any such nomination shall be communicated in writing to the pastor in advance of seven days.

⁵⁰ See *Synodal News*, 11 (1998), pp. 51-52.

of Church Laws and known drunkards or those under intoxication.⁵¹

The particular law also states that the pastor is the president of *Potuyogam* and *Pratinidhiyogam*. He has the right and obligation to decide whether a person should be excluded from a meeting of the *Potuyogam* in accordance with the rules. If any dispute arises as to whether a person is a member of the parish or whether he/she is entitled to exercise any right in a meeting of the *Potuyogam*, the matter shall be settled as per number 70 of the procedural rules.⁵² However, the matter is to be referred to the eparchial curia prior to the settlement.

The functions and the duties of *Potuyogam* are chiefly of a pastoral nature. The *Potuyogam*, in conformity with the general pastoral plan of the eparchy, shall exercise the following functions:

(1) Make the parish community conscious that without the apostolate of laity the pastor's work will not become fully effective; (2) Prepare and launch a time-bound pastoral plan with the comprehensive vision of promoting the spiritual, social, cultural, biblical, catechetical and liturgical renewal of the whole parish; (3) Promote active participation in the liturgy; (4) Arrange to teach catechism to the children, youth and adults and to motivate others to do so; (5) Proclaim the Gospel through word and witness; (6) Promote vocations to priesthood and Institutes of Consecrated Life/Societies of Apostolic Life; (7) Bring back to the Church those gone astray from the faith; (8) Give leadership in the forming and functioning of small Christian communities and family units; (9) Take initiative in the forming and functioning of lay organizations and see that the whole youth

⁵¹ See *Synodal News*, 11 (1998), p. 52.

⁵² As per no. 70 of *Palliyogam* rules: "All disputes and complaints with regard to the conduct, proceedings, resolutions, decisions and actions taken or adopted by the *Potuyogam* or *Pratinidhiyogam* shall be preferred by the aggrieved before the administrative tribunal constituted by the eparchial bishop for such purpose, within seven days from the date of such *yogam*. The tribunal shall dispose off the dispute or complaint within 30 days from the receipt of such complaints. A recourse shall lie on the decision of the tribunal to the eparchial bishop within 15 days of such decision of the tribunal. The eparchial bishop shall dispose off the recourse as expeditiously as possible and his decision shall be final." See *Synodal News*, 11(1998), p. 73.

are enlisted in one or other of the organizations in the parish; (10) Animate the parish community to exercise their apostolate in the world through life and witness like a leaven so as to invite others into the fellowship with God through Christ in the Spirit; (11) Organize the Christian community into a common forum to meet the challenges and the violation of the fundamental rights through awareness and action; (12) Divide the parish into wards/family units; and (13) Promote the welfare of the Church and community by inspiring it by the gospel spirit of sharing goods and services according to one's capacity.⁵³

Potuyogam has the following duties:

(1) To pass the annual accounts for submission to the local hierarchs approval; (2) To decide, subject to the eparchial statutes, the numbers of Kaikkarans, auditors, church employees and the representatives from each ward/family unit; (3) To elect, subject to eparchial statutes, *Kaikkarans*, auditors, and the representatives from each ward/family unit; (4) To discuss and pass the budget of the parish and to allot priorities of items of expenditure; (5) To devise means of raising funds and to fix amounts of contribution by the parishioners for ordinary expenses and/or special projects, subject to eparchial rules; (6) To fix, if needed, a gradation of contribution on the occasion of marriage, etc., according to the financial capacity of the families, subject to the directions in the eparchy; (7) To fix the rate of fees for the use of the church paraphernalia and also the rate of offerings for taking devotional objects in procession, subject to the directives of the eparchial bishop; (8) To fix the rate of fee for graves and tombs and to fix the duration of their use, subject to the directives of the eparchial bishop; (9) To pass resolutions regarding construction of church, chapels and buildings for any of the parish institutions and buying or selling or borrowing or gifting of movable or immovable properties, subject to the provisions contained in number 40 of particular law and eparchial statutes; (10) To decide on the number of the solemn celebration of feasts in the parish and to propose programs for the same; (11) To deliberate up on matters of importance that affect the parish generally; (12) To establish special committees or commissions as and when needed and to choose members to the same; and (13) To do other duties stipulated in the eparchial statutes or such other duties as are directed by the eparchial bishop.⁵⁴

⁵³ See *Synodal News*, 11 (1998), pp. 53-54.

⁵⁴ See *Synodal News*, 11 (1998), pp. 54-56.

Pratinidhiyogam is another form of *Pallyogam*. It is numerically a smaller body than *Potuyogam* and its members are selected in three levels.

The first group of members consists of the pastor, parochial vicars, *Kaikkarans* of the year and members of the pastoral council from the parish, if any. These members are known as *ex officio members of Pratinidhiyogam*.

The second group is composed of *elected members*. They are: elected representatives of the wards/units of families; one representative of all parish educational institutions and one representative of other parish institutions, if any, who is a parishioner; a representative of the Sunday school teachers; representatives of the parish associations recognized as per the eparchial statutes; representatives of the institutes of consecrated life/societies of apostolic life residing in the parish (one from men and one from women); an elected representative of the eparchial priests from the parish, working in the same eparchy, subject to the practice of the eparchy.

The members of the third group are known as *nominated members*. They are: persons including experts nominated by the local hierarch in consultation with the pastor; in parishes with ten or more Dalit Catholic families,⁵⁵ they are to be represented by nomination by the pastor, if not elected otherwise or as determined by the eparchial statutes. The number of nominated members shall not exceed 1/3 of the total members. The details concerning the mode of election of the members, disqualification of members, loss of membership, and how to fill the vacancies are also contained in the particular

⁵⁵ The term "Dalits," correspond to what the Indian Constitution calls Scheduled Castes and Tribes, or popularly Low Castes or Untouchables. See NEDUNGATT, *Laity and Church Temporalities*, p. 453.

law.⁵⁶

The *Pratinidhiyogam* shall exercise the following functions and duties:

(1) To impart leadership by initiating active and constructive roles with a view to fostering, facilitating and promoting the spiritual, social, cultural, catechetical, pastoral, developmental and charitable activities and youth formation in the parish, having due regard to the religious atmosphere of the parish; (2) To pass the *masathirattu* or *kurunthirattu* or *ardhavarshihathirattu* (monthly, quarterly, half yearly statements of accounts); (3) To prepare *anduthirattu* (annual statement of accounts) and budget and submit the same to the *Potuyogam*; (4) To propose the programs of feasts other than the major feasts and to help in conducting all such feasts; (5) To give guidance on the general policies of administering the properties of the parish; (6) To constitute committees and to elect members to them as and when needed and to dissolve them; (7) To elect, subject to eparchial statutes, the *Kaikkarans*; and (8) To do other duties prescribed by eparchial statutes.⁵⁷

The pastor of the parish is the president of the *Potuyogam* and *Pratinidhiyogam*.

Thus he always enjoys a privileged position as the pastor of the parish. It is his right and duty to convoke both *Potuyogam* and *Pratinidhiyogam*. He should make use of these councils in the discharge of his duties. When setting an agenda or conducting a yogam, he has an obligation to keep the rights of members in mind and see that they are not denied.⁵⁸ These rights include: to receive spiritual assistance (c.16); to worship in their church (c.17); to have assembly and association (c.18); catholic action (c.19); catholic education (c. 20); liberty in the sacred sciences (c. 21); to choose state of life (c.22); reputation and privacy (c. 23); protection of rights (c. 24); support of the church, social justice and charity (c. 25); and exercise of rights in the Church (c. 26). The pastor would

⁵⁶ See Synodal News, 11 (1998), pp. 57-59.

⁵⁷ See *Synodal News*, 11 (1998), pp. 59-60.

⁵⁸ Cfr. CCEO cc.16-26.

also have the right and obligation based on canons 16-26 to make sure that those rights not overstepped to the detriment of the common good.

The pastor should always foster the religious and spiritual life of the parish. In his relations with the members of different councils in the parish, he should act with paternal care and love. He should remember that the purpose of different councils is to help him in his ministry. Therefore, he should provide them with ample opportunity to participate in promoting the mission of the Church in the parish.

The pastor and all members of the councils should participate in the meetings with a spirit of co-operation and service based on love for the glory of God and the real progress of the parish. Personal vendettas, groupism, family feuds, political differences and other matters shall in no way influence the deliberations of the meetings of the councils.⁵⁹

The pastor of a parish should get the approval from the hierarch on the recommendations of the councils according to the norms of law.⁶⁰ Likewise, the pastor must prevent the councils from making proposals contrary to the universal and particular Church laws, or civil law.⁶¹

It is true that particular laws, eparchial statutes and statutes of various councils

⁵⁹ See *Synodal News*, 11 (1998), p. 62.

⁶⁰ The matters that require the approval of the local hierarch are mentioned in CCEO cc. 1014, 1015, 1022, 1024, 1035, 1036, 1045 and 1046.

⁶¹ Sometimes this is referred to as the pastor's duty to veto a proposal. Arbitrary use of such authority could be appealed to the eparchial bishop. See CCEO cc. 1001-1002, which deals with recourse against administrative decisions of those in authority subject to the bishop.

provide provisions to punish the faulty and guilty members.⁶² However, the pastor may make use of these punitive measures only as a last weapon.

4.2.4. The Pastor of a Parish and the Exercise of Executive Power of Governance

As a principle, the power of governance is to be exercised only over one's subjects. This is true also of the power of the pastor of a parish. However, in accord with c. 986, a pastor can exercise executive power of governance over his subjects even when he is outside his own territorial boundaries or they are absent. He can also exercise this power over travelers actually living in the territory if it concerns granting favors or executing either common law or particular law by which they are bound according to the norm of c. 1491 §3.

In the Eastern Code, there are some particular circumstances and specific conditions in which a pastor of a parish can exercise the executive power of governance. We will see those conditions in the following sections.

4.2.4.1. The Pastor's Faculty to Dispense from Matrimonial Impediments

The rights and obligations of the pastor of a parish with respect to delegating the faculty to bless marriages are specified in cc. 828-830 and we discussed this matter in the previous chapter of this study.

Canon 790 §1 states: "A diriment impediment renders a person unqualified to celebrate marriage validly." A diriment impediment is a legal disqualification of a person

⁶² See *Synodal News*, 11 (1998), pp. 62-63.

to enter a marriage, established by divine or human (ecclesiastical) law. It invalidates the marriage if attempted without a proper dispensation.

Canonists usually classify impediments as those of divine law and ecclesiastical law.⁶³ Only the supreme authority of the Church has the competence to declare authentically when divine law, whether natural or positive, prohibits or nullifies a marriage. He has only authority to establish diriment impediments.⁶⁴ No dispensation is given in the Church from the impediments of prior bond, impotency, and consanguinity in direct line (for example: father and daughter) because they are regarded as impediments of divine law.⁶⁵ Other impediments may be regarded as of ecclesiastical law.

Impediments may be public or occult. A public impediment is one whose existence can be proved in the external forum, that is, the circumstances from which it arises are public. In most cases of public impediments, their existence can be proven in the external forum by (a) public documents (c.1222, for example, impediments arising from the sacrament of order, religious vows, consanguinity, previous bond, disparity of cult, etc.); (b) by two trustworthy witnesses or experts (c.1255, for example, who can testify to the facts based on their personal knowledge). Public impediments in general are matters of public record. Occult impediment is one whose existence cannot be proved in the external forum. (For example, a private vow, which is unknown to the public or an

⁶³ There are 13 impediments according to Eastern Code, while only 12 in the Latin Code. Cfr. CCEO cc. 800-812 and CIC 1983 cc. 1083-1094.

⁶⁴ See CCEO c. 792 and CIC 1983 c. 1075 §2.

⁶⁵ Holy See has infact granted a dispensation for a brother and sister. See *L'ATTIVITA DELLA SANTA SEDE*, NEL 2001, p. 735.

occult consanguinity). An occult case occurs also when an impediment is public by nature but occult in fact, that is, when the people do not know it.

Before dealing with the pastor's faculty to dispense from certain matrimonial impediments, it might be helpful to know the meaning and the purpose of dispensation from impediments in general. CCEO cc. 795-799 deals with the competent authority to dispense from impediments. A dispensation is a relaxation from a merely ecclesiastical law in a particular case granted by a competent authority for a just and reasonable cause for the spiritual good of the faithful. The judgment regarding the "just and reasonable cause" belongs to the authority who grants the dispensation, and not to the petitioner who asks for it. The above-cited canons provide for three situations: (1) dispensation in ordinary circumstances; (2) dispensation in danger of death; and (3) dispensation in an urgent necessity case.

"In ordinary circumstances," a dispensation from the impediment of prior bond, impotence and consanguinity in the direct line and in the second degree of the collateral line is not granted. The Apostolic See may grant dispensation from the impediments of sacred order, perpetual profession of chastity for a religious of pontifical right, and conjugicide. For the Eastern Churches a Patriarch/Major Archbishop can dispense from conjugicide and a perpetual vow of chastity made in congregations of any juridical condition (CCEO c. 795 §2). The local ordinary/hierarch is competent to dispense from other impediments (age, affinity, consanguinity in third or fourth degree of the collateral line, disparity of cult, perpetual vow of chastity of religious of eparchial right, public propriety, abduction and spiritual relationship). This dispensing power of the hierarch is

ordinary. Hence it can be delegated to any priest.

“In danger of death” – implies a situation in which there is a possibility, not necessarily a probability, that a serious condition may lead to death, within the time limit ordinarily needed to obtain the dispensation from a competent authority. The situation involving the danger may be caused by illness, accident, surgery or conditions of war. The general principle is that in danger of death the local ordinary/hierarch can dispense from all the impediments of ecclesiastical law, except from the sacred order of priesthood (c. 796).

In the same situation, when the local ordinary/hierarch can not be contacted, dispensation can be given by the pastor of a parish, or by the priest who has the faculty to bless the marriage, or by the priest present at the marriage celebration in accordance with canon 832 §2, or by a confessor. In this case the priests, other than the confessor, can dispense only their subjects or those present within their boundary. The confessor can grant it to all who approach him for the sacrament of reconciliation. However, the confessor can act only for the internal forum, whether within or outside the act of sacramental confession in case of an occult impediment.

Dispensation in the case of urgent necessity is the situation when everything is ready for the celebration of marriage (*omina parata sunt*), that is, all the formalities or inquiries that must precede the marriage have been fulfilled according to the norm of law, and then an impediment is discovered just before the celebration, and the marriage cannot be delayed or postponed without grave harm until the dispensation is obtained from the competent authority and the case is an occult one (c.797). In such a situation the local

ordinary/hierarch can dispense from all impediments of ecclesiastical law except from sacred orders and from perpetual vow of chastity of religious of pontifical or patriarchal /major archiepiscopal right. If the local ordinary/hierarch cannot be contacted, and if the case is occult, dispensation can be given by the pastor of a parish or by the priest who has the faculty to bless the marriage or by the priest who assists at the marriage in accordance with CCEO c. 832 §2 or by the confessor, observing all the conditions prescribed in c. 796 §1.

As explained above, according to CCEO cc. 795 and 796, it is very clear that a pastor of a parish can dispense from the impediments of marriage in danger of death and *omnia parata sunt* situations.

The pastor of the parish or the priest mentioned in canons 796 §2 and 797 §1 are immediately to inform the local hierarch of a dispensation given for the external forum. It is to be recorded also in the parochial marriage register (c. 798).

A dispensation granted for an occult impediment in the internal sacramental forum is neither sent to the local hierarch nor recorded in the marriage register in order to safeguard the sacramental seal. Such a dispensation has force only in the internal forum. Therefore, if the impediment becomes public, it is necessary to have a new dispensation in the external forum. A dispensation granted for an occult impediment in the non-sacramental internal forum is to be recorded in a book, which is to be kept in the secret archives of the eparchial curia. Such a dispensation has force in the external forum also. And so, if the occult impediment becomes public later on, it is not necessary to grant

dispensation again for the external forum (c. 799).

4. 2.4.2. The Pastor's Faculty to Dispense or Commute from Private Vows

A vow is a deliberate and free promise made to God concerning a possible and better good; the virtue of religion requires that it be fulfilled (c. 889 §1). Canon 889 §4 states: "A vow is public if it is accepted in the name of the Church by a legitimate ecclesiastical superior; otherwise it is private."

Canon 893 regulates dispensation from private vows. For a just cause, a dispensation from private vows can be granted by the legitimate superior who has ecclesiastical power in the external forum, provided the dispensation does not injure the acquired rights of others. The legitimate superiors to dispense from private vows are:

(1) Any hierarch, the pastor of a parish and the local superior of an institute of consecrated life who has the power of governance, in relation to his subjects; (2) the local hierarch and the local pastor of a parish, in relation to the other Christian faithful of his own Church *sui iuris* who actually reside within the respective territorial boundaries of the eparchy or the parish; (3) the local superior who has power of governance, in relation to those who live day and night in the house of an institute of consecrated life, and the major superior; (4) any confessor, under the same condition, but only in the internal forum.⁶⁶

The law, therefore, provides that a pastor of a parish can dispense his subjects, provided the dispensation is from a private vow, there is a just cause for dispensing and such a dispensation does not injure the acquired rights of others.

A dispensation from a vow is its complete cancellation effected for a just reason by an authority competent in law. Just reason includes the public good, a serious

⁶⁶ See CCEO c. 893 §§1-2.

difficulty in fulfilling the vow, excessive scrupulosity. In case of positive and probable doubt or error regarding the adequacy of the reason, the dispensation granted will be lawful.

The commutation of a vow is the substitution of the act or work (*opus*) promised by the vow with some other act or work. If the act to be substituted is as good or better than the original act that was vowed, the person who vowed the act can commute it. If the act to be substituted is a lesser good than the original act that was vowed, only a competent superior can validly grant the commutation. The authorities competent to dispense are also competent to commute the vow to a greater or equal good (not just to a lesser good) if the person seeking the commutation desires this.

4.2.5. The Pastor's Obligation to Keep Parish Registers and Archives

The pastor of a parish is responsible for the care and accuracy of all records in the parish. He should also maintain parish registers regarding the administration of the sacraments and the status of persons.

Canon 296 of CCEO requires that parish registers be kept according to the norms of the particular law of the *sui iuris* Churches or according to the norms of the eparchial bishop. Three registers required by the CCEO are the baptismal register, the matrimonial register and the death register. The points to be included in these registers are to be fixed in the light of CCEO and the particular law of *sui iuris* Churches or the norms of eparchy.⁶⁷

⁶⁷ See CCEO c. 296; see also FARIS, *Eastern Catholic Churches*, pp. 602- 603.

Particular law at the level of the *sui iuris* Church or the eparchy can require that other registers be maintained.⁶⁸

According to the particular law of Syro-Malabar Church, all parishes should maintain the following registers, records, books and files. They are:

(1) Baptism Register; (2) Confirmation Register; (3) Betrothal Register; (4) Marriage Register; (5) Death Register; (6) *Atmasthanthi* Register (Parish Register); (7) Minutes Book of *Potuyogam* and the *Pratinidhiyogam*; (8) *Yogapusthakam* (Register for decisions of Yogam); (9) Subscription Register (*Variveetha* Register); (10) *Kurippu* Book (Account Book); (11) Journal; (12) Ledger; (13) *Tirattu*; (14) Audit Report; (15) Voucher File; (16) Canonical Visit Diary of the eparchial bishop; (17) Bound copies of the eparchial bulletin; (18) Liturgical calendar; (19) Register relating to documents and records; (20) Books to copy the civil documents; (21) File containing pastoral letters and circulars; (22) File containing orders from the eparchial curia; (23) A schedule containing the details of immovable properties; (24) List of movable properties; (25) List of Foundation Masses (This should be maintained in the sacristy also); (26) Diary (Chronicles or *Nalagamam*); (27) List of antiques; (28) Vocation Register; (29) Announcement Books; (30) Book of ecclesiastical censures; (31) Miscellaneous file; (32) Other Registers as per eparchial statutes; and (33) Inventory Register (*Muricharthu*).⁶⁹

It is the responsibility of the pastor of a parish to maintain all the registers and to issue certificates regarding the canonical status of the faithful. The certificates are to be signed by the pastor or his delegate and according to custom, are to be sealed with the parish seal to further authenticate the documents.

The Code insists that every parish should have archives in which to keep the parish registers, letters of the hierarchs and other documents safely. The pastor has to

⁶⁸ Such records could be a register of recipients of first Holy Communion (c. 697), of offerings made for divine liturgies (cc. 715-717), a census of the parish, in addition to the financial reports of the parish (c. 1028 §§ 2, 6).

⁶⁹ See *Synodal News*, 11 (1998), pp. 71-73.

make sure that these registers and documents do not fall into unauthorized hands (c. 296 §§2-5).

The pastor has to see that even when occasions arise, “No record and orders relating to the parish or the eparchy shall be produced in any court without prior permission of the local hierarch.”⁷⁰

4. 3. ADMINISTRATION OF THE TEMPORAL GOODS OF THE PARISH

The success of any parish ministry depends also on the pastor’s ability to administer the temporal goods of his parish. In all juridical transactions, the pastor of a parish acts in the name of his parish. Hence, he should make sure that he administers the property of the parish efficiently and faithfully in accordance with the norms of law.⁷¹

The meaning of the terms “administration,” and “temporal goods,” needs to be clarified. The term “administration,” is used in various senses in the Codes. It has no uniform meaning.⁷² In canonical doctrine, temporal administration is divided into

⁷⁰ See *Synodal News*, 11 (1998), p. 73.

⁷¹ The canons concerning the temporal goods of the Church make it clear that the Eastern Code (cc. 1007-1054) and the Latin Code (cc. 1254-1310) intend to regulate the same subject matter. With the exception of some significant differences in details, the norms are substantially the same in both Latin and Eastern Codes. In fact, after an introductory section, both Codes divide the canons into four similar parts: (1) Acquisition of Temporal Goods, (2) Administration of (Ecclesiastical) Goods, (3) Contracts and Alienation, and (4) Pious Wills and Pious Foundations. The qualification “ecclesiastical” in chapter II of the Eastern Code reveals a terminological precision not present in the corresponding Latin title. For a comparative study on the temporal goods of the Church according to Eastern and Latin Codes, see Jobe ABBASS, “The Temporal Goods of the Church: A Comparative Study of the Eastern and Latin Codes of Canon Law,” in *Periodica*, 83 (1994), pp. 669-714, and *Two Codes in Comparison*, Rome, PIO, 1997, pp. 176-205. CCEO cc. 1022-1054 provides a list of specific duties for administrators of the temporal goods of the Church. Since the pastor of a parish acts in the name of the parish in juridical affairs, these duties are applicable to the pastors of parishes also.

⁷² Velasio de PAOLIS, “Alcune osservazioni sulla nozione di amministrazione dei beni temporali della Chiesa,” in *Periodica*, 88 (1999), pp. 91-140.

ordinary administration and extraordinary administration. Under the former are distinguished acts of major importance (*actus graviores*) as a special category distinct from the plain ordinary administration. Thus we have three kinds of acts of temporal administration.⁷³

(1) *Acts of ordinary administration.* These are such acts as recur often and regularly. Among them are the following acts:

- (a) The collection of debts from creditors and rents from tenants; (b) the collection of annual income from stocks, shares, or bonds; (c) buying and selling what is required for the daily maintenance of the personnel; (d) minor repairs of damages; (e) short loan or investment of money or goods belonging to the juridical person; (f) the acceptance of manual donations; (g) certain minor leases.⁷⁴

(2) *Acts of major importance in ordinary administration.*⁷⁵ Under these come acts that are relatively rare but still they do not exceed “the limits and manner of ordinary administration.” Among these are the following acts:

- (a) Purchasing or renouncing inheritances and legacies; (b) purchasing immovable goods; (c) selling or mortgaging objects of art, historical documents, or other movable property of great importance; (d) selling, exchanging, mortgaging immovable church property, or subjecting it to servitude or other burdens; (e) borrowing large sums of money as a temporary loan; (f) to build, raze or rebuild a church building, or to make extraordinary repairs upon it; (g) to establish a cemetery; (h) to enter as a party involved in a lawsuit.⁷⁶

(3) *Acts of extraordinary administration.* Under these come transactions like

⁷³ George VROMANT, *De bonis Ecclesiae temporalibus*, Bruxelles, De Scheut- Desclee, 1953, pp. 160-162.

⁷⁴ Francis G. MORRISEY, “Ordinary and Extraordinary Administration: Canon 1277,” in *The Jurist*, 48 (1988), pp. 711-712.

⁷⁵ Cfr. CCEO c. 263 §4, CIC 1983 c. 1277.

⁷⁶ MORRISEY, “Ordinary and Extraordinary Administration,” p. 712.

alienation that can substantially affect the financial state of the juridical person for the worse. Hence they “exceed the limits and manner of ordinary administration.” They are not covered under 1 and 2 above⁷⁷ and have to be specified in the statutes of the juridical person or of the eparchy according to the particular law of each Church *sui iuris*, or by the Episcopal conferences in the Latin Church.⁷⁸

Probably the most basic and concise direction the pastor of a parish has with respect to the administration of the parish temporalities is presented in c. 1007 of CCEO.⁷⁹ According to this canon, these are to be used “for divine worship, the support of the apostolate of the Church, the practice of charity to the needy and also for suitable support of ministers or the livelihood of the clergy and those men and women who are actively employed in the carrying out of the work of the Church.”⁸⁰

The pastor’s rights and obligations with respect to the administration of the temporal goods of the parish will be treated in four sections: the acquisition of temporal goods, the administration of the ecclesiastical goods, contracts and alienation, and pious wills and pious foundations.

⁷⁷ Cf. CCEO c. 1024 and CIC 1983 c. 1281.

⁷⁸ Cf. CCEO c. 1024 §2 and CIC 1983 c. 1277.

⁷⁹ CCEO c. 1007: “Ecclesia in procurando bono hominum spirituali bonis temporalibus eget et utitur, quatenus propria eius missio id postulat; quare ipsi ius nativum competit acquirendi, possidendi, administrandi atque alienandi ea bona temporalia, quae ad fines ei proprios praesertim ad cultum divinum, ad opera apostolatus et caritatis atque ad congruam ministrorum sustentationem necessaria sunt.”

⁸⁰ See Jordan HITE, “Church Law on Property and Contracts,” in *The Jurist*, 44 (1984), pp. 117-133; see also POSPISHIL, *Eastern Catholic Church Law*, pp. 694-695.

4.3.1. The Acquisition of Temporal Goods

All temporal goods, which belong to juridic persons (parishes) are ecclesiastical goods and are regulated by Title XXIII of CCEO. All juridic persons are capable of acquiring, possessing, administering and alienating temporal property in accordance with the law (c. 1009).⁸¹ CCEO does not define or classify ecclesiastical goods.⁸² It is assumed that there is no restriction with regard to the nature of things that can be acquired and owned by a juridic person, provided they are acquired through just means (c. 1010) and its proper mission demands them (c. 1007). In addition to the common law, laws of each *sui iuris* Church and the eparchial statutes govern the acquisition and administration of the temporalities of the parish.

Canon 1010 says: "Juridic persons in the Church can acquire temporal goods by any just means permitted to others."⁸³ Canons 1011-1017 direct the modes of acquiring temporal goods. This is done by (a) contributions of the faithful (c.1011), (b) levis imposed by the bishop (cc.1012-1014), (c) voluntary contribution (c.1016), (d) by

⁸¹ The Eastern Code treats each of these aspects of temporal goods in 48 canons divided into separate chapters. See in CCEO cc. 1007-1054. The temporal goods of juridical persons are usually grouped into two categories, namely, those goods that form the free capital and those which constitute the stable capital. See Vincent CHITILAPPILLY, *Temporal Goods and their Alienation According to the Eastern Code with Special Reference to the Syro-Malabar Church*, excerpta ex Dissertatione ad Doctoratum, Romae, Pontificium Institutum Orientale, Facultas Iuris Canonici Orientalis, 1999, p. 23.

⁸² Different from CCEO, the former legislation PA had given a classification of ecclesiastical goods in its canon 234. The first paragraph of this canon had a general classification of ecclesiastical goods, namely, corporeal goods both movable and immovable, and incorporeal goods. Besides this comprehensive classification, in the second paragraph of the canon, another division was made among the ecclesiastical goods such as sacred and precious. For a detailed classification of ecclesiastical goods, see, CHITILAPPILLY, *Temporal Goods and their Alienation*, pp. 25-26.

⁸³ The corresponding canon 1259 in the Latin Code states: "The Church can acquire temporal goods by every just means of natural or positive law permitted to others." The Latin canon's reference to "Church" is defined to include the universal Church, the Roman Apostolic See and any public juridic persons. See CIC 1983 c. 1258. The meaning of "Church" includes particular Churches (dioceses) since Latin c. 1255 specifies their right to acquire temporal goods in accord with the norm of law.

prescription according to the norm of canons 1540-1542 (c. 1017).

Canon 1015 speaks of the collections of alms by other persons. This canon states:

Physical and juridic persons cannot collect alms without the permission of the authority to which they are subject and without the written consent of the hierarch of the place where alms are collected.

The pastor does not need the consent of the bishop for making collections for the parish according to the norms of the eparchy; for other purposes, however praiseworthy, the pastor cannot permit them without the consent of the bishop. This requirement protects the pastor from importune requests.

4.3.2. The Administration of Ecclesiastical Goods

Canon 1023 reads: "The administration of ecclesiastical goods of a juridic person pertains to the one who immediately governs it, unless the law provides otherwise." It explicitly states the right and responsibility of the pastor of a parish to administer the ecclesiastical goods. On the parish level the pastor is responsible for the proper administration of the goods, which it holds, unless the law provides otherwise. The principal responsibility regarding the administration of ecclesiastical goods rests on the pastor of a parish. He should administer the ecclesiastical goods of the parish according to the common laws of the Church, laws of the eparchy and the proper instructions from the hierarch (c. 1022).

In accord with the particular laws governing *Palliyogam*, the administration of the finances and other temporalities of the parish are to be done by the pastor of a parish and the *Kaikkarans* as per norms of common and particular law, as well as eparchial

statutes.⁸⁴

The particular law of the Syro-Malabar Church describes the manner of administration:

The *Nadathukaikkaran* and the pastor shall maintain their respective bills, vouchers and receipts regarding income and expenditure relating to all matters they deal with. The accounts of the parish shall be maintained on the basis of such bills, vouchers and receipts. The *kaikkaran* shall make available the accounts as and when required by the pastor.⁸⁵

Canon 1024 sets down the limits of administration. It states that administrators act invalidly when they exceed the boundaries of ordinary administration unless they first obtain a written consent from competent authority. Ordinary administration includes all acts intended for the preservation of the patrimony while making it bear fruit. Payment of current bills and taxes, doing ordinary repairs, the keeping of a bank account are acts of ordinary administration. The particular laws are to determine what acts go beyond the limits and manner of ordinary administration. If the particular laws are silent on this matter, it is for the eparchial bishop, after consulting the finance committee, to determine these acts for the juridic persons subject to him (c. 1024 §2).

Matters that require the approval of the local hierarch are called extraordinary or of major importance. These are mentioned in the common law.⁸⁶ According to the particular law of the Syro-Malabar Church, matters that require the approval of the local hierarch are:

⁸⁴ See *Synodal News*, 11 (1998), p. 67.

⁸⁵ See *Synodal News*, 11 (1998), p. 67.

⁸⁶ See CCEO cc. 1014, 1015, 1022, 1024, 1035, 1036, 1045 and 1046.

(1) Buying, selling, gifting, mortgaging or otherwise transferring of the immovable properties; (2) constructing, reconstructing, renovating of churches, filial churches, wayside chapels and crosses or other buildings; (3) establishing institutions to be run by the parish; (4) demolishing of churches, filial churches, wayside chapels or crosses erected for public worship; (5) exchange, sale or gifting or altering of objects of antiquity (Antiques shall not be destroyed for any reason); (6) establishing of libraries, recreation centers, stadium, play grounds, wells and the like for the public on lands belonging to the parish; (7) leasing of or construction on or use of the land of the church for any public or private utilities; (8) receiving of stipends for pious foundation or endowments and scholarships; (9) works which will cost more than one-fourth of the annual income of the previous year of the parish or Rs. 50,000/- whichever is less or as the eparchial bishop decides from time to time; (10) fixing of subscriptions from parishioners with obligation to pay arrears; (11) lending or borrowing or gifting money by the parish beyond the amount fixed by the eparchial statutes; and (12) other matters determined in the eparchial statutes.⁸⁷

The acts, which go beyond the limits and manner of ordinary administration, are to be defined in the statutes. If they do not mention this point, it is for the authority to which the juridic persons are immediately subject to determine these limits, after having consulted the appropriate council. Unless and insofar as it is to its advantage, a juridic person is not responsible for the invalid acts of the administrator (c. 1024). However, civil law will not free the juridic person as a rule from the obligations incurred by persons who administer its affairs if the claim has merit.

The pastors of parishes are obliged to fulfill their duty to administer the ecclesiastical goods with the diligence of good householders. This refers to a number of provisions and remedies:

(1) Insurance; (2) Limitations imposed by canon law, civil law, will of founders of donors; (3) Collect, safeguard and expend income; (4) Pay

⁸⁷ See *Synodal News*, 11 (1998), pp. 64-65.

interest on loans and mortgages, repay debts; (5) Invest capital with consent of the hierarch; (6) Keep records of expenditures; (7) Submit annual accounting; (8) Preserve property documents and deeds, place copies in chancery archive; (9) Prepare, if so desired, a yearly budget.⁸⁸

Pastors are to observe the civil laws accurately in the hiring of workers. Usually these laws relate to the labor Code and the standard of living in the community or society. At the same time they should follow the principles taught by the Church. Workers shall be paid a just and decent wage, so that they are able to provide for themselves and for their dependents (c.1030).⁸⁹ This is one of several canons in the Eastern Code intended to give practical effect in the life of the Church to the social teachings of the magisterium as developed in preconiliar, conciliar, and post conciliar documents.⁹⁰ Although these stipulations do impose canonical obligations, they are not without their moral obligations; they call for justice as well. These canons in effect call upon pastors of parishes to follow conscientiously the teachings of the Church as well as the provisions of civil law regarding labor and social policy.

Canon 1032 requires the pastor to have written permission of the hierarch to initiate a lawsuit or to contest it in civil court on behalf of his parish.

Canon 1033 states: "An administrator of ecclesiastical goods who relinquishes his or her office or function on his or her own initiative is bound to restitution, if the Church

⁸⁸ See CCEO c. 1028; also see POSPISHIL, *Eastern Catholic Church Law*, p. 700.

⁸⁹ See J.A. ALESANDRO and A.J. PLACA, "Church Agents and Employees: Legal and Canonical Issues," in *CLSA Proceedings*, 58 (1996), pp. 35-82, especially pp. 55-58; CANON LAW SOCIETY OF AMERICA, "Canonical Standards in Labor-Management Relations," in *The Jurist*, 47 (1987), pp. 545-575; T.E. MOLLOY and J.J. FOLMER, "The Canonization of Civil Law," in *CLSA Proceedings*, 46 (1984), pp. 43-65.

⁹⁰ See also CCEO cc. 25 § 2, 384 § 1, 289 § 3, 595 § 2, and 616 § 2.

is harmed from an arbitrary withdrawal.” It speaks of unjustified resignation of an administrator of ecclesiastical goods. This canon is also applicable to the pastor of a parish. The office of the pastor of a parish may legitimately cease in various ways: death, expiration of a fixed term, revocation, resignation presented and accepted. In all these cases, the cessation of the office conforms to the law, and the pastor is in the right. On the other hand, if a pastor relinquishes his office on his own initiative he is bound to retribute, if the parish is harmed from his unjustified resignation. Such a requirement of restitution is a specific application of c. 935, which urges the obligation to make good any damage unlawfully caused by a juridic act, or by any other act placed by fraud or negligence.⁹¹ This canon reminds the pastors of the parishes that they have an obligation not to relinquish the responsibilities of their office suddenly without offering authorities sufficient opportunity to arrange necessary replacements. Sudden interruption in the stewardship of temporal goods can result in grave harm.

4.3.3. Contracts and Alienations

Contracts and alienations play a large and important role in the financial life of a parish. “Alienation” designates the transfer of a right of any kind over a thing belonging to a juridic person, who risks diminishing the value of its stable patrimony: such as, lending on use, pledging, mortgaging (c. 1042). Canon 1042 stipulates that the requirements of cc. 1035-1041 must be observed not only in case of alienation but also in

⁹¹ Canon 967 indicates that anyone who wishes to resign an ecclesiastical office should have a just cause for doing so; canons 969, 970 and 971 mandate that for validity a resignation must be submitted to “the authority who is responsible for the canonical provision of the office”; in turn c. 970 § 3 directs that “The authority is not to accept a resignation which is not based on a just and proportionate cause.”

any transaction which can worsen the patrimonial condition of a juridic person. Canon 1035 outlines some basic norms constituted by legitimate authority which are to be observed: (1) just cause (urgent necessity, evident advantage, piety, charity, or a pastoral reason); (2) written appraisal by experts; (3) written consent of competent authority for the validity of alienation.

Canons 1036 and 1038 call for the minimum and maximum amount determined by the competent authority for alienation. The pastor of a parish has a canonical obligation to be alert regarding all matters that could decrease, destroy or seriously encumber the patrimony of the parish. In practice, he may need to seek advice from canon and civil lawyers (c.1023).

If the value of ecclesiastical goods to be alienated exceeds the minimum but less than the maximum amount established by particular law the pastor of a parish must obtain permission of the eparchial bishop for the validity of the act of alienation. The particular law of the Syro-Malabar Church states:

Alienation of property exceeding an amount of ten lakhs rupees and up to one crore rupees is to be done with the consent of the finance council and the eparchial consulters. An amount exceeding one crore rupees and up to two corers needs the consent of the Major Archbishop with the Permanent Synod.⁹²

The eparchial bishop acts with the consent of the finance committee and of the college of consulters (c. 1036). When a request is made to alienate goods, the request must state what parts have already been alienated or the lists of previous alienations; otherwise, the permission is invalid (c.1038). To avoid harm to the parish, all other

⁹² See *Synodal News*, 7 (1999), p. 106; also see CCEO c. 1036 §§ 1, 4, and 6.

requirements established by lawful authority must be followed (c. 1035 §2).⁹³

Unless the value is insignificant, ecclesiastical goods are not to be sold or leased to the administrators themselves, or to their relatives up to the fourth degree of consanguinity or affinity, without the special written permission of the competent authority (c. 1041).

Although alienation of ecclesiastical goods must be done in accord with civil law of the place, it is important that all pastors are aware of the prescript of c. 1040. Whenever ecclesiastical goods have been alienated against the prescripts of canon law, but the alienation is valid civilly, the higher authority of the one who carried out the alienation, after having considered everything thoroughly, is to decide whether and what type of action is to be taken by whom and against whom in order to vindicate the rights of the Church (c.1040).⁹⁴ This explicitly urges the obligation of pastors to know and follow the prescribed formalities before alienation of parish goods.

⁹³ It is certain that the common law cannot explicitly provide for all the particular situations in which a property is being alienated. It is, therefore, up to the competent local authority to propose guidelines, taking into account the particular circumstances such as of place, time, nature of the object to be alienated and even the formalities of the civil law. These norms can be included either in the particular law of a *sui iuris* Church or of an eparchy. These prescripts may concern the manner of asking permission, the formalities to be followed in recording the granting of the authorization, special procedures to be followed in alienations of various types of objects according to the civil law of the place and any other details which the competent authority considers suitable.

⁹⁴ Both cc. 1447 §2 and 1449 allow for an appropriate penalty in such circumstances and, depending on the facts in any given case, several of c. 1390 §5's causes for legitimate removal of a pastor might be found to be present. Here we should note that the penalty spoken of in CCEO c. 1449 is imposed not in all cases of alienations transacted contrary to the prescripts of law but only in cases of alienations carried out without the consent or permission of the competent authority, that is, invalid alienations. See CHITTLAPPILLY, *Temporal Goods and Alienation*, p. 53.

4.3.4. Pious Wills and Pious Foundations Accepted by the Parish

The faithful have the freedom to dispose of their goods for “pious causes,” that is, those spiritual purposes served by temporal goods (c.1007). This may be done through pious wills in general, or through foundations in particular. Canons 1043-1054 refer to pious wills and pious foundations. These canons clearly state that pious wills and pious foundations should be managed separately from the funds of the juridic person and they should provide that once accepted, conditions attached to these wills and foundations must be adhered to most diligently (cc.1044, 1047).⁹⁵

When property in any form is given to a Church in “trust,” for carrying out a purpose stipulated by the donor, that trust should be established as a pious disposition, for a pious cause or for a pious foundation. A trustee is a physical person who has been appointed by the donor to act as an intermediary. The trustee receives the property with the charge to carry out the wishes of the donor. If this is to be done within the Church, the trustee must submit his actions to the laws and the vigilance of the Church. According to the Church’s law, the hierarch is the executor of all pious wills whether made *mortis causa* or *inter vivos*. The hierarch is bound to supervise the execution of the foundation in accordance with the conditions attached to it. This task requires of him to demand and receive an annual account related to the management of the foundation from the trustee.

⁹⁵ “Among the various kinds of daily receipts of a juridic person, one can distinguish: (1) *A pious disposition* is the giving of anything valuable by a gift among living (*inter vivos*) or by a bequest (*mortis causa*), to be delivered after death (c. 1044). (2) *A pious cause* is a pious disposition for the purpose of religion and charity, spiritual or temporal. (3) *A pious foundation* is set up as a separate juridic person (c. 1047 §1), while a *non-autonomous pious foundation* (c. 1047 §2) is money or its equivalent given to an ecclesiastical juridic person for certain purposes” (POSPISHIL, *Eastern Catholic Church Law*, p. 703).

Any stipulation contrary to this right of the hierarch attached to last wills and testaments are to be regarded as non-existent (c. 1045).

The first obligation of the pastor of a parish receiving a pious will or pious foundations is to inform the hierarch before accepting it. Canon 1016 §3 obliges such permission (*licentia*) of the hierarch before receiving offerings or donations and c. 1048 states the hierarch's written consent (*consensus*) for a parish to accept validly a non-autonomous foundation. By analogy with both of those canons, plus c. 1046 §1, which states "A person who has accepted goods in trust for pious causes [...] must notify his or her hierarch of the trust and indicate to him all such goods with the obligations attached to them," it appears that the hierarch's permission should be sought by the juridic person of a parish even before accepting a trusteeship.

The following conditions are to be observed in accepting a pious foundation:

(1) All foundations, even if made orally, are to be recorded in writing and one copy of the document of foundation is to be kept in the archives of the eparchial curia and another copy in the archive of the juridic person (c. 1050).

(2) A document showing the obligations arising from the pious foundation is to be drawn up. This is to be displayed in an accessible place, so that the obligations to be fulfilled are not forgotten (c.1051 §1). Canons 1044-1046 and 1031 are to be observed in fulfilling this obligation.

(3) A book is to be held and kept by the pastor of a parish in which the individual obligations, their fulfillment, and the offerings given, are to be noted (c. 1051 §2).

(4) Other conditions for the erecting or acceptance of a pious foundation are to be

determined by particular law (c. 1048 §3).⁹⁶

If the pastor of a parish has obtained the permission from the hierarch to accept the goods in trust for pious causes, then he has the right and obligation to fulfill the conditions, which arise from the articles of foundation.

At the present juncture of the world economy, it often happens that the value of a foundation's goods diminishes to the point where it is no longer possible to insure the execution of obligations, or at least some of them. The Code has established provisions to regulate the reduction of obligations, but one is not to consider obligations concerning the celebration of the Divine Liturgy in the same way as other obligations.

Canons 1052-1054 provide norms for reduction of the obligations of celebrating Divine Liturgies. The pastor of a parish has no power to reduce this obligation.⁹⁷ If any

⁹⁶ According to the particular law of the Syro-Malabar Church, "The term of perpetual foundation shall be for a maximum period of 25 years. Afterwards it shall be made use of for religious and charitable purposes with the approval of the local hierarch." See *Synodal News*, 7 (1999), p. 106. See also in CCEO cc. 1047 §§1 and 2; and 1048 §3. According to the Eastern Code, only the eparchial bishop or a higher authority can constitute an autonomous pious foundation (c. 1048 §1). That effectively precludes the competence of local hierarchs and hierarchs. However, as the explanation given on the *demua recognitio* of the canon correctly states, the norm does not curtail the rights of hierarchs (religious major superiors) under the former legislation to accept the non-autonomous pious foundations. See *Nuntia*, 18 (1984), p. 68. This is clear from a reading of c. 1048 §§2 and 3, which speaks of the acceptance of non-autonomous pious foundations by hierarchs. In the parallel Latin Code c. 1304 regarding the constitution and acceptance of pious foundations, there is no norm restricting the constitution of an autonomous pious foundation to the diocesan bishop. It would appear from a reading of the CIC 1983 cc. 1303-1304 that an ordinary could both erect an autonomous pious foundation as a juridic person and accept a non-autonomous pious foundation. Since the erecting of an autonomous pious foundation as a juridic person is limited in CCEO c. 1048 §1 to the eparchial bishop or a higher authority, this would amount to a significant difference between the Eastern and Latin Codes.

⁹⁷ A reduction in the obligations of celebrating divine liturgies is reserved to the Apostolic See. However, the eparchial bishop may reduce them if such a power is assigned to him in the articles of foundation. Even if this is not expressly provided for in the document of foundation, the eparchial bishop has the power to reduce the obligations of celebrating the Divine Liturgy under certain circumstances, because of insufficient or diminishing income with respect to the obligations undertaken. See CCEO cc. 1052, 1053, and 987. In this regard the eparchial bishop can delegate his powers only to a coadjutor bishop, auxiliary bishop, protosyncellus or syncellus, excluding any sub delegation. See CCEO c. 1052 §6.

problems arise with regard to the foundations and its exercise, it is the right and obligation of the pastor to present the matters to the hierarch.

Pastors must also take note that some of the pious wills, trusts and foundations may be subject to civil laws. The civil laws of a particular area may impose certain requirements too. Compliance with such laws is a canonical obligation of the pastor who deals with such matters (c. 290 §1).

4. 4. SHARING OF RIGHTS AND OBLIGATIONS RELATED TO THE MINISTRY OF GOVERNING

The pastor of a parish has many and varied rights and obligations related to the ministry of governing. His governing task includes a varied spectrum of activities. Some activities require him to exercise the power of governance, e.g., for instance, he can delegate visiting priests the faculty to bless marriages, has the power to dispense or to commute private vows. However, the pastor of a parish has no legislative or judicial power of governance. Hence, what he does not have he cannot exercise nor can he share it with other members of the Christian faithful.

The pastor of a parish can share with other members of the Christian faithful the executive power of governance he possesses “in accord with the norm of law as provided by c. 979 §2.” Throughout this chapter we have considered the many ways in which other members of the Christian faithful are able to share or cooperate in the burdens of a pastor of a parish as he carries out his ministry of governance or administration. Often the pastor personally fulfills his obligations in this area. In some circumstances, however, he may choose to share his power of governance by “delegating” it to others.

The pastor of a parish cannot fulfill his obligations by simply appointing others to perform various administrative tasks. Because he has the ultimate responsibility for the administration of the parish, he must be vigilant over those assigned to cooperate in his governing ministry. Sometimes his supervision may require taking away a particular assignment or appointment from one person and assigning it to another, or completely replacing a person who is found unequal to the task assigned with someone else truly competent.

The pastor is urged by the Code to organize the life of the parish in a cooperative and consultative way. The particular law of a *sui iuris* Church may mandate the councils mentioned in c. 295. Those councils, which are constituted to offer advice to the pastor, enjoy a consultative vote only and they cannot be turned into deliberative bodies. We must admit that it does not seem possible for one or two persons to fulfill all pastoral needs of large parishes. What the canons prescribe concerning the pastor's rights and obligations with respect to the governance of the parish imply that the pastor will need, and would be wise to accept, all the help he can get from his competent parishioners and share with them his responsibilities in accord with the norms of law.

CONCLUSION

The principal focus of this chapter has been the governing function of the pastor of a parish and the rights and obligations that flow from it. That the pastor of a parish shares in the governing function of the bishop is a theological and canonical given. Both the conciliar teaching and the two Codes affirm this theological principle. Although the extent of the function of governance shared by the pastor of a parish is certainly limited, the fact is that he assumes responsibilities of organizing, directing and coordinating the life of the faith community entrusted to his care in the name of the bishop. These responsibilities carry along with them certain rights and obligations which are necessary for the efficacy of his governing ministry. In fact the Eastern Code and the particular law of the Syro-Malabar Church recognize certain rights and obligations of pastors of parishes with respect to their participation in their bishop's function of governance.

In brief, the pastor of a parish does not have nor does he exercise legislative and judicial power, in virtue of his office, in the governance of the parish entrusted to his care. The Eastern Code and the particular law of the Syro-Malabar Church make explicit provision for the pastor to exercise the executive power of governance especially in the area of dispensation from merely ecclesiastical laws, such as the laws governing matrimonial impediments under certain conditions and circumstances, blessing of marriages, dispensation from private vows and oaths, administration of the parish's temporal goods, etc. He bears the primary responsibility for the organization and direction of the parish community. In order to fulfill his responsibilities effectively he

must call upon the resources of the Christian faithful of his parish in accord with the norms of law. Different organs and councils provided by the Eastern Code could immensely facilitate his shepherding ministry, and the pastor is not to shy away from using such resources.

Drawing upon the conciliar teaching, the Eastern Code outlines, in a wider sense, several aspects of the pastor's governing ministry. The first and foremost duty of the pastor is to know his flock, promote Christian values and foster the growth of Christian life both in individual members of the Christian faithful and in the associations, especially those directed to apostolate, and in the entire parish community. This would necessarily include regular visitation of homes, schools, hospitals, and other institutions present in his parish in keeping with his pastoral function. One of the urgent tasks he should always pursue is to seek out the vulnerable, especially young children and adolescents. The poor, the sick, the socially and economically marginalized should take the center stage of his pastoral concerns. He should make sure that the needy and the destitute are never ignored. Finally, he is to have a special care for workers and is to take measures so that the Christian faithful offer assistance in the works of the apostolate (c. 289 §3). All these responsibilities of the pastor of a parish are part of his function of organizing and directing the life of the parish community entrusted to his care. Some of these functions should involve the exercise of executive power of governance, but most of them would not, and yet the Code considers them as part of his shepherding ministry.

It is the pastor's responsibility to arouse interest among his faithful to be involved in the well being of the parish. In other words, the pastor should encourage the Christian

faithful to offer assistance in the governance of the parish, preservation and updating of various parish registers, etc.

The Church in fact urges all Christian faithful to extend their help and cooperation to the pastor in varied ways. This could be done effectively through their involvement in different organs and councils existing in the parish. The Christian faithful are gifted with so many charisms and talents that the pastor of a parish is never to overlook them or fail to use them for the good of the parish life.

The pastors of parishes in the Syro-Malabar Church are blessed with several traditional organs which can be veritable sources of assistance to every pastor. The most famous among these organs or councils is *Palliyogam*. This council has two forms, namely *Potuyogam* and *Pratinidhiyogam*. They have now clearly defined and legally recognized roles in a parish. By tradition and now by the particular law of the Syro-Malabar Church, the pastor is the president of these councils, which means that he has at his disposal very effective means of pastoral cooperation of the faithful. In fact, they provide a much broader scope for the involvement of lay Christian faithful in the life of a parish. The pastor should see to it that these resources are utilized for the good of the parish community.

The pastor of a parish acquires certain rights through appointment to the office. These rights concern the security of his office and his personal well being and good name. The law provides norms that are intended to safeguard these rights. Among the rights which a pastor of a parish has is the right of defense in case of removal or transfer. A bishop cannot arbitrarily remove or transfer a pastor who has been appointed either for

an indefinite period of time or for a determined period. Any substantial violation of the right of defense of a pastor could result in the invalidity of the bishop's decision. Because of the importance of this issue, we will analyze in the final chapter the legislation of the Eastern Code, which deals with the procedure for the removal, and transfer of pastors.

CHAPTER FIVE

THE RIGHTS OF THE PASTOR OF A PARISH IN HIS REMOVAL AND TRANSFER FROM OFFICE

INTRODUCTION

Over the course of several centuries, the notion of stability in the pastoral office had gained favour and had become a time-honoured juridic institute. There emerged in the life of the Church, the institute of the irremovable pastor who enjoyed almost an unlimited stability in office. Prior to the twentieth century, to remove an irremovable pastor of a parish, a bishop was bound to employ a judicial process, it seemed. At the urging of several bishops from various countries, a decree, *Maxima cura*, was issued on 20 August 1910, by the Consistorial Congregation.¹ This decree was the first attempt at universal legislation for administrative removal and transfer of pastors of parishes. This decree allowed bishops to remove pastors of parishes administratively for certain reasons. The prescripts of the decree were largely subsumed into the CIC 1917 Code with few modifications. This Code provided three administrative procedures: removal of irremovable pastors; removal of removable pastors; and transfer of irremovable pastors.²

Two principles affirmed by Second Vatican Council led to changes in these administrative procedures: 1) Each pastor should enjoy that security of tenure in his

¹ SACRED CONSISTORIAL CONGREGATION, decree *Maxima cura*, 20 August 1910, in *AAS*, 2 (1910), pp. 636-648. This decree is the source of CIC 1917 and the remote source of CIC 1983 and CCEO for the norm on the procedure for removal and transfer of pastors.

² Cfr. CIC 1917 cc. 2147-2167. The previous Eastern legislation did not furnish norms on the procedure for the removal or the transfer of pastors.

parish as the good of souls requires;³ that is, the exercise of the pastoral office should be stable, but not permanent. Therefore, *Christus Dominus*, n. 31, abrogated the distinction between irremovable and removable pastors; this provision found legal expression in *Ecclesiae sanctae*;⁴ 2) The eparchial bishop should have the requisite freedom to make the best possible appointments of pastors.⁵ The spirit of the conciliar teaching is clearly reflected in canons 284 §1 and 285 § 3 of CCEO.⁶

In the light of these two principles some changes in the procedures for removal and transfer of pastors of parishes are introduced in the Latin and the Eastern Codes. Generally these Codes facilitate the bishop's exercise of his pastoral office, but it also provides appropriate administrative measures to protect rights against arbitrary exercise of authority. Specifically, the Eastern Code favours stability in the pastoral office, which is neither determined by some right of the pastor of a parish nor dependent upon the whims of the bishop. The provisions of CCEO's removal and transfer procedures allow greater episcopal discretion in discerning due causes for transfers. Yet they seek to prevent arbitrary action through proper procedural safeguards to insure the protection of the rights of all concerned: the bishop, the pastor, and the parishioners.

The pastor of a parish acquires certain rights through appointment to the office. These rights concern the security of his office and his personal well being and good name. The law provides norms that are intended to safeguard these rights. Among the

³ CD, n. 31.

⁴ ES1, 20 §1.

⁵ CD, n. 31.

⁶ Corresponding canons in CIC 1983 are 523 and 524.

rights which a pastor of a parish has is the right of defense in case of removal or transfer. A bishop cannot arbitrarily remove or transfer a pastor who has been appointed either for an indefinite period of time or for a determined period. Any substantial violation of the right of defense of a pastor could result in the invalidity of the bishop's decision. Because of the importance of this issue, we will analyze in this chapter the legislation of the Eastern Code that deals with the procedure for the removal and transfer of pastors. Basically the exposition of the chapter includes the following four issues: (a) reasons for removal; (b) procedure for the removal of pastors; (c) procedure for the transfer of pastors; and (d) recourse against decrees of removal and transfer.

5.1. GENERAL CONSIDERATION

An ecclesiastical office may be lost in six ways according to canon 965 §1 of CCEO. Two of these ways are by the removal and transfer, the object of this chapter.⁷ More specifically both the Eastern and Latin Codes provide special administrative procedures for removing and transferring pastors of parishes.⁸ These procedures for

⁷ See CCEO cc. 972-977.

⁸ See CCEO cc. 1388-1400 and CIC 1983 cc. 1740-1752. There are three types of canonical procedures to protect the exercise of subjective rights: contentious procedures, judicial or extra judicial penal procedures, and administrative procedures. Each one of these procedures envisions protecting the rights of persons and insuring that justice is done. However, each of them is used to address a different matter. The contentious procedure is meant to resolve controversies between private persons even if, as in marriage cases, these controversies sometimes may have public consequences. The penal procedure is designed for the use of ecclesiastical authority to punish violations of the Church's public order by physical persons. Administrative procedures are the means available to persons to protect their rights should those rights be threatened by decisions already made or proposed by administrative authorities. The procedures for the removal and transfer of pastors come under administrative procedures. For details on the types of procedures, see Jirý KASNY, *The Right of Defense in Administrative Procedures - A Comparative and Analogical Study*, Canon Law Studies n. 555, Washington, DC, The Catholic University of America, 1998, pp. 154-157.

removal and transfer of pastors are inseparable from the principle of stability of pastors. Stability in office assures the pastor that he cannot be dispossessed of it except for a grave cause and through the observance of the formalities imposed by law.

The sole authority competent to initiate these procedures to remove or transfer a pastor is the eparchial bishop⁹ or one who is equivalent in law to him.¹⁰

According to *Christus Dominus*, n. 31, "pastors should enjoy stability in office but the stability must be balanced against the good of souls entrusted to their care." The procedures for removal and transfer of pastors are designed to enable the eparchial bishop to remove or transfer pastors when the good of souls suggests it. On the other hand, these procedures seek to eliminate any arbitrariness and to give the pastor adequate opportunity for defense. Such a removal can jeopardize not only the pastor's right to stability in office but also other rights.¹¹ For example, since "removal carries with it the stigma of incompetence"¹² it may damage his right to a good name. Therefore, "the procedure is also a protection of the reputation of pastors."¹³ Thus, the removal and transfer procedures must be understood as attempts to strike an appropriate balance between the pastor's rights and the good of souls.¹⁴

⁹ See CCEO cc. 178-179 and CIC 1983 cc. 376, 381 §1.

¹⁰ See CCEO c. 987. The protosyncellus and syncelli are excluded from removing or transferring a pastor without a special mandate from the eparchial bishop. See also CIC 1983 cc. 134 §3 and 381 §2.

¹¹ See KASNY, *The Right of Defense in Administrative Procedures*, pp. 191-192.

¹² See John P. BEAL, *Confining and Structuring the Exercise of Administrative Discretion in Particular Church: A Study of the Adaptability of Certain Principles of American Administrative Law to the Exercise of Administrative Discretion by Diocesan Bishops*, Canon Law Studies, n. 515, Washington, DC, The Catholic University of America, 1984, p. 536.

¹³ Ibid.

¹⁴ See James PARIZEK, "Pastors on the Go: The Pastor's Rights in the Removal Process," in *CLSA Proceedings*, 48 (1986), p. 127.

Although the removal and transfer procedures are similar in many respects, they differ on some important points. Neither of these procedures is punitive in nature;¹⁵ rather, they are pastoral and disciplinary in character. However, the reasons for initiating the two procedures are quite different. While the procedure for the removal of a pastor is appropriate in circumstances where his ministry has become harmful or ineffective,¹⁶ the procedure for transfer assumes that a pastor has been serving his parish well but that his talents are needed in some other office or ministry.¹⁷ Because of this difference, the procedure for removal and transfer of pastors will be analysed in two separate sections.

5.2. THE MANNER OF PROCEDURE IN REMOVING PASTORS

A pastor can be removed from the office for any cause that renders his ministry in a particular parish harmful or, at least, ineffective for any reason, even if the pastor himself is not at fault.¹⁸ Canon 1390 of CCEO lists five causes that especially justify the removal of a pastor.¹⁹ Although these reasons are exemplary rather than taxative, they suggest the degree of seriousness that is required for removal. The causes listed in the canon also suggest that the very purpose of the procedure of removal of a pastor is to enable the eparchial bishop to make the best possible appointments of pastors and provide appropriate pastoral care to particular parish communities.²⁰ The following are

¹⁵ See CCEO c. 1432 and CIC 1983 cc. 1333 and 1336.

¹⁶ See CCEO cc. 1389, 1340 and CIC 1983 c. 1740.

¹⁷ See CCEO c. 1397 and CIC 1983 c. 1748.

¹⁸ See CCEO c. 1389: "Si alicuius parochi ministerium aliqua de causa, etiam citra gravem ipsius culpam, noxium aut saltem inefficax evasit, parochus ab Episcopo eparchiali a paroecia amoveri potest."

¹⁹ The corresponding canon in the Latin Code is CIC 1983 c. 1741.

²⁰ See Agustine MENDONCA, "The Effect of the Recourse Against the Decree of Removal of a

the steps, which the eparchial bishop must take in order to remove a pastor by administrative process.

5.2.1. Investigation and Discernment of a Just Cause

Before seeking removal of a pastor, the eparchial bishop should conduct a preliminary investigation in order to determine whether or not there is probable cause for the removal.²¹

The causes why a bishop may remove the pastor of a parish are partially enumerated in c. 1390. They are the following:

(1) *A manner of acting that brings grave detriment or disturbance to ecclesiastical communion.*²² This cause is specifically related to the conciliar notion of ecclesial communion.²³ If it is the pastor himself who disturbs this communion, then there is a serious obstacle to the efficacy of his pastoral ministry.

(2) *Ineptitude or a permanent infirmity of mind or body that renders the pastor unable to fulfill his functions usefully.*²⁴ *Imperitia* (ineptitude) can result from various causes. It is not ignorance, as such, but it can result from ignorance or lack of experience. It is absolute if the pastor is inept to function in any parish; it is relative if he lacks the

Parish Priest," in *StC*, 25 (1991), p. 153. See also John MCAREAVEY, "The Removal and Transfer of Parish Priests (cc. 1740-1752)," in *Irish Theological Quarterly*, 56 (1990), p. 232.

²¹ CCEO c. 1391 §1 and CIC 1983 1742 §1.

²² CCEO c. 1390, 1°: "modus agendi, qui communioni ecclesiasticae grave detrimentum vel perturbationem affert "

²³ See LG, nn. 18-28.

²⁴ CCEO c. 1390, 2°: " imperitia aut permanens mentis vel corporis infirmitas, quae parochum suis muneribus utiliter obeundis imparem reddunt."

ability to function in an acceptable way in a particular parish with its specific problems or demands. In the latter case, the priest could be an excellent pastor in another parish.

If the ineptitude is caused by lack of experience, perhaps this could be overcome with experience. If there is founded hope that it can be overcome, justice and equity demand that the priest be given a reasonable chance. It is the duty of the eparchial bishop to make the appropriate decision once he has moral certitude about the situation.

Another basis for removal mentioned here is a *permanent infirmity of mind or body*. This condition, however, must be such that it renders the pastor unable to fulfill his official duties properly or fruitfully. Thus, it is not enough that the pastor has some sort of permanent disability; the infirmity must be such that it interferes with his ability to work effectively. The canon makes no mention of consulting with medical experts about the state of a pastor's health. However, even though it is the eparchial bishop who ultimately must decide about the pastor's suitability to continue in office, analogous provisions of other canons suggest that it would be necessary for the eparchial bishop to obtain an expert assessment to assist him in making his determination.²⁵

(3) *Loss of good reputation among upright and responsible parishioners or an aversion to the pastor that apparently will not cease in a brief time.*²⁶ It is not sufficient that the pastor has lost his good reputation in the eyes of some parishioners or even of parishioners in general. Rather, these are factors to be considered only to the extent that they take place among "upright and responsible parishioners." This distinction is

²⁵ Cfr. CCEO cc. 762; 763; 1255-1262; 1366.

²⁶ CCEO c. 1390, 3°: "bonae existimationis amissio penes probos et graves paroecianos vel aversio in parochum, quae praevidentur non brevi cessaturae."

important because of the need to protect the prophetic witness, which a pastor is called upon to give from time to time. For example, it may not be popular to preach against abortion, or capital punishment, and a pastor who does so may become the object of scorn among some parishioners. Presumably, though, “upright and responsible parishioners” would not object if the pastor were teaching the authentic doctrine of the Church. Also, it must be evident that the difficulty will not cease in a brief time. This means that the eparchial bishop must carefully discern whether the problem is an enduring one or merely a passing tension in the parish.

(4) *Grave neglect or violation of parochial obligations that persists after a warning.*²⁷ It must be an enduring problem about which the pastor has been admonished. Usually it will be morally and legally culpable, but culpability does not have to be proven, because removal is not a penal process. Such neglect could be caused by poor judgment, personality defect, poor work habits, alcoholism, drug addiction, etc.

(5) *Poor administration of temporal affairs with grave damage to the Church whenever another remedy to this harm cannot be found.*²⁸ This is also a relative cause; that is, it must result in “grave damage to the Church” and there must be no other

²⁷ CCEO c. 1390, 4°: “gravis neglectus vel violatio obligationum parochi, quae post monitionem persistit.”

²⁸ CCEO c. 1390, 5°: “mala rerum temporalium administratio cum gravi Ecclesiae damno, quoties huic malo aliud remedium afferri non potest.”

Other possible causes for removal can be identified. But it is to be noted that in all these instances, the eparchial bishop needs concrete facts stated objectively. Whatever the reasons suggesting removal, it is certainly appropriate that the eparchial bishop warn (c. 1436) the pastor of his problematic behavior or his deficiencies prior to invoking the canonical process. Moreover, the eparchial bishop will take care to provide remedial assistance to the pastor if such assistance will likely enable him to overcome the deficiencies, which point to a cause for removal. This assistance may take the form of an educational or formation programme to improve upon necessary skills, or even assigning a parochial vicar to the parish to provide ministry in areas where the pastor’s skills are somewhat lacking. See KOCHUTHUNDIL, *Reciprocal Rights and Obligations*, p. 291.

available remedy for this problem. It may be that the pastor is wonderfully capable in preaching the word of God and providing for the spiritual care of his parishioners, but he is an inept administrator.

This list is only illustrative not exhaustive. In other words, the causes for legitimate removal of a pastor from office listed in the canon 1390 of CCEO are merely demonstrative and not taxative. That means the eparchial bishop can consider other causes for removing a pastor from office provided that his ministry is rendered harmful or at least inefficacious, for the principal purpose of removal of a pastor is the good of souls.²⁹

The eparchial bishop can do this investigation either personally or delegate someone else for the task. In either case, he should keep a written document, about the investigation appropriately notarized. Moreover, this document is the first of several which will constitute the acts of the case, each of which is to be properly notarized and kept in order to protect the rights of all involved in the process. These documents are subject to review by the pastor involved, especially when he prepares his defense or lodges an appeal.³⁰ Even in the investigation of a penal matter, c. 1468, which sets up

²⁹ See CCEO cc. 975 §1 and 1389. The reasons for the removal are those of a pastoral nature, the harmfulness or ineffectiveness of the ministry. This is not the case regarding the punishment; therefore, grave fault on the part of the pastor is not necessary. In fact, a removal is not to be confused with privation mentioned in CCEO c. 978. The former norm of the Eastern Church (CS c. 134 §1) referred to privation as the loss of office by law itself or by the decision of a legitimate superior, but present norm limits privation to the loss of office that is imposed as a penalty for an offence. It is inflicted in accordance with penal law (cc. 1401-1467) and penal procedure (cc. 1468-1487). For example, privation of office may be imposed as a penalty for the following offences: apostasy or heresy (c. 1436 §1); abuse of ecclesiastical power (c. 1464 §1); certain offences by judges and other tribunal officers (c. 1115) and offences against life (cc. 1450-1451).

³⁰ Even though the process of removal is not the same as a penal process, the cautions expressed in c. 1498 in regard to the prior investigation before a penal trial are appropriate. See in PARIZEK, *Clergy Procedural Handbook*, p. 124. See also KOCHUTHUNDIL, *Reciprocal Rights and Obligations*, p. 290.

rules for a penal procedure, directs that "Care must be taken so that the good name of anyone is not endangered from this investigation." Since the law demands that care be taken to protect a person's good name when a penal matter is under investigation, *a fortiori* and in accord with c. 23 and by analogy with c. 1468, in an administrative removal of a pastor those conducting the inquiry about a pastor's ministry have an obligation not to endanger his good name by the manner in which the investigation is carried out.

Frans Daneels, while analysing the procedure for the removal of a pastor in the light of jurisprudence of the Apostolic Signatura, says: "This investigation may be omitted when the reason for the removal is evident. At any rate, even when the previous investigation was omitted, at this a specific case-file should be opened, containing both the procedural acts concerning the removal as well as the evidence, which according to the bishop substantiates the reason for the removal."³¹

5.2.2. Discussion with Two Pastors

Once the investigation is completed objectively and the eparchial bishop has the required proof, he must under pain of invalidity discuss the matter with two pastors selected from the group of pastors, whom the presbyteral council (cc. 264-270)³² elects for this purpose in a stable manner at the proposal of the eparchial bishop.³³

³¹ Frans DANEELS, "The Removal or Transfer of a Pastor in the Light of the Jurisprudence of the Apostolic Signatura," in *Forum*, 8 (1997): 2, p. 297.

³² See the corresponding canons CIC 1983 cc. 495-501. In the sequence of topics and content, these canons basically parallel those of the Eastern Code.

³³ See CCEO cc. 934 and 1391 § 1. This process does not apply to pastors who are members of a religious institute or a society of apostolic life, because the pastor who is a member of a religious institute

This discussion is only consultative and not deliberative in nature. Although it would be better to discuss the matter with the two pastors together, the bishop could do so also separately and individually. If they present a written *votum*, this does not have to be put in the case-file; however, there should be a document in the file attesting that the bishop has discussed the matter with the two pastors, which will be another statement to be included in the acts.³⁴

5.2.3. Paternal Persuasion and Resignation

If the eparchial bishop remains convinced that the pastor should be removed, after the discussion with two pastors, he must, for validity, explain the reasons for his proposal to the pastor and attempt to persuade him in a “fatherly manner” to resign from the office within fifteen days.³⁵ For the validity of the removal, the decree must give specific reasons and arguments; however, in this phase of the procedure the case-file does not yet have to be shown to the pastor.

A letter requesting the pastor to resign should include: the name of the one making the request, i.e., the eparchial bishop or the priest mandated by the bishop; the name of the pastor being asked to resign; the name and location of the parish; the cause or reason for the request, i.e., one of the causes listed in c. 1390, or another of equal gravity; if the cause is defaming, it can be mentioned in the letter in a general way, such

or a society of common life in the manner of religious can be removed either at the discretion of the eparchial bishop after having notified the major superior or by the major superior after having notified the eparchial bishop, without the need of each other's consent. See CCEO c. 1391 §2.

³⁴ DANEELS, “The Removal or Transfer of a Pastor, p. 297.

³⁵ See CCEO c. 1391 § 1 and CIC 1983 c. 1742 §1.

as “for the good of the parish”; in an interview the cause should be stated candidly in a straight forward manner. The arguments and proofs supporting the cause should present in a general way, e.g., by documents, witness, etc. Caution should be used lest the letter be the occasion of scandal, quarrels, reprisals, and recourse to civil courts, etc.

For validity of the procedure, the cause or reason and the arguments supporting removal must be explained. In the case of an interview between the eparchial bishop and the pastor in question, the bishop should be more concrete than in a letter. The priest has the right to defend himself against possible unjust or unfair accusations. To do this, he must know the precise charges, but not necessarily the names of the persons making them. It must be made clear to him that there are two options, either his resignation or his removal from office. During the interview, a priest notary or two witnesses, who are priests, should be present and a record should be kept of the interview in which it is stated that the bishop tried to persuade the pastor to resign for a specific canonical cause and that the arguments supporting the cause were presented to the priest. The minutes of the interview are to be dated and signed by the notary or by two witnesses.

Although c. 1391 §1 does not specify whether the fifteen days for the pastor to resign are continuous or useful time, since the time in question is provided for the pastor to “exercise or pursue a right,” the fifteen days should be regarded as useful time in accord with c. 1544.³⁶ Indeed, the Code is so concerned about providing the pastor

³⁶ For the computation of time, see CCEO cc. 1543-1546 and CIC 1983 cc. 200-203. The manner in which precise moments or periods of time are calculated often has serious consequences for persons subject to the law of the Church. The acquisition, duration, and expiration of many canonical rights and obligations depend upon particular measurements of time, as does eligibility for the reception of sacraments, religious profession, and election or appointment to office, and the validity of numerous juridic acts, especially procedural ones.

enough time to reply, even if the pastor fails to meet the first deadline, the eparchial bishop is required to give him still more time.

If, in accord with c.1392, the pastor agrees to resign but attaches a condition or conditions to his resignation rather than simply resign, the eparchial bishop must decide whether the condition or conditions specified can be accepted legitimately and, if so, whether he wishes to accept them.³⁷ If the pastor does present his resignation with or without conditions and the eparchial bishop accepts it and communicates this acceptance to the resigned pastor, the resignation is effective and the office becomes *de iure* vacant.

5.2.4. Resistance of the Pastor

There are two types of resistance: passive and active. By passive resistance is meant the lack of response by the pastor to the eparchial bishop's fatherly persuasion. Sometimes it may happen that the pastor deliberately ignores it or may not have received the communication. In any case, if the pastor has not answered within fifteen days, the eparchial bishop must repeat the invitation to resign and give the pastor another period of time within which to respond.³⁸ When the eparchial bishop is certain that the pastor in question has received the second invitation and has not replied, even though not

³⁷ With or without conditions, c. 969 requires for validity that a resignation be submitted in writing, or orally in the presence of two witnesses. If conditions attached to a resignation are legitimate, but the eparchial bishop does not wish to accept them, he would be prudent to weigh the situation in the light of the teachings of c. 26 with respect to the conflict of rights and the common good. The eparchial bishop might also consider what effect a refusal on his part to accept a legitimate condition might have if the pastor takes recourse against an administrative decree removing him from office. The pastor in question would also be prudent to consider the applicability of c. 26 to his circumstances as he decides to resign, whether conditionally or simply.

³⁸ See CCEO cc. 1393 §1 and 1391 §1. This second request can be either verbal, in the presence of a notary or two witness, or in writing. In the latter case, means should be taken to assure that the pastor receives the letter and there is proof of this, e.g., delivery by an official messenger or by registered mail with a return receipt.

prevented from doing so by any impediment, or if the pastor refuses to resign and gives no reasons for it, the eparchial bishop is to issue the decree of removal.³⁹

By active resistance, the pastor may express his opposition to the reason(s) and arguments given for his removal from office. If his reasons are convincing and are supported by sufficient proof, the eparchial bishop may terminate the removal procedure. However, if the reasons given by the pastor are not convincing, the eparchial bishop must “invite the pastor to organize his objections in a written report, after he has inspected the acts, and offer any proofs he has to the contrary.”⁴⁰ It is only in this way that the pastor can adequately present arguments contrary to the alleged cause for removal and the proofs supporting it.

Justice and equity demand that the eparchial bishop consider carefully and impartially the pastor’s written statement. If the bishop is convinced that the pastor has presented sufficient arguments discrediting the alleged cause(s) and arguments supporting it/them, he is to notify the pastor of this and terminate the process forthwith.

If, on the other hand, the eparchial bishop judges the pastor’s defense and explanation of his reasons to be inadequate, he may gather additional proofs should he judge this opportune. Then, for the validity of his action the eparchial bishop must discuss the matter with the two pastor consultants for the second time; and, the eparchial bishop is to decide whether or not the pastor is to be removed and promptly issue a decree on the matter.⁴¹ The final determination of this process is either to remove the

³⁹ See CCEO c. 1393 § 1 and CIC 1983 c. 1744 § 1.

⁴⁰ See CCEO c. 1394 § 1.

⁴¹ See CCEO c. 1394 §§ 2-3 and CIC 1983 c. 1745.

pastor, or to end the proceedings, which should also be noted in a document to be preserved in the acts of the case.⁴²

5.2.5. The Decree and Its Effects

The decree of removal of the pastor of a parish should contain a summary of the reasons for the removal, and whether or not the pastor offered a response or rebuttal. According to the usual norms governing decrees, the document must be duly signed and notarized.⁴³ The decree of removal must be properly communicated to the pastor.⁴⁴

5.2.6. Request to Revoke the Decree

According to canons 996-1006 of CCEO,⁴⁵ the pastor has the right to place recourse against the decree of removal.⁴⁶ The removed priest has ten days from the time that he received official notice of the decree to request the eparchial bishop to revoke or amend the decree. He must first seek reconsideration of the decree of removal by the eparchial bishop. This request for reconsideration of the administrative act is of critical

⁴² See CCEO c. 1394.

⁴³ Cfr. CCEO cc. 1510-1520.

⁴⁴ See CCEO cc. 1519 §2 and 1511.

⁴⁵ Cfr. CIC 1983 cc. 1732-1739. For a comparative study of the canons on recourse against administrative decrees in the Eastern and Latin Codes, see John John KALLARACKAL, *Recourse Against Administrative Decrees in the Catholic Church*, Excerpta ex dissertatione ad doctoratum, Romae, Pontificium Institutum Orientale, 2002, pp. 7-54.

⁴⁶ Note the technical distinction in canon law between “recourse” and “appeal”: an “appeal” is a challenge to a judicial sentence (see CCEO cc. 1309-1319 and 1368-1370); “recourse” is a challenge to an administrative decision (see CCEO cc. 996, 997 §1, 1001, 1003 and 1004). According to Pinto, administrative recourses are commonly divided into four: (1) the simple recourse (to the author of the decree or recourse in opposition); (2) the hierarchical recourse (to the superior of the one issuing the decree); (3) the extraordinary recourse (to the supreme authority, called at times also *beneficium novae audientiae*); (4) complex recourse (or the jurisdictional recourse to the administrative tribunal). See NEDUNGATT, *A Guide to the Eastern Code*, p. 683.

importance. Failure to make such a request will result in the aggrieved pastor's forfeiture of his right to make recourse. When such a request is made, it is understood by that very fact that the suspension of execution of the decree is also requested (c. 999 §1). In administrative recourses, automatic suspension of the decree is the exception.⁴⁷ Hence, as a rule, administrative recourses are in *devolutivo* on account of the priority of the public good over the private interest.⁴⁸ When suspension is not automatic, the following situations can occur:

(1) Suspension is granted by the author of the decree; (2) if the author does not do so, ten days after the submission of the first request, suspension can be petitioned from his superior, who may grant it only for a serious reason and while keeping clearly in mind the supreme good of the salvation of souls; (3) if, in the meantime, the petitioner presents a hierarchical recourse, the superior examining this recourse should also decide concerning suspension, whether to confirm it or revoke it. If, instead, the petitioner allowed the time for the hierarchical recourse to elapse, also the suspension of the decree ceases *ipso iure*.⁴⁹

The request for reconsideration of the administrative act can be quite brief and simple. All that is necessary is that the injured pastor request that the administrative act be revoked or emended and explain the damage he will suffer if the administrative act is allowed to stand. It might be helpful if this request also indicated the aggrieved pastor's willingness to submit the matter to conciliation or arbitration.⁵⁰ The request for reconsideration also puts the eparchial bishop on notice that the injured pastor is prepared

⁴⁷ Three cases of exception are mentioned in the Code: the case of dismissal of a religious institute (cc. 500 §4, 501 §§2-3, 552 §3, 553, 562 §3); the dismissal of a member of a secular institute (c. 568 §2); and the imposition or declaration of penalty (c. 1487 §2).

⁴⁸ See NEDUNGATT, *A Guide to the Eastern Code*, p. 684. See also c. 1000 of CCEO.

⁴⁹ See NEDUNGATT, *A Guide to the Eastern Code*, p. 684.

⁵⁰ See CIC 1983 c. 1733 §2 and CCEO c. 998.

to challenge his decision and opens the way to resolution of the budding controversy through conciliation or some other method of alternative dispute resolution.

5.2.7. Recourse to Higher Authority

If the eparchial bishop does not reply to the request to revoke or amend the decree within thirty days, the pastor has fifteen days to make recourse, in accord with the norm of law, to the higher authority of the one who issued the decree (c. 997 §1). The canons on administrative recourse mention that such a remedy is to be addressed to the “superior authority” or “hierarchical superior” without explicitly designating the ecclesiastical superior. According to Victor J. Pospishil, “Eastern Catholics under the jurisdiction of Latin ordinaries are not included here. As to others, we have to distinguish those living within the territory of their Church from those residing outside.”⁵¹

Eastern Catholics in patriarchates/major archiepiscopates are to direct their hierarchical recourse to the patriarch (major archbishop), who is to see to it that a proper board or tribunal is established to settle the controversy.⁵²

⁵¹ See POSPISHIL, *Eastern Catholic Church Law*, p. 689.

⁵² According to the judiciary system of the Eastern Churches, there is provision to deal with cases (not reserved to Holy See) in all three instances up to the final sentence, and the Synod of Bishops is the Supreme tribunal of a patriarchal or major archiepiscopal Church. See CCEO cc. 110 §2, 1062 and 1063.

Most of the Eastern Catholic Churches *sui iuris* have not been able to apply the judicial system in its entirety due to the lack of personnel and of necessary infrastructure. But, during the first meeting of the synod of bishops of the Syro-Malabar Major Archiepiscopal Church, held on 20-25 May 1993, the three members of the Superior Tribunal were elected as per provision of CCEO c. 1062 §2. The elected members were Mar Jacob Thoomkuzhy, Mar Mathew Vattakuzhy and Mar Joseph Kundukulam. Mar Jacob Thoomkuzhy was designated the General Moderator for the administration of justice in the Syro-Malabar Church. See *Synodal News*, 1 (1993), pp. 4-7. On 1 September 1994, the pontifical delegate erected the Syro-Malabar Major Archiepiscopal Ordinary Tribunal and its statutes were approved and promulgated on 1 January 1995. See *Synodal News*, 4 (1995), pp. 30-39. Major Archbishop Mar Varkey Vithayathil C.Ss.R., definitively promulgated the statutes on 1 August 2000. See *Synodal News*, 8 (2000), pp. 1, 67. The present members of the Synodal Tribunal are Mar Jacob Thoomkuzhy (General Moderator), Mar Kuriakose Kunnacherry and Mar Paul Chittilappilly. James Kallumkal has been the notary of the Superior

The metropolitan head of an Eastern Catholic *sui iuris* Church has the same rights in this respect as the patriarch. Against a decision issued by him, with his council of bishops, recourse is still possible to the Roman Pontiff. Eastern Catholics in dioceses outside the territory of their Churches are not subject to the power of governance of the heads of their Churches, patriarchs, major archbishops or metropolitans, but to the Roman Pontiff, who exercises this power through the Roman Curia, especially the Congregation for the Eastern Churches.⁵³

Tribunal since 2002.

The Syro-Malabar Major Archiepiscopal Ordinary Tribunal of Ernakulam-Angamaly was erected on 1 September 1994 as per CCEO c. 1063. The Ordinary Tribunal is the apex tribunal for all the affairs in the Syro-Malabar Church within its proper territory except in those cases in which bishops are a party, without prejudice to the right of the Christian faithful to have recourse to the Roman Pontiff as per provision of CCEO c. 1059. It is similar to the Roman Rota or Spanish Rota. The Syro-Malabar Ordinary Tribunal started functioning on 24 November 1994. Late Archbishop Abraham Kattumana promulgated the statutes of the Ordinary Tribunal on 1 January 1995. See *Synodal News*, 4 (1995), pp. 40-52. Major Archbishop Mar Varkey Vithayathil C.Ss.R., definitively promulgated the statutes on 1 August 2000. See *Synodal News* 8 (2000), p. 65. The Ordinary Tribunal has at present 10 judges including the president and the vice-president. The general moderator of the superior tribunal for the administration of justice has the right of deciding vigilance over all ecclesiastical tribunals within the territorial boundaries of the patriarchal/major archiepiscopal Church, as well as the right of deciding when objections are raised against a judge of the patriarchal or major archiepiscopal ordinary tribunal. See CCEO c. 1062 §5.

Since, the judicial system proposed by CCEO was implemented in the Syro-Malabar Church, the recourse from the aggrieved pastor of a parish of the Syro-Malabar Church always goes to its Church tribunal (Synodal Tribunal). According to the information given by Andrews Thazhath, the president of the Ordinary Tribunal of Syro-Malabar Church, from 1994 till March 2003, the Syro-Malabar Major Archiepiscopal Tribunal conducted no case of removal and transfer of pastors.

For a precise study on the judiciary system of the Eastern Churches, see Andrews THAZHATH, "The Superior and Ordinary Tribunals of a *sui iuris* Eastern Catholic Church," in *StC*, 29 (1995), pp. 375-396. Mathew Madappallikunnel made a detailed study about the tribunals of a major archiepiscopal Church according to CCEO, focusing attention on the institutions of the superior and the ordinary Tribunals, with particular reference to these tribunals in the Syro-Malabar Church. See Mathew MADAPPALLIKUNNEL, *The Tribunals of a Major Archiepiscopal Church*, Romae, Pontificia Universitas Sanctae Crucis, 1999. According to article 121 of the Apostolic Constitution, *Pastor bonus*, the Apostolic Signatura has the right of vigilance over all the ecclesiastical tribunals in the universal Church. Therefore, the patriarchal/major archiepiscopal ordinary tribunal can exercise the right of vigilance only with due regard for the right of the Apostolic Signatura which is the supreme tribunal of the Catholic Church.

⁵³ See POSPISHIL, *Eastern Catholic Church Law*, p. 690.

A recourse against the decision of an eparch or exarch is directed to the patriarch/major archbishop, who will be empowered to issue a decision himself, or with the advice or consent of the permanent synod or of the entire synod of bishops, depending on the matter to be decided. Against such a decree, recourse is possible to the Roman Pontiff.⁵⁴

Recourse must be lodged within the peremptory time limit of fifteen days (c. 1001). Failure to place recourse within the stipulated time, results in the forfeiture of the right to make recourse.⁵⁵ Unfortunately, most of the faithful, including most members of the clergy, are unaware of their right to place recourse against individual administrative acts that adversely affect them and of the time limits set by law for making such recourse. Nevertheless, ignorance about the law cannot be presumed (c. 1497).

The petition for recourse must be addressed to the hierarchical superior. A signed copy of the recourse must be sent or delivered within the time limit for filing recourse, by whatever means chosen (mail, delivery service, personally). A fax or e-mail is not acceptable for this purpose, so a duly signed written petition should be transmitted or submitted in time.⁵⁶ In a hierarchical recourse, parties have the right to have an advocate and to use a procurator.⁵⁷ If the pastor does not appoint an advocate or procurator the

⁵⁴ See POSPISHIL, *Eastern Catholic Church Law*, p. 690.

⁵⁵ There are four dates which are especially important: (1) when was the act effectively communicated to the aggrieved pastor; (2) when did the pastor ask the author of the decree to amend or revoke the decree; (3) if the author of the decree responded to the petition of the pastor, when was the response effectively communicated to the pastor; and (4) when did you file the recourse. Each date is important in relation to the step that follows, so it is important to document as much as possible.

⁵⁶ See Joseph R. PUNDERSON, "Hierarchical Recourse to the Holy See: Theory and Practice," in *CLSA Proceedings*, 62 (2000), pp.19-47, here at p. 32.

⁵⁷ See CCEO c. 1003. It should be noted that canons dealing specifically with the removal of a

hierarchical authority can appoint a procurator or advocate *ex officio*. "Such advocate or procurator will act, indirectly, also for the protection of the administration itself; in fact, if on the one hand he works for the protection of the rights of the pastor, on the other, he contributes to the promotion of the good image of the Church, by preventing the leakage of sensitive information or documents that might be scandalous."⁵⁸

With the passage of sixty days without answer from the higher authority, the answer from the higher authorities is presumed to be negative (c.1518),⁵⁹ or if the higher authority upholds the decision of the eparchial bishop, the removed pastor can have administrative recourse to Apostolic Signatura within thirty days.⁶⁰ The Apostolic Signatura is empowered to consider only the legitimacy of the decision as regards substantive law and procedural law, not the merit of the case, i.e., examine only whether the law was violated in making the decision or in following the required procedure. On

pastor do not speak of the services of an advocate or procurator. But the general principle stated in c. 1003 governing "Recourses Against Administrative Decrees" (cc. 996-1006) is applicable to this procedure as well. By recognizing the right to an advocate or a procurator the Code emphasizes that administrative recourse is a real juridic procedure and not an act of paternal benevolence on the part of the hierarchic authority. However, the role of an advocate or procurator in hierarchical recourse is not further spelled out. Since the role of an advocate or procurator in administrative procedures is comparable to that in judicial trials, it must be derived by analogy from the Code's stipulations about advocates and procurators in the judicial process. Cfr. CCEO cc. 1139-1148 and CIC 1983 cc. 1481-1490. If the pastor does not appoint an advocate or procurator and the hierarchical superior believes such assistance is needed, he can appoint a procurator or advocate *ex officio*. The appointment of legal representative does not, however, absolve the one making recourse to be present personally to respond to any questions raised by the hierarchical superior about the issues raised by the recourse.

⁵⁸ See NEDUNGATT, *A Guide to the Eastern Code*, p. 685.

⁵⁹ The corresponding norm of Latin Code gives "three months" instead of 60 days set by Eastern Code. See CIC 1983 c. 57.

⁶⁰ See PB, art. 123 §1 and CCEO c. 1004. The CCEO c. 1004 agrees with CIC 1983 c. 1739 regarding the power of the authority examining the recourse to confirm, declare null, rescind or revoke the decree, but differs in regarding the amendment of a decree. While the Latin Code permits a higher authority to amend the decree, the Eastern Code does not permit it but leaves it to the particular law of that Church to decide, that is, to grant such power to the higher authority. This particular note of the Eastern discipline is due to its specific ecclesiastical structures and their consequent competence attributed to a hierarchical superior. See KALLARACKAL, *Recourse Against Administrative Decrees in the Catholic Church*, pp. 43-44.

the other hand, if the higher authority reverses the eparchial bishop's decree, the bishop can within thirty days have recourse to the Apostolic Signatura concerning the legitimacy of the decision, i.e., whether the bishop or the higher authority violated the law in making the decision or in observing procedure.

In placing recourse, the pastor may not only seek the reversal of the decree of removal itself, but he may also ask for reparation of damages he suffered because of the unjustified removal.⁶¹

While recourse against a decree of removal is pending, the eparchial bishop cannot appoint a new pastor, but is to make provision in the meantime by way of a parish administrator.⁶²

If the pastor has been removed, the eparchial bishop is to ensure that he is either assigned to another office, if he is suitable for one, or is given a pension in so far as the case requires this and the circumstances permit.⁶³

The pastor who has been removed must abstain from exercising the office of pastor, make the presbytery free as soon as possible, and hand over everything pertaining to the parish according to the norm of law. If he is sick and cannot be transferred elsewhere from the presbytery without inconvenience, the eparchial bishop is to leave him the use, even the exclusive use, of the presbytery for as long as this necessity lasts.⁶⁴

⁶¹ Cfr. CCEO cc. 935, 998 §1, 1000 §3, and 1005. For the juridical effects of recourse against the decree of removal of a pastor, see MENDONCA, "The Effect of the Recourse Against the Decree of Removal of a Parish Priest," pp. 148-153.

⁶² See CCEO c. 1396 §3.

⁶³ See CCEO c. 1395.

⁶⁴ See CCEO c. 1396 §§1-2.

The administrative removal of a pastor of a parish is governed by strict procedural norms. The general principle governing loss of office stipulates that a person cannot be removed from an office conferred for an indeterminate or determinate period of time except for “grave cause” and “having observed the manner prescribed by law”(c. 975 §1). As for removal of a pastor of a parish from his office, the law is very specific both in designating the reasons and in delineating the procedure to effect it in cc. 1389-1396. Because the action of removal of a pastor of a parish from his office might incur substantial violation of his natural and/or acquired rights, the law identifies violation of certain elements of the process to be invalidating. Therefore, the eparchial bishop who considers the need for removal of a pastor must proceed in accord with the norms of law in issuing the decree of removal. If a bishop acts against the norm of law, always there is a possibility of having his decree overturned by the higher authority or the Apostolic Signatura.

5.2.8. Jurisprudence of the Signatura

As already mentioned earlier,⁶⁵ to date there has not been a single case judged in the *sui iuris* Syro-Malabar Catholic Church involving either removal or transfer of pastors of parishes. However, in recent years the Apostolic Signatura has dealt with several cases of this kind. For the purpose of our study we will summarize in this section relevant issues related to only one case of removal of a pastor of a parish that was finally judged twice by the Signatura.⁶⁶

⁶⁵ See above, pp. 230-231, foot note 52.

⁶⁶ SUPREMUM SIGNATURAE APOSTOLICAE TRIBUNAL, c. PALAZZINI, 17 December 1988, Prot. No. 18190/86 CA (unpublished). All 8 members of this panel were Cardinals: Achilles Card. Silvestrini (Praefectus), Petrus Card. Palazzini (*Ponens*), Opilius Card. Rossi, Rogerius Card. Etchegaray, Simon D.

Within a very short period of time after his appointment as pastor of a particular parish in the United States, several allegations were reported to the bishop who immediately initiated an inquiry into those allegations. The process was not at all peaceful as the pastor challenged bishop's actions from the beginning. When the bishop finally issued the decree of removal, the pastor placed recourse before the Congregation for the Clergy which upheld the bishop's decision but advised him to appoint the pastor to an office suited to his talents and experience. The pastor took his case to the Apostolic Signatura. The panel of cardinals, which judged this case, came to the conclusion that there were serious violations of procedure and decision on the part of the bishop. Therefore, it overturned the Congregation's decree, which had ruled in favour of the bishop. After explaining the most important principles applicable to the removal of a pastor of a parish,⁶⁷ the Signatura addressed the following issues in which the bishop's actions had violated the law in procedure and decision.

First, the court said that should a preliminary inquiry be considered necessary in a particular case, it should be done without detriment to the good reputation or name of the pastor. The law makes it very clear that even when there is an investigation preceding a penal process, "care is to be taken this investigation does not call into question anyone's good name" (CIC 1983 c. 1717 §2; CCEO c. 1468 §2).

Second, the court questioned bishop's argument that there was "loss of the pastor's good name among *upright* and *serious-minded* parishioners." The court argued

Card. Lourdasamy, Rosalius Josephus Card. Castillo Lara, Eduardus Card. Gagnon and Alphonsus M. Card. Stickler. This was a plenary panel according to Art. 1, §3 of "Normae speciales." For complete details of this sentence of the Signatura, see Augustine MENDONCA, "Justice and Equity: At Whose Expense?" in *The Art of the Good and Equitable, A Festschrift in Honour of Lawrence G. Wrenn*, Frederick C. EASTON (ed.), Washington, DC, CLSA, 2002, pp. 198-226. We are presenting in this section a summary from this article.

⁶⁷ For details of these principles, see MENDONCA, "Justice and Equity: At Whose Expense?" pp. 202-205.

that the determination of this factor in this case was questionable.

Third, the public manner in which the investigation was conducted after a public announcement in the parish church had harmed the good name of the pastor. Furthermore, the appointment of special commission “to investigate the health of the pastor” which included first a psychologist and then a priest-psychiatrist was considered prejudicial to the entire process.

Fourth, there was no clear evidence that the bishop had discussed the matter with *two pastors*, chosen from a group stably established for this purpose by the council of priests at the proposal of the bishop. This consultation is required for the validity of the process.

Fifth, if from the consultation it is considered necessary to decree the removal, the bishop should *paternally* invite the pastor, either in writing or orally, to resign within fifteen days, by indicating the reason and the arguments, and this is for the validity of the act (CIC 1983 c. 1742 §1; CCEO c. 1391 §1). In this case, the bishop neither indicated the time period for resignation (cf. CIC 1983 c. 1742; CCEO c. 1391) nor the precise cause and arguments suggesting the need for such a resignation.

Sixth, the panel also felt that the bishop had not invited the pastor to inspect the acts and to present contrary reasons, if he had any. This is required by CIC 1983 c. 1745 (CCEO c. 1394) for validity of the decision.

Furthermore, the court observed that several acts on which the process was based were to be declared invalid. As a result, the decree of removal itself must be said to have been issued illegitimately, since “there was no prior discussion by the bishop with two pastor-consultors stably constituted and selected by the presbyteral council after being proposed by the bishop.”⁶⁸

⁶⁸ *Ibid.*, p. 208.

The court also found the following violations of law *in decernendo*:

First, the bishop's decision to remove the pastor after a very short time after his appointment was precipitous.

Second, the court questioned the validity of the accusation that the pastor had lost respect in the eyes of *upright and responsible* parishioners. Furthermore, the decision of the bishop could not be considered to have been made with due consultation. Rather, the manner of proceeding had harmed the good name of the pastor in violation of the norms of CIC 1983 c. 1717 §§1-2 (CCEO c.1468), which must be followed in a penal process; *a fortiori*, those norms must be considered valid also in an administrative process.

Moreover, the use of a psychologist in the commission of investigation and then of a psychiatrist as an arbitrator implied that the fault rested entirely on the pastor, and the insinuation was that his pathological mental state was the root of all evils.⁶⁹

The judges also considered the decree of removal as excessive, because in it the bishop had attached a threat of penalty of suspension against the pastor if he failed to leave the parish within four days.

The judges stated: "No one is punished unless the external violation of a law or precept, committed by the person, is gravely imputable by reason of malice or negligence (CIC 1983 c. 1321 §1; CCEO c.1414). Nor can one say that the penalty in this case is threatened and subordinated to possible condition of disobedience. Although this manner of proceeding is not *expressly* contrary to the canons, it is at least contrary to the spirit of the law."⁷⁰

Therefore, the act of the Congregation for the Clergy was found in violation of the law *in procedendo* as well as *in decernendo*.

⁶⁹ Ibid., p. 209.

⁷⁰ Ibid.

Against this decision of the Signatura, the advocate for the Congregation lodged a plaint of nullity and petitioned for *restitutio in integrum*. More new documents from the bishop were presented to the Signatura in support of the petitioner for *restitutio in integrum*. These new documents were intended to prove clear injustice in the Signatura's sentence. The new panel of judges consisted of seven members.⁷¹

The new panel, after expert consultation on the matter, argued that a petition for *restitutio in integrum* is admissible against a sentence of the Apostolic Signatura. The panel scrutinized with care the chronology of events of the entire process⁷² and evaluated all the evidence, including the documents recently presented by the bishop, and concluded that the bishop had gone out of his way to accommodate the process to the demands of the pastor. The judges also found from a careful analysis of all the evidence they had in their possession that the bishop's manner of proceeding in this case was fully in accord with the prescripts of canon law. Contrary to the findings of the preceding panel, the present judges came to the conclusion that the bishop had in fact heard the two pastor-consultors as required by CIC 1983 c. 1745, 2° (CCEO c. 1394, 2°) before issuing the decree of removal. The present panel determined that the impugned sentence had ignored or overlooked many things the bishop had done. Therefore, the decision of the court was that the bishop had properly followed the prescripts of CIC 1983 cc. 1742-1745 (CCEO cc. 1391-1394) *in procedendo*.

The panel also came to the conclusion that the bishop had not violated any law *in*

⁷¹ The seven members of the panel were (four Cardinals and three Bishops): Bernardinus Card. Gantin, Rosalius Ioseph Card. Castillo Lara, Eduardus Card. Gagnon, Antonius Maria Card. Javierre Ortas, Vincentius Fagiolo (*Ponens*), Philippus Giannini, and Aemilius Eid. Of these members cardinals Castillo Lara and Ganon were also members of the previous panel.

⁷² The details of this chronology are in MENDONÇA, "Justice and Equity: At Whose Expense?" pp. 215-219.

decernendo. Contrary to the findings of the preceding panel, the judges stated the following in regard to violations of law in decision-making:

First, the action of the bishop was not precipitous as determined by the preceding court. In fact the judges of this panel discovered evidence that proved that the bishop really did not want to remove the pastor immediately, rather he advised him several times to mend his approach to parish ministry. In fact, the bishop had personally tried to help the pastor in resolving his problems. He had admonished the pastor several times before issuing the decree of removal.

Second, contrary to the claim of the pastor that he had not received any support from the bishop during the entire investigation, the present panel found that the bishop had “considered, supported and helped the pastor for several months as his brother and friend.” In fact he once told the pastor: “Just as you are a good priest, you can become a good pastor.” These were words that came straight from the bishop’s heart and were addressed to the pastor himself.⁷³

Third, no harm was done to the good reputation of the pastor by the appointment of a psychiatrist/psychologist as mediator in the dispute. The inclusion of the psychiatrist in the Commission for mediation was not intended to evaluate the psychological condition of the pastor but rather to facilitate the inquiry into the problems caused primarily by the pastor’s manner of exercising parochial ministry. Although the pastor had tried to shift the blame for all his problems on to others, the judges said that there was sufficient evidence to prove that the behaviour of the pastor was the principal cause underlying his inability to carry out his parochial ministry as a “good pastor.” Therefore, the conclusion of the second panel at the Signatura was:

Since it appears that all the information contained in the acts had not been

⁷³ See MENDOÇA, “Justice and Equity: At Whose Expense?” p. 225.

examined by the impugned sentence, which is found to have been based more on the documents presented by the pastor than on those produced by the bishop, it is lawful to conclude that *restitutio in integrum* should be granted against the impugned sentence which had become *res iudicata*.⁷⁴

According to CIC 1983 c. 1648 (CCEO c. 1329), if *restitutio in integrum* is granted, the judge must pronounce on the merits of the case. The judges of this panel decreed that in view of all that has been stated above, “there is no proof of violation of law either *in procedendo* or *in decernendo* in respect to the act of the bishop issued on 1 July 1985 and confirmed by the Congregation for the Clergy on 4 March 1986.”⁷⁵ In essence, the present panel upheld the legitimacy of the decree of removal of the pastor issued by the bishop.

In his critical reflection on these two sentences of the Apostolic Signatura, Mendonça states: “Any critical reader of our analysis of this case will certainly find substantial differences between, even clear contradictions in, the two Signatura’s sentences. Each panel seems to have analyzed the facts and interpreted legal principles quite differently, thus arriving at different conclusions to the same questions. It seems evident that the second panel tried to provide a more objective evaluation of the facts and a much more integrated approach to the interpretation of legal principles by going beyond the letter of the law.”⁷⁶ This case clearly illustrates how important it is to be conscientious in following the procedures laid out in the Codes for the removal of pastors. Although the final decision upheld the action of the bishop, the complexity involved in the two Signatura’s decisions makes it quite clear that the pastors have rights related to their office which cannot be arbitrarily denied or limited by the bishop.

⁷⁴ See *ibid.*, pp. 225-226.

⁷⁵ See *ibid.*, p. 226.

⁷⁶ See *ibid.*, pp. 226-227.

5.3. THE MANNER OF PROCEDURE IN TRANSFERRING PASTORS

Historically, pastors were transferred for reasons different from those for removing them. Whereas removal followed the judgment that a pastor's ministry was ineffective or harmful, a transfer meant that a pastor's service was needed elsewhere. Therefore, the reasons for the transfer are of a positive nature, namely, the good of souls, the need or the benefit of the Church. It is a matter of transfer to another parish or to another office.⁷⁷

Canon 1397 of CCEO states:

If the good of souls or the necessity or advantage of the Church demands that a pastor be transferred from a parish that he is governing usefully to another parish or another office, the eparchial bishop is to propose the transfer to him in writing and persuade him to consent to it out of love of God and souls.⁷⁸

Since it does not reflect adversely on the pastor's reputation or performance, the procedure for the transfer of pastors contains less procedural protection than the procedure for their removal; and the pastoral reasons for invoking this procedure leave the eparchial bishop with broad discretion. However, this does not mean that the eparchial bishop can use this power arbitrarily. The authority of the eparchial bishop to transfer a pastor in no way abrogates the principle that pastors enjoy stability. This principle was clearly stated by Second Vatican Council: "Each pastor in his own parish

⁷⁷ See CCEO c. 1397.

⁷⁸ CCEO c. 1397: "Si salus animarum vel Ecclesiae necessitas aut utilitas postulat, ut parochus a sua, quam utiliter regit, ad aliam paroeciam aut ad aliud officium transferatur, Episcopus eparchialis eidem translationem scripto proponat ac suadeat, ut pro Dei atque animarum amore consentiat."

should enjoy that stability of tenure of office which the good of souls requires.”⁷⁹ While directing the abrogation of the distinction between removable and irremovable pastors, the Council ordered, “ the procedure for the transfer or removal of a pastor should be re-examined and simplified so that the bishop, while observing the principles of natural and canonical equity, may more suitably provide for the good of souls.”⁸⁰ The intention of the Council and the reason undergirding such directives are clear: on the one hand stability is required in the exercise of the office of pastor since, under the authority of the eparchial bishop, the pastors “are given, in a specific section of the eparchy, [...] the care of souls as their particular shepherds,”⁸¹ and “they should make their special concern to know their parishioners.”⁸² The acquisition of such knowledge on the part of the pastor requires a suitable period of time. However, on the other hand, the good of souls should always be the supreme goal so that, where and when necessary, the good of individuals or the good of the pastors themselves, gives way to the good of souls.

CCEO c. 284 §3 declares that the pastor of a parish “ought to possess stability in his office”; therefore he is not to be named for a determined period unless the appointment concerns a member of a religious institute or society of common life in the manner of religious, or a candidate agrees otherwise in writing or it concerns a special case, in which case the consent of college of eparchial consultors is required, or the particular law of his Church *sui iuris* permits it. Appointment for an undetermined period

⁷⁹ See CD, n. 31.

⁸⁰ See *ibid.*

⁸¹ See CD, n. 30.

⁸² See *ibid.*

of time does not mean a life-long tenure; it simply means that no time is fixed for the office of the pastor so appointed. As per the decision of the Syro-Malabar synod, pastors of parishes shall be appointed for a period not less than three years, which could be further renewed or extended at the discretion of the eparchial bishop. Canon 975 §1 states that a person cannot be removed from an office conferred for an indeterminate period of time except for a grave cause and having observed the manner prescribed by law.⁸³ However, if the eparchial bishop thinks that he has a just reason for transferring a pastor, he is to make his proposal in writing and attempt to persuade the priest to agree to the move to a new position for the love of God and of souls.

If the pastor of a parish is unwilling to accept the transfer, it is required for validity that the eparchial bishop has a grave cause for making the move and the manner of proceeding prescribed by law is to be observed with due regard for the right of proposing contrary arguments.⁸⁴ Otherwise the eparchial bishop risks the invalidity of the transfer as well as having his decision overturned by the higher authority.

According to Paul Hayward, "the procedure for transfer of pastors aims not only at promoting pastoral efficiency but also at protecting the rights of an affected pastor."⁸⁵

⁸³ Canon 975 also protects those on whom an office has been conferred for a determined period of time so that before the expiration of their term they can only be removed for the same "grave cause and according to the procedure determined by law." In addition, c. 298 implicitly expresses a general right of a pastor to retain that ecclesiastical office even if, although prevented from exercising his office, he has not been removed or transferred from, or deprived of the office of pastor in accord with Church law; cc. 1396 and 1400 express the same point explicitly and specifically with reference to an administrative process of removal or transfer while recourse is pending.

⁸⁴ See CCEO c. 972 §2.

⁸⁵ Paul HAYWARD, "The Apostolic Signatura and Disputes Involving the transfer of Parish Priests," in *Canon Law Society of Great Britain and Ireland Newsletter*, 104 (1995), p. 26. "There is a somewhat delicate balance to be achieved here between the rights of the individual and the undoubted area of discretion which the administrative authorities must be allowed to enjoy if they are to perform their

5.3.1. Discernment of Reasons for Transfer

According to the Eastern Code, even if the pastor of a parish governs his parish satisfactorily, if the good of souls or the necessity or advantage of the Church requires he may be transferred from his parish to another parish or to another office by the eparchial bishop. It is the responsibility of the eparchial bishop to discern the reasons for the transfer of a pastor.

5.3.2. The Proposal and Invitation of the Eparchial Bishop

The transfer must first be proposed to the pastor in writing and the eparchial bishop is to convince or persuade the pastor to accept the transfer “for the love of God and of souls,” that is, for reasons that are fundamental in the mind of every pastor of a parishes.⁸⁶ No indication is given here of the period of time to be allotted for the response of the pastor, but it is evident that, if the pastor does not respond within a short time, the bishop can assign the pastor a suitable period of time.

The procedure for transfer of pastors does not completely ignore the right of defense. It entitles the pastor to receive in writing the proposal to transfer him. However, canon 1397 does not require the bishop to indicate the reasons for the transfer when he initiates the transfer procedure. Although the law does not require that the bishop give reasons for transfer at this stage of the procedure, it does not seem fair to ask the pastor to move without sharing with him the reasons for the proposed transfer.⁸⁷ It can be

function properly.”

⁸⁶ See CCEO c. 1397.

⁸⁷ See Gerard MCKAY, “Consideration on the Nature of the Parochial Office and the Process for Transfer of Parish Priest,” in *Canon Law Society of Great Britain and Ireland News Letter*, 88 (1991), p. 42.

especially difficult for the pastor to articulate adequate reasons against the proposed transfer if the reasons for it are left unexplained. Giving reasons at an early stage of the transfer procedure could facilitate participation of the pastor in the proceedings. Moreover, the eparchial bishop may also be better able to persuade the pastor to accept the proposed transfer if he explains to him the reasons. Whatever the eventual result of the proposed transfer, the pastor's informed participation from the outset of the transfer procedure allows him to experience at least the satisfaction of having been part of the decision-making process.

5.3.3. The Response of the Pastor

When a pastor receives the proposal for transfer, he can either agree or disagree to the proposal. If the pastor agrees to the proposal for transfer, the eparchial bishop is to issue the decree of transfer.

If the pastor does not wish to accede to the proposal, he must explain to the eparchial bishop in writing his reasons for not accepting the transfer, e.g., his health, the needs of the present parish, the need to be close to his aged parents, a new pastoral program was just begun, a major building program was just initiated, etc. Giving reasons serves accurate decision-making on the part of the eparchial bishop because when the pastor contests bishop's reasons for the proposed transfer, he can see the other side of the matter. It is useful for the pastor to prepare such a written response in case he intends eventually to lodge recourse against the decree of transfer. At that time the acts of the case would be forwarded to the hierarchical superior considering the recourse. Although the pastor has the right to present his own reasons against the transfer, the procedure does

not entitle him to discuss the transfer with the bishop in person, to know the evidence on which the bishop is relying, or “to attempt to refute the information on which the bishop relies.”⁸⁸ Nor does the procedure mention the possibility of legal assistance for the pastor. Thus in the course of the procedure for the transfer of pastors, the pastor’s right of defense is not generally guaranteed by the norms of law but depends merely on the good will of the eparchial bishop.⁸⁹

5.3.4. Discussion with Two Pastors

If, after having carefully considered the reasons for non-transfer exposed by the pastor, the eparchial bishop still believes that he must go ahead with the transfer, he is to proceed to the next procedural step. If the eparchial bishop judges that the reasons put forward are insufficient, he must consult together with two pastors chosen in accordance with canon 1391 §1 about the transfer and the reasons which favour or oppose it. The eparchial bishop must convoke the two pastors and meet with them. He must discuss or weigh carefully with them the reasons for and against the proposed transfer and seek their opinions. The two pastors are obliged to meet with the bishop, sincerely give their opinions, and observe secrecy. Secrecy is required to protect the best interests of the bishop and of the pastor.⁹⁰

⁸⁸ BEAL, *Confining and Structuring the Exercise of Administrative Discretion in the Particular Church*, p. 540.

⁸⁹ Ibid.

⁹⁰ See CCEO c. 23 and CIC 1983 c. 220.

5.3.5. Paternal Exhortation to the Pastor

If, after having considered the advice of the two designated pastors, the eparchial bishop still thinks that the transfer should be implemented, then, he must repeat his paternal exhortation to the pastor to accept the move (c. 1399 §1) and convince him to voluntarily accept the transfer. For such proof, the chancellor or other notary, or two priest witnesses should be present, and sign a record of the meeting and of what was said. The eparchial bishop should give the pastor a specified time period, such as fifteen days, within which he must give his response. If the pastor accepts the transfer, the eparchial bishop can decree the appointment of the pastor to his new office.

5.3.6. The Decree of Forced Transfer and Its After Effects

If the pastor still refuses the transfer, the eparchial bishop, if he deems that it ought to be done for the needs recognized by c.1397, he is to decree the transfer. The decree of transfer is to be made in writing (c.1514), per se it must contain the reasons according to the norm of c. 1519 §2, and it must be legitimately intimated to the pastor.⁹¹ In the decree, the day from which the parish will be vacant should be clearly indicated (c. 1399 §2).

If the stipulated period of time has passed without result, the eparchial bishop is to declare the parish vacant, and this has the effects mentioned in c. 944. Once the transfer is decreed (c. 1400), the same obligations of a removed pastor, as outlined in c. 1396, apply to the transferred pastor, and an eventual recourse by the pastor against the transfer has the same effect as that against the removal.

⁹¹ Cfr. CCEO cc. 1511 and 1520.

5.3.7. Jurisprudence of the Signatura

As in the case of removal of a pastor, we do not frequently encounter disputes over the transfer of pastors. But there is a unique case involving transfer of pastors which went all the way to the Apostolic Signatura. As gathered from different sources, the case in question originated in Galloway (Scotland).⁹² The bishop of this diocese decreed the transfer of three of his pastors against their will in a diocese-wide reshuffling of priests. The pastors placed recourse first before the Congregation for the Clergy and then on before the Signatura against that decision. On 24 June 1995, the Signatura declared such action illegitimate (contrary to procedural law) and provided insights into the practical ways of effecting transfer of pastors. It made two parallel statements concerning the central issues involved in the case.⁹³ First, the Signatura stated that, as far as the bishop's discernment in the case was concerned, having in mind the needs of the diocese, the needs of the parishes involved in the transfers, the needs of the three priests and the needs of the presbyterate, the actions of the ordinary of the diocese seem to have been just and equitable. Second, as far as procedure was concerned, the Signatura found in favour of the three priests.

As a general observation, the Signatura stated that while the current practice in moving priests is sufficient in cases where all involved agree to the transfer, it is not so in cases where a priest was unwilling to transfer. The Signatura's sentence highlights the following principles on the matter:

⁹² All the details concerning this case as presented here are taken from the above source: MENDONÇA, "Justice and Equity: At Whose Expense?" pp. 192-198.

⁹³ The law section of the Signatura's definitive sentence of 24 June 1995 *coram* AGUSTONI, with an English translation by Msgr. Charles J. Scicluna, is published in *Forum*, 6 (1995) 2, pp. 117-122. This translation will be used in paraphrasing the Signatura's sentence in the text. It should be noted here that neither the name of the diocese nor the facts and the actual decision of the Signatura as analysed in this study are to be found in this source. For the purpose of this study, all details provided here are taken directly from the above-mentioned article of Mendonça.

First, the theological principles governing the revised canons on transfer and removal of pastors are derived directly from the ecclesiological themes extensively discussed by the Second Vatican Council and gleaned from its decrees, especially *Christus Dominus*.⁹⁴ In no. 31, *Christus Dominus* stipulated that each pastor “should enjoy that stability of office in his parish as the good of souls requires.”⁹⁵ While directing the abrogation of the distinction between *removable* and *irremovable* pastors, the Council ordered, “the procedure for the transfer or removal of a pastor should be re-examined and simplified so that the bishop, while observing the principles of *natural* and *canonical* equity, may more suitably provide for the good of souls.”⁹⁶

Second, the intention of the Council and the reason undergirding such directives are clear: On the one hand stability is required in the exercise of the office of pastor since, under the authority of the bishop, the pastors “are given, in a specific section of the diocese, [...] the care of souls as their particular shepherds,”⁹⁷ and they “should make their special concern to know their parishioners.”⁹⁸ The acquisition of such knowledge on the part of the pastor requires a suitable period of time. However, on the other hand, the good of souls should always be the supreme end so that, where and when necessary, the good of individuals or the good of the pastors themselves, gives way to the good of

⁹⁴ SECOND VATICAN COUNCIL, 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.

⁹⁵ See *AAS*, 58 (1966), p. 689. English translation adapted from FLANNERY I, p. 583.

⁹⁶ See *ibid.*; FLANNERY I, p. 583 (emphasis added).

⁹⁷ CD, n. 30.

⁹⁸ *Ibid.*

souls.⁹⁹

Third, the fundamental principle governing the stability in office of pastors is stated in CIC1983 c. 522 which reads: "A pastor must possess stability and therefore is to be appointed for an indefinite period of time. The diocesan bishop can appoint him only for a specific period if the conference of bishops has permitted this by a decree."

This canon envisions two distinct modes of promoting and safeguarding stability in office: a pastor may be appointed for an indefinite period of time or a determinate period of time. The second mode is allowed *only* where there is a decree issued by the competent conference of bishops and duly approved by the Apostolic See, which prescribes the number of years for which the appointment of pastor is made.

Therefore, the bishop who intends to proceed with the transfer or removal of a pastor must first consider the juridical condition of his priest since the procedure must suit the same juridical condition: his juridical condition would be different at the lapse of the time period determined by the Conference of Bishops from other cases.¹⁰⁰

Fourth, in view of the above general principles, the following points must be taken into consideration when dealing with the transfer of pastors.

In the case of an appointment of a pastor for a determinate period of time made in accord with the decree of the bishops' conference, his office becomes vacant by reason of the lapse of time from the moment of written advice from the competent authority (cf. CIC 1983 c. 186; CCEO c. 965 §3); but the provision for the *de iure* vacancy of the office

⁹⁹ C. AGUSTONI, 24 June 1995, p. 118, n. 4.

¹⁰⁰ *Ibid.*, pp. 118-119, n. 5.

can be made before hand according to the norm of CIC 1983 c. 153 §2 (CCEO c. 943 §2).

Apart from the specific case mentioned above, there remains in force the fundamental principle declared in CIC 1983 c. 153 §1 (CCEO c. 943§1): “The provision of an office which by law [*de iure*] is not vacant is by that very fact invalid and is not validated by subsequent vacancy.” Therefore, except in the case mentioned in CIC 1983 c. 153 §2 (CCEO c. 943 §2), a parish cannot be entrusted to a successor until it is vacant.

According to CIC 1983 c. 190 §1 (CCEO c. 972), a transfer “can be made only by a person who has the right of providing for the office which is lost as well as for the office which is conferred. This norm implies that one cannot make provision for an office (*ad quod*) unless it is juridically vacant (except in the case of CIC 1983 c. 153 §2; CCEO c. 943 §2), nor can he provide for a transfer to such an office. On the other hand, CIC 1983 c. 191 §1 (CCEO c. 973) contains the principle which refers specifically to the vacancy of the office *a quo*, that is, the office *from which* the person is being transferred, and not to the vacancy of the office *ad quod*, that is, the office to which the person is being transferred.¹⁰¹

Fifth, in the absence of a decree of the conference of bishops on this matter, the bishop must consider the following if he still wants to adopt “rotary transfers” of pastors in his diocese: If a pastor is agreeable to the transfer, the bishop must first request and accept his resignation according to law (CIC 1983cc. 187-189 (CCEO cc. 967-971), and then appoint him to another parish. But in the meantime the same pastor can be

¹⁰¹ Ibid., pp. 119-120, n. 6.

appointed administrator of the parish from which he has willingly resigned until he takes possession of the new office.

On the contrary, a number of difficulties could be raised by pastors who are appointed for an indefinite period of time (or for a definite period of time outside the case of CIC 1983 c. 153 §2; CCEO c. 943 §2). It is necessary that the parish *ad quam*, that is, the parish to which the priest is being transferred, is vacant, *before* the procedure for transfer begins. Otherwise such procedure would be illegitimate. This is so, not because of the condition of the office from which the pastor is being transferred [*terminus a quo*], but because of the condition of the office to which the pastor is being transferred [*terminus ad quem*]. This means that in such a situation the transfer would be made to an office which cannot be conferred because it is *de iure* not vacant.

Therefore, in order for the diocesan bishop to act not only *legitimately* but also *prudently*, he must ensure the resignation of the pastor of the parish *ad quam* at the start of the procedure for transfer, albeit he may appoint the same priest as administrator until the transfer is completed.¹⁰²

Sixth, according to CIC 1983 c. 1748 (CCEO c.1397), the just cause for the transfer of a pastor is: “the good of souls or the necessity or advantage of the Church.”¹⁰³ Canon 1748 of CIC 1983 (CCEO c. 1397) also presupposes that the pastor satisfactorily governs the parish *a qua*, that is, the parish from which he is transferred. It would

¹⁰² Ibid., pp. 120-121, n. 7.

¹⁰³ Cfr. also CD, n. 31.

constitute an act of removal rather than of transfer if his ministry in the parish *a qua* were to be harmful or ineffective (cfr. CIC 1983 c. 1740; CCEO c. 1389).¹⁰⁴

Seventh, a transfer can be made to another *parish* or to another *office*. Canon 2163 of the 1917 Code provided for the transfer of a *removable* pastor to another parish which “is not of a very inferior rank” (“*non sit ordinis nimio inferioris*”). This norm is abrogated and, therefore, no longer tenable.¹⁰⁵

Eighth, the procedure prescribed in CIC 1983 cc. 1748-1752 (CCEO cc. 1397-1400) should be diligently observed in cases of transfer, except in the case foreseen in CIC 1983 c. 153 §2 (CCEO c. 943 §2), which does not concern a transfer in the proper sense.

Ninth, the same effect of recourse prescribed in CIC 1983 c. 1747 (CCEO c. 1396) for removal is also applicable to the case of a priest who has been “transferred.” This implies that the pastor, who is *de facto* transferred, must abstain from exercising the office of pastor, leave the parish house free as soon as possible (unless he is sick; cf. CIC 1983 c. 1747 §2; CCEO c. 1392 §2) and hand over everything to the person to whom the bishop will have entrusted the parish. However, while the recourse is pending, the bishop cannot appoint the new pastor, that is, he cannot confer the office on another priest, but he is bound in the meantime to provide for the care of the parish through a parochial administrator. In the case of recourse, therefore, there is suspension of the decree of

¹⁰⁴ C. AGUSTONI, 24 June 1995, p. 121, n. 8.

¹⁰⁵ *Ibid.*

transfer “*secundum quid*,” which means that as long as the parish is *de iure* not vacant the bishop cannot validly appoint another priest to that office.¹⁰⁶

Tenth, CIC 1983 c. 1752 highlights the spirit which must motivate any action, including that of transfer of a pastor. That spirit is *canonical equity* which urges the bishop to make his decision with kindness and compassion, and the pastor to accept a just and equitable decision with mature obedience and priestly charity. Everything done in the Church must promote the salvation of souls, the supreme purpose of the Church’s existence on earth.

As stated at the beginning of this section, the Signatura declared that the bishop had violated the procedural rights of the pastors. There is no indication in the published portion of the decision of what procedural violations the bishop might have perpetrated. However, although we do not have access to the facts and arguments of the case, it would seem that the bishop had probably violated several procedural norms, particularly the those involving the right of defence of the pastors and transfer to parishes which were not juridically vacant for the incoming pastors.

An astute observation made by F. Daneels on the issue of transfer and removal of pastors could be helpful to all eparchial bishops who have the right and the responsibility of making provision for the pastoral care of the faithful according the norms of law. Daneels says:

“As the procedure for a transfer is much easier than the procedure for a removal, there is sometimes the temptation to impose a transfer on a pastor, when the real issue at

¹⁰⁶ Ibid., pp. 121-122, n. 9.

stake is his removal from office. This would constitute a serious violation of the law both *in procedendo* and *in decernendo*. Indeed the transfer presupposes that the pastor is governing his parish well and that the good of souls or the necessity or the advantage of the Church requires his transfer. If therefore the alleged reason for the transfer would ... be that the ministry of the pastor has become harmful or ineffective, then the decision of the bishop would no doubt violate the law.”¹⁰⁷

CONCLUSION

The focus of this chapter has been on the rights of the pastor of a parish arising from the stable nature of his office. Several conclusions may be drawn from the analysis of canons of CCEO on procedures for the removal and transfer of pastors.

The procedures for removal and transfer of pastors are designed to enable the eparchial bishop to remove or transfer pastors when the good of souls suggests it. On the other hand, these procedures seek to forestall any arbitrariness and to give the pastor adequate opportunity for defense. Such a removal can jeopardize not only the pastor's right to stability in office but also other rights including the right to his good reputation. Therefore, the removal and transfer procedures are intended to strike an appropriate balance between the protection of pastor's rights and the promotion of the good of souls.

Although the removal and transfer procedures are similar in many respects, they differ on some important points. Neither of these procedures is punitive in nature; rather, they are pastoral and disciplinary in character. However, the reasons for initiating the two

¹⁰⁷ Frans DANEELS, “The Removal or Transfer of a Pastor in the Light of the Jurisprudence of the Apostolic Signatura,” in *Forum*, 8 (1997) 2, pp. 295-301, here at p. 300.

procedures are quite different. While the procedure for the removal of a pastor is appropriate in circumstances where his ministry has become harmful or ineffective, the procedure for transfer assumes that a pastor has been serving his parish well but that his talents are needed in some other office or ministry.

A pastor of a parish can expect a reasonable measure of stability in office, whether the term is indefinite, or for a specific duration with possible renewal in accord with the particular law of each *sui iuris* Church. The pastor can anticipate that during his term in office he will neither be arbitrarily removed from office nor transferred to another office against his will and without due process. The pastor's rights are protected by the canons applicable to such matters. An eparchial bishop cannot remove a pastor at his will, but he should accurately follow the process provided in cc.1389-1396.

Similarly, a pastor can expect that during his term in office he will not be transferred to another office unless the eparchial bishop has proposed the transfer to him in writing and has made an effort to persuade him to accept the transfer. Should the pastor remain unconvinced, the bishop may still proceed with the transfer carefully applying the process outlined in cc. 1397-1400.

The removal procedure includes some important provisions to safeguard the pastor's right of defense. The eparchial bishop must inform the pastor of a parish about the proposed removal and explain the arguments in support of it. If the pastor does not yield to the bishop's proposal, he has the right to inspect the acts that have been gathered in support of his removal. The pastor also has a right to offer proofs to the contrary.

The removal procedure, however, exhibits serious deficiencies with regard to the

pastor's ability to refute evidence for his removal. The norms of law do not guarantee the pastor an adequate period to collect evidence and proofs to the contrary or to call upon witnesses to support his case. In this way, the pastor's participation in the decision-making process that will affect his life is rather limited. The law also does not make provision for an advocate or procurator to assist the pastor during the process of removal. Thus, although the removal procedure does not ignore the right of defense completely, it shows serious lacunae.

The procedure for the transfer of pastors entitles the pastor to receive in writing the eparchial bishop's proposal to transfer him. If he does not intend to accept the bishop's proposal, the pastor has an opportunity to give to the bishop his reasons against the transfer. However, the law does not require the bishop to indicate the reasons for the transfer right at the beginning of the process. How can the pastor who feels injured by the proposed transfer oppose meaningfully the bishop's proposal without knowing his reasons?

The law does not make any provision for a discussion about the proposed transfer between the bishop and the pastor. The brevity of this procedure and the lack of provisions for the pastors right of defense leave much of this decision-making process that will affect pastor's life. Moreover, the brevity of this procedure can easily result in its arbitrary use. A bishop may be tempted to use this procedure as an easy disciplinary tool in situations which actually demand the observance of the stricter norms governing removal of a pastor.

Canon 1400 of Eastern Code and c. 1752 of Latin Code highlight the spirit that must motivate any action, including that of removal or transfer of a pastor. That spirit is canonical equity that should urge the eparchial bishop to make his decision with kindness and compassion, and the pastor to accept a just and equitable decision with mature obedience and priestly charity. Everything done in the Church must promote the salvation of souls, the ultimate purpose of the Church's mission on earth. In proclaiming this supreme value, the law also has built in safeguards for the exercise of one's rights, and for the fulfilment of one's obligations. In this way the good of each individual as well as the common good of all Christ's faithful can be peacefully realized within the context of ecclesial communion. Unless both these aspects of the supreme goal of ecclesial law are properly understood and appreciated, the decisions ecclesiastical authorities or institutions make are likely to do more harm than good both to individual members and to the Church. The cases mentioned above involving removal and transfer of pastor's attest to some of the problems that arise when laws are implemented in an inappropriate or illegitimate manner. However, and this is most important, these cases illustrate how the procedural law of the Church can be used to remedy faulty decisions and arrive at the truth.

When a decision concerns a removal or transfer of a pastor of a parish, one must keep in mind that the law is only a means to administer justice and equity in a given case. Thus it is important that the eparchial bishop follow the law faithfully both to protect the rights of Christ's faithful as well as to insure that his decision will be acceptable to the universal Church. A bishop, or any ecclesiastical authority for that matter, should keep in

mind that in the law lies his protection. A decision made in accord with the letter and spirit of the law, with fairness, impartiality, honesty and rational and consistent reasons, will always be regarded as just and equitable.

GENERAL CONCLUSION

We started this study with a question: Does a pastor of a parish have any rights at all in the Church? A careful scientific examination of the law contained in CCEO and in the particular law of the Syro-Malabar Church leads us to conclude that a pastor of a parish does have rights and corresponding obligations in the Church, and these rights/obligations are real and not merely empty words. What follows is a brief synthesis of the results of our study.

In general, we should note that the Catholic Church is the communion of various *sui iuris* Churches and each *sui iuris* Church makes its own contribution to the patrimony of the universal Church. A *sui iuris* Church is mostly experienced and lived out at the parish level and, through the exercise of his threefold ministry, the pastor of a parish tries to enliven a genuine basic community. The pastor of a parish is father and shepherd of the faithful entrusted to his care, and the focus of his ministry is their spiritual and temporal well being. He also endeavours to maintain and foster the identity and heritage of the *sui iuris* Church to which he belongs.

The rights and obligations of the pastor of a parish are closely related to his threefold mission: teaching, sanctifying and governing. Although, a pastor's general and specific obligations are spelled out in CCEO, there is, to say the least, scant direct and explicit mention of the rights flowing from the ecclesiastical office of pastor. But, a careful survey of CCEO reveals that the pastor of a parish has a whole range of rights, most often simply implied in the texts of canons which explicitly present the obligations of a pastor of a parish, or the obligations of others toward pastors of parishes, or

procedures to be observed with respect to conferral and cessation of office of the pastor of a parish. In fact, these rights and obligations are essential to the exercise of a pastor's shepherding ministry.

The five chapters of this study dealt at length with the following important issues: the concept and the juridical status of the parish and the juridical figure of the pastor of a parish in the Eastern tradition; the rights and obligations of the pastor of a parish as minister of the word of God, sanctification and governance; and the procedural rights of the pastor of a parish in the process of removal and transfer from office.

Led by the ecclesiology of Second Vatican Council, CCEO now presents a parish as a definite community of the Christian faithful established on a stable basis in the eparchy, whose pastoral care is committed to a pastor. Here the pastor of a parish, both theologically and juridically, is at the centre of a parish community. The pastor of a parish is presbyter; he is the foremost collaborator of the eparchial bishop in the parish and he carries out his ministry under the authority of the same eparchial bishop. He fulfills his responsibilities entailed in the teaching, sanctifying and governing functions in accord with the norm of law. The fruitful exercise of this care of souls enables individual parishioners and the parish communities to have a sense of belonging not only to a parish and their eparchy but also to the universal Church.

The description of the figure of the pastor of a parish in CCEO is more theological and pastoral, and the stress greater on the pastoral care of souls. In essence, the pastor of a parish is the good shepherd of his flock. The very nature of a pastor's office defines the nature of his rights and obligations. The pastor of a parish carries out

his rights and obligations with ordinary power. He is to provide for the pastoral care of the faithful, and this necessarily includes the power to teach, sanctify and govern. In this way he is responsible for the religious and sacramental life of the community, although he does this under the supervision of the eparchial bishop.

The principal right and duty of every pastor of a parish is to preach the word of God. The pastor is the teacher in matters of faith in the parish. He has the right and obligation to present and to explain to the faithful the truths of faith they are to believe in and apply to their daily lives. He is also responsible for the way in which preaching is carried out in his parish. Among the different forms of preaching the word of God, the homily is important and this task is reserved to a priest, but a deacon can do so only if it is allowed by particular law. It is the responsibility of the pastor to see to it that the homily is done, and done properly. He is to be at the service of the word of God expounding it after due preparation according to the signs of the time and needs of the people. He is to do this by himself or with the cooperation of others.

The second set of rights and obligations of a pastor in the ministry of teaching are related to catechetical formation. To safeguard and to transmit the deposit of faith to succeeding generations is the duty of the Church. CCEO makes it clear that this is a grave responsibility of the eparchial bishop and of the pastor of a parish of various *sui iuris* Churches. The pastor should follow the norms determined in this regard by the competent authority; he should make serious effort to provide catechetical formation to all persons entrusted to his pastoral care whatever their age or physical condition. In collaboration with the eparchial bishop the pastor of a parish has the right and obligation to encourage,

coordinate and direct the catechetical formation of the faithful of his parish. It is his duty first to study the individuality and differences in the liturgical, theological, spiritual and administrative traditions of his *sui iuris* Church so as to be able to help in the process of true Christian formation according to those traditions. The pastoral concern for non-Catholics and non-baptized as well as for those who have drifted away from the sacraments or those who have abandoned their faith should be an important aspect of the pastor's teaching ministry. He should stimulate the catechetical formation and coordinate, in accord with the norm of law, the Catholic education of the faithful of his parish as well as of those who are in schools and universities. Even though the pastor has the right to seek out the assistance of the parish community at large in carrying out his ministry of teaching, the ultimate responsibility in this regard rests with the pastor.

The pastor of a parish is the mediator between God and the parish community entrusted to his care. He bears the primary responsibility for the sanctification of the parish community, and he is duty bound to share this responsibility when and where necessary with other members of the Christian faithful in accord with the norms of law. The pastor is first and foremost bound to set an example of personal sanctity and then to foster the sanctity of his parishioners in accord with his role as the principal dispenser of the mysteries of God in the parish.

With respect to works of sanctification, the principal rights and obligations concern sacred liturgies. That includes not only celebrating liturgical services with and for the Christian faithful, but also preparing parishioners for conscious and active participation in the sacred liturgy through appropriate formation. His goal in performing

this function is the sanctification of his parishioners; he has to make them realize that Divine Liturgy is the centre and culmination of the spiritual life of his parishioners. The canons do not present the pastor as the “provider of the sacraments” for the Christian faithful, but rather the parish community’s “leader in their sharing together” of the celebrations of the sacraments and sacramentals.

The pastor’s specific duties with respect to the spiritual formation of parishioners for their sharing in the sacramental/liturgical life of the parish, include, but are not limited to, raising in them an awareness of their active participation in diverse liturgical celebrations. All parishioners must be prepared spiritually for special experiences of sharing in divine life. Such a spiritual preparation is essential to their first reception of the sacraments, especially penance, Holy Eucharist and chrismation with holy myron. Parents and prospective godparents are themselves in need of special spiritual formation for assuming their respective roles. They have to be well prepared not only for the actual celebration of the sacrament, but also for living lives worthy of their new responsibilities. They have to introduce and guide the child (children) or the recipients of the sacrament in their personal life. This is all the more necessary as the baptized person grows into his/her adulthood. Adults approaching baptism also need appropriate formation in order to be received into full “communion” with the Catholic Church. Parishioners who are planning to get married must be prepared well to embrace their vocation and to receive the sacrament of marriage with sufficient knowledge and appreciation, so that they may be faithful to their marriage vows and family life. He is obliged to motivate, inspire and organize his parishioners in a way that they will in fact live “the sacraments and

sacramentals” they have received. This would include, encouraging family prayer, reciting divine office in common, fostering religious vocations, and founding small Christian communities, etc.

The pastor is also required to use liturgical texts properly approved by competent ecclesiastical authority and carefully to avoid any abuse creeping into liturgical celebrations. The pastor has a right to receive full and willing cooperation from all members of his parish, including clerics and lay Christian faithful in fulfilling his sanctifying ministry.

The pastor of a parish shares in the governing function of the bishop and he assumes responsibilities of organizing, directing and coordinating the life of the faith community entrusted to his care in the name of the bishop. The pastor of a parish does not have nor does he exercise legislative and judicial power, in virtue of his office, in the governance of the parish entrusted to his care. The Eastern Code and the particular law of the Syro-Malabar Church make explicit provision for the pastor to exercise the executive power of governance especially in the area of dispensation from merely ecclesiastical laws, such as the laws governing matrimonial impediments under certain conditions and circumstances, blessing of marriages, dispensation from private vows and oaths, administration of the parish’s temporal goods, etc. He bears the primary responsibility for the organization and direction of the parish community. In order to fulfill his responsibilities effectively he must call upon the resources of the Christian faithful of his parish in accord with the norms of law. Different organs and councils provided by the Eastern Code could immensely facilitate his shepherding ministry, and

the pastor is not to shy away from using such resources.

Drawing upon the conciliar teaching, the Eastern Code outlines, in a wider sense, several aspects of the pastor's governing ministry. The first and foremost duty of the pastor is to know his flock, promote Christian values and foster the growth of Christian life both in individual members of the Christian faithful and in associations, especially those directed to apostolate, and in the entire parish community. This would necessarily include regular visitation of homes, schools, hospitals, and other institutions present in his parish in keeping with his pastoral function. One of the urgent tasks he should always pursue is to seek out the vulnerable, especially young children and adolescents. The poor, the sick, the socially and economically marginalized should take the center stage of pastoral concerns. He should make sure that the needy and the destitute are never ignored. Finally he is to have a special care for workers and is to take measures to assist the Christian faithful in the works of apostolate. All these responsibilities of the pastor of a parish are part of his function of organizing and directing the life of the parish community entrusted to his care. Some of these functions should involve the exercise of executive power of governance, but most of them would not, and yet the Code considers them as part of his governing ministry.

It is the pastor's responsibility to arouse interest among his faithful to be involved in the well being of the parish. In other words, the pastor should encourage the Christian faithful to offer assistance in the governance of the parish, preservation and updating of various parish registers, etc.

The Church in fact urges all Christian faithful to extend their help and cooperation

to the pastor in varied ways. This could be done effectively through their involvement in different organs and councils existing in the parish. The Christian faithful are gifted with so many charismas and talents that the pastor of a parish is never to overlook them or fail to use them for the good of the parish life.

The pastors of parishes in the Syro-Malabar Church are blessed with several traditional organs, which can be veritable sources of assistance to the pastor. The most famous among these organs or councils is the *Palliyogam*. This council has two forms, namely *Potuyogam* and *Pratinidhiyogam*. They have now clearly defined and legally recognized roles in a parish. By tradition and now by the particular law of the Syro-Malabar Church, the pastor is the president of these councils, which means that he has at his disposal very effective means of pastoral cooperation of the faithful. In fact they provide a much broader scope for the involvement of lay Christian faithful in the life of the parish. The pastor should see to it that these resources are utilized for the good of the parish community.

The pastor of a parish acquires certain rights through appointment to the office. These rights concern the security of his office and his personal well being and good name. The law provides norms that are intended to safeguard these rights. Among the rights, which a pastor of a parish has, is the right of defense in case of removal or transfer. A bishop cannot arbitrarily remove or transfer a pastor who has been appointed either for an indefinite period of time or for a determined period. Any substantial violation of the right of defense of a pastor could result in the invalidity of the bishop's decision. The law makes it very clear that reasons for removal and transfer are

radically different, and so are the procedures for effecting the two actions. There is no room for arbitrary decisions in these matters. A pastor of a parish can expect a reasonable measure of stability in office, whether the term is indefinite, or for a specific duration with possible renewal in accord with the particular law of each *sui iuris* Churches. The pastor can anticipate that during the term of office he will neither be arbitrarily removed from office nor transferred to another office against his will and without due process.

It appears that the Eastern Code and the particular law of the Syro-Malabar Church, reflecting the teachings of the Second Vatican Council, establishes *service in the form of leadership* as the principal right and obligations of the pastor of a parish. The pastor is the leader of the parish community and he represents the presence of Jesus Christ as head of his Mystical Body, the Good Shepherd who tends every single member of the flock.

Obviously, the scope of this study had to be limited for fear of getting too unwieldy in its length. Therefore, we have remained more at the level of general principles and specific rights and obligations of the pastor of a parish in our analysis, and have, for this reason, refrained from a critical approach to the canons on rights and obligations of the pastor of a parish. In fact, this method leaves ample room for further major studies on several important aspects of this topic. For example, one can embark on an in depth study of the historical roots of the office of pastor of a parish either within the traditions of Eastern Churches in general or within a specific Church *sui iuris*. Furthermore, separate in depth examinations can be pursued concerning each of the three

fundamental functions of the pastor of a parish, namely teaching, sanctifying and governing function, according to CCEO with application to a particular Church *sui iuris*. Our research has convinced us that the three areas of a pastor's ministry are so important that each one of them calls for deeper and more extensive canonical inquiry. One of the areas that arouse immediate interest and concern in the Church and in society is the situation in which a pastor of a parish might be accused of sexual abuse or serious misconduct. This theme itself could be the subject of a major study. A Church that is becoming more and more a blending of Christ's faithful of different Churches *sui iuris* in particular countries or nations, certainly calls for suitable adaptations of canonical systems in order to provide them proper pastoral care. This situation would necessitate more comprehensive comparative studies of specific inter-ritual canonical-pastoral issues. These are only a few of the concrete proposals we see flowing from our research, and it is our hope that this study will be a helpful pastoral tool in the hands of eparchial bishops and pastors of parishes, and that it will inspire more canonical studies on this subject matter.

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