

**FINANCE OFFICER
IN THE SYRO-MALABAR MAJOR ARCHIEPISCOPAL CHURCH**

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ABSTRACT

The promulgation of the *CCEO* and the elevation of the Syro-Malabar Church *sui iuris* to the status of a major archiepiscopal Church, on 16 December 1992, are important milestones in the recent history of the Church. The new status of the Syro-Malabar Church necessitated a revised system of administration of its temporal goods. Previously the administration of ecclesiastical goods of the Syro-Malabar Church was ruled predominantly by the *motu proprio* *Postquam apostolicis litteris, Cleri sanctitati*, and customary law both at the eparchial and parish levels. In the present situation a new ecclesiastical office, that of the finance officer of the major archiepiscopal Church, was created. The thesis presents the office of finance officer and examines critically the canonical aspects of his/her status and duties. It analyzes the canons contained in *CCEO* related to temporal goods, as well as other universal and particular ecclesiastical norms. In particular, the sources include various synodal decrees, eparchial/diocesan statutes of the Syro-Malabar Church, and relevant particular laws of the respective major archiepiscopal Churches. Pertinent Indian civil laws are also considered in the context of the functions of the finance officer. The thesis provides a historical perspective of the financial administration of the Syro-Malabar Church, and then continues to situate the office of the finance officer in the organizational structure of the financial administration of the Syro-Malabar Church. The principal functions and responsibilities of the finance officer of the Syro-Malabar Church are presented in the context of specific ecclesiastical and secular legal parameters.

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ABBREVIATIONS

AA	Second Vatican Council, Decree <i>Apostolicam actuositatem</i>
AAS	<i>Acta Apostolicae Sedis</i> , Rome, 1909-
AG	Second Vatican Council, Decree <i>Ad gentes</i>
art.	article
arts.	articles
ASS	<i>Acta Sanctae Sedis</i> , Rome, 1865-1908
c.	canon
cc.	canons
comp.	compiled
CA	motu proprio <i>Crebrae allatae</i>
CCC	Catechism of the Catholic Church
CCCCB	Canadian Conference of Catholic Bishops
CCEO	<i>Codex canonum Ecclesiarum orientalium</i>
CD	Second Vatican Council, Decree <i>Christus Dominus</i>
CIC/17	<i>Codex iuris canonici Pii X Pontificis Maximi iussu digestus</i>
CIC	<i>Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus</i>
CLD	<i>Canon Law Digest</i>
CLSA	Canon Law Society of America
CLSA Comm 1	CORIDEN, J., T.J. GREEN, and D.E. HEINTSCHEL (eds.), <i>The Code of Canon Law: A Text and Commentary</i>
CLSA Comm 2	BEAL, J.P., J.A. CORIDEN, and T.J. GREEN (eds.), <i>New Commentary on the Code of Canon Law</i>

<i>CLSAP</i>	<i>Canon Law Society of America Proceedings</i>
CLSGBI	Canon Law Society of Great Britain and Ireland
<i>CLSGBI Comm</i>	SHEEHY, G. et al (eds.), <i>The Canon Law: Letter & Spirit</i>
<i>Comm</i>	<i>Communicationes</i> , Vatican, 1979-
CNEWA	Catholic Near East Welfare Association
CS	motu proprio <i>Cleri sanctitati</i>
ed.	editor/edition
eds.	editors
<i>Exegetical Comm</i>	MARZOA, Á., J. MIRAS, R. RODRIGUEZ-OCAÑA (eds.), and E. CAPARROS (gen. ed. of English trans.), <i>Exegetical Commentary on the Code of Canon Law</i>
FCRA	Foreign Contribution Regulation Act
FLANNERY 1	FLANNERY, A. (gen. ed.), <i>Vatican Council II</i> , vol. 1
<i>GE</i>	Second Vatican Council, Declaration <i>Gravissimum educationis</i>
<i>GS</i>	Second Vatican Council, Pastoral Constitution <i>Gaudium et spes</i>
JCD diss.	doctoral dissertation in canon law
<i>LG</i>	Second Vatican Council, Dogmatic Constitution <i>Lumen gentium</i>
no.	number
nos.	numbers
<i>OE</i>	Second Vatican Council, Decree <i>Orientalium Ecclesiarum</i>
OIRSI	Pontifical Oriental Institute of Religious Studies, India
<i>PA</i>	motu proprio <i>Postquam apostolicis litteris</i>
<i>PB</i>	JOHN PAUL II, Apostolic Constitution <i>Pastor bonus</i>
<i>PC</i>	Second Vatican Council, Decree <i>Perfectae caritatis</i>

PCCICR	PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNESCENDO
PCCICOR	PONTIFICIA COMMISSIO CODICI IURIS CANONICI ORIENTALIS RECOGNESCENDO
<i>PO</i>	Second Vatican Council, Decree <i>Presbyterorum ordinis</i>
rev.	revised
Rs.	rupees
<i>SN</i>	motu proprio <i>Sollicitudinem nostram</i>
SSMMAC	Synod of Syro-Malabar Major Archiepiscopal Church
St.	saint
<i>StC</i>	<i>Studia canonica</i>
trans.	translation/translated
<i>UR</i>	Second Vatican Council, Decree <i>Unitatis redintegratio</i>
vol.	volume
vols.	volumes

GENERAL INTRODUCTION

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

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

¹ JOHN PAUL II, Apostolic Constitution on the Institution of the Major Archiepiscopate of Ernakulam-Angamaly *Quae maiori*, in *AAS*, 85 (1993), pp. 398-399, English translation in SSMMAC, “Translations of the Apostolic Constitutions,” in *Synodal News*, 1 (1993), p. 12.

² Cf. *OE* 10, in *AAS*, 57 (1965), pp. 76-112, English translation in FLANNERY 1, p. 445.

³ J.D. FARIS, *The Eastern Catholic Churches: Constitution and Governance According to the Code of Canons of the Eastern Churches*, New York, Saint Maron Publications, 1992, p. 75.

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

⁵ FARIS, *The Eastern Catholic Churches*, p. 81.

obligations of major archbishops and patriarchs are identical in accordance with canon law (*ad normam iuris*), in a similar manner *CCEO*, c. 152 stipulates: “What is stated in common law concerning patriarchal Churches or patriarchs is understood to be applicable to major archiepiscopal Churches or major archbishops, unless the common law expressly provides otherwise or it is evident from the nature of the matter.”⁶

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

Following the most ancient tradition of the Church, special honor is to be given to the patriarchs of the Eastern Churches, since each is set over his patriarchate as father and head. Therefore this holy council enacts that their rights and privileges be restored in accordance with the ancient traditions of each church and the decrees of the ecumenical councils.⁷

Later, the desire of the Church to restore the ancient traditions of the Churches *sui iuris* was expressed through the Guidelines for the Revision of the Code of Oriental Canon Law approved in the plenary session of the members of the Pontifical Commission for the Revision of the Code of Eastern Canon Law, which took place 18-23 March 1974. One of the guidelines stated that “the Code must be an Oriental Code,” based on apostolic tradition, Eastern canonical collections, and customary norms common to the Eastern Churches.⁸

⁶ The English translations of the canons of *CCEO* are from *Code of Canons of the Eastern Churches, Latin-English Edition*, translation prepared under the auspices of the CLSA, Washington, DC, 2001.

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

⁸ PONTIFICAL COMMISSION FOR THE REVISION OF THE CODE OF EASTERN CANON LAW (= PCCICOR), “Guidelines for the Revision of the Code of Oriental Canon Law,” in *Nuntia*, 3 (1976), p. 19. Before the *CCEO* four *motu proprio*s had been promulgated: PIUS XII, *motu proprio* on marriage *Crebrae allatae* (= *CA*), 22 February 1949, in *AAS*, 41 (1949), pp. 89-117; PIUS XII, *motu proprio* on procedural law *Sollicitudinem nostram* (= *SN*), 6 January 1950, in *AAS*, 42 (1950), pp. 5-120; PIUS XII, *motu proprio* on religious, temporal goods, and glossary of canonical terms *Postquam apostolicis litteris* (= *PA*), 9 February 1952, in *AAS*, 44 (1952), pp. 65-150; PIUS XII, *motu proprio* on rites and persons *Cleri sanctitati* (= *CS*), 22 February 1957, in *AAS*, 49 (1957), pp. 433-600.

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

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

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

with acquisition, administration, and alienation of ecclesiastical goods will be offered. A review of the norms of Indian civil law and particular laws of other major archiepiscopal Churches concerning the management of temporal goods will also be included.

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

1. What types of financial administrative structures were historically present among Saint Thomas Christians in India? Are these structures the real sources of the finance administrative system today?
2. What are the specific canons of *CCEO* applicable to the office of the finance officer of the major archiepiscopal Church?
3. What is the role of the finance officer with regard to the goods of the Syro-Malabar major archiepiscopal Church?

There are some scientific studies concerning the patriarchal/major archiepiscopal curia and administration of ecclesiastical goods of the eparchies and religious institutes. But so far there has been no major study devoted exclusively to the finance officer in the Syro-Malabar Church. Among the available major works is Vincent Chittilappally's *Temporal Goods and Their Alienation according to the Eastern Code with Special Reference to the Syro-Malabar Church*⁹ which concerns mostly such juridic persons as eparchy and various religious institutes, and their particular law. It is not, however, directly and comprehensively related to the office of finance officer in the major archiepiscopal Church, and the administration of ecclesiastical goods of the major archiepiscopal Church. Francis Eluvathinkal, in his thesis *Patriarchal and Major Archiepiscopal Curias in the Eastern Legislations Based on CCEO Canons 114-125*¹⁰

⁹ V. CHITILAPPILLY, *Temporal Goods and Their Alienation according to the Eastern Code with Special Reference to the Syro-Malabar Church*, excerpts from JCD diss., Rome, Pontifical Oriental Institute, 1999.

considers the historical and juridical aspects of different canonical institutions in the patriarchal and major archiepiscopal curias. Six different patriarchal curias and two different major archiepiscopal curias are analyzed in Eluvathinkal's study. In his doctoral thesis, *The Laity and Their Cooperation in Church Governance: According to the Provision of CCEO and the Tradition of the Malankara Catholic Church*,¹¹ Mammen Varghese examines the concrete provisions in CCEO for laity's share in the governance of the Church. Among other issues, the author portrays in detail the role of the laity in the Malankara Orthodox Church which separated from Saint Thomas Christians after the Synod of Diamper (1599). George Nedungatt, in his study, *Laity and Church Temporalities: Appraisal of a Tradition*,¹² analyzes the role of lay persons in the administration of ecclesiastical goods. He examines the question of the administration of temporal goods from the theological, historical, sociological, and canonical perspectives. He also addresses different forms of *yogam* (assembly) in the Syro-Malabar Church and the involvement of lay persons in it. While he analyzes particular law and some of the eparchial/diocesan statutes of the Syro-Malabar Church, nevertheless his study deals exclusively with the role of laity in the Syro-Malabar Church and does not touch on the role of the finance officer of the Syro-Malabar Church.

The following two studies are based on CIC/83. A. G. Farrelly, in his study *The Diocesan Finance Council: A Historical and Canonical Study*¹³ analyzes the evolution of

¹⁰ F. ELUVATHINKAL, *Patriarchal and Major Archiepiscopal Curias in the Eastern Catholic Legislations Based on CCEO Canons 114-125*, excerpts from JCD diss., Rome, Pontifical Oriental Institute, 2002.

¹¹ M. VARGHESE, *The Laity and Their Cooperation in Church Governance: According to the Provision of CCEO and the Tradition of the Malankara Catholic Church*, excerpts from JCD diss., Rome, Pontifical Oriental Institute, 1996.

¹² G. NEDUNGATT, *Laity and Church Temporalities: Appraisal of a Tradition*, Bangalore, Dharmaram Publications, 2000.

¹³ A.G. FARRELLY, *The Diocesan Finance Council: A Historical and Canonical Study*, JCD diss., Ottawa, Faculty of Canon Law, Saint Paul University, 1987.

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

The principal method used in this study is analytical in nature. The analysis concerns primarily the canons in *CCEO* related to the office of finance officer and temporal goods, and, secondarily, other complementary norms as well as different particular laws of the relevant Churches *sui iuris*. As to the limitations of the present study it is to be noted that it pertains mainly to the office of finance officer of the Syro-Malabar Major Archiepiscopal Church, in India, while at the same time providing for a comparative analysis of the offices of the finance officers at the major archiepiscopal and eparchial levels. Moreover, the thesis concentrates primarily on the canons of *CCEO*, with a comparative analysis of the relevant canons of *CIC/83*. Finally, due to the unavailability of certain particular laws, this study does not include all particular law of the other major archiepiscopal Churches.

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

¹⁴ M.I. UZOUKWU, *The Diocesan Finance Committee and the Financial Officer (Canons 492 – 494)*, JCD diss., Rome, Pontifical University of Urbaniana, 1991.

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

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

CHAPTER ONE

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

INTRODUCTION

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

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

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

³ JOHN PAUL II, Address to the bishops of the Synod of Bishops of the Syro-Malabar Major Archiepiscopal Church, 8 January 1996, in *L'Osservatore Romano*, Eng. ed., 17 January 1996, p. 6. Minor editorial modifications (for instance: capitalization, spelling, inclusive language) have been made in some of the quotations to conform to the adopted style for the thesis.

The term ‘Saint Thomas Christians’ denotes the Syro-Malabar Christians whose communities originated in Malabar⁴ on the south-west coast of India. The Church of Malabar is an apostolic, Eastern Catholic Church.⁵ In the same message, John Paul II pointed to the importance of the religious heritage of the Syro-Malabar Church: “[...] a lack of understanding of your cultural and religious heritage caused much suffering and inflicted a wound which has only been partially healed [...]”⁶ The Pope’s message corresponds to the teachings of the Second Vatican Council, in the Decree on the Catholic Eastern Churches *OE*, no. 2 which stated: “[...] the Catholic Church wishes the traditions of the each particular Church or rite to remain whole and entire [...]”⁷ The Decree underlined the fact that the history and traditions of the Eastern Catholic Churches are evidence of the debt owed to the Eastern Churches by the universal Church.⁸

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

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

⁵ The Catholic Church is comprised of twenty-three Churches *sui iuris*. See *Annuario Pontificio* 2011, Libreria editrice Vaticana, 2011, pp. 1144-1147. Out of twenty-three Churches *sui iuris*, one Church *sui iuris* observes the Latin rite and the other twenty-two Churches *sui iuris* observe “a specific rite derived from one of the five major Eastern traditions” (FARIS, *The Eastern Catholic Churches*, p. 46). The Syro-Malabar Church follows the Chaldean or East Syrian tradition. See V.J. POSPISHIL, *Eastern Catholic Church Law*, New York, Saint Maron Publications, 1996, pp. 27-28.

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

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

⁸ See *ibid.*, no. 5, p. 443.

system has had consequences on the financial administrative system of the Church of Saint Thomas Christians to this present day.

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

The early canonical sources of the East Syrian, Latin, and Syro-Malabar period⁹ are the main subjects of the analysis in this chapter. The statutes of the first three dioceses of the Syro-Malabar Church are also studied. This will help us to understand the background of the establishment of the office of the finance officer and the role of the finance officer in the Syro-Malabar Church.

1.1 – CHURCH OF MALABAR AND ITS MINISTERS

It is the strong conviction and the living faith of the Saint Thomas Christians that the Apostle Thomas founded their Church in the year 52 AD in India. The *Fontes iuris canonici Syro-Malankarensium* affirm the belief of the Saint Thomas Christians regarding their apostolic origin.¹⁰ The Malabar tradition claims that Saint Thomas consecrated a certain Kepa as his successor and bishop. Before his departure for Mylapore, Saint Thomas ordained priests and thus organized the Church of Malabar. He founded seven local churches in Malabar and one in Mylapore. Due to lack of

⁹ By “Syro-Malabar period” we mean the period of time after the establishment of the Syro-Malabar hierarchy in 1923. Cf. apostolic constitution *Romani pontifices* erecting the ecclesiastical hierarchy of the Syro-Malabar Rite, in AAS, 16 (1924), pp. 257-262, English translation in P. PALLATH, *Important Roman Documents Concerning the Catholic Church in India*, Kottayam, OIRSI Publications, 2004, pp. 206-219.

¹⁰ See SACRED CONGREGATION FOR THE EASTERN CHURCHES, *Codificazione canonica orientale, Fonti*, Typographia polyglotta Vaticana, 1937, p. 13.

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

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

From time immemorial, Saint Thomas Christians had to depend on the Patriarch of the East Syrian Church for the appointment and consecration of bishops. Various authors pointed out that the relationship between the East Syrian Church and the Church of Saint Thomas Christians includes both canonical and spiritual aspects.¹¹ The East Syrian Church and the Church in India had a spiritual bond based on the common heritage of Saint Thomas. In particular, Addai, a disciple of Saint Thomas, founded the Church in Edessa in the Persian Empire,¹² and Mari, a disciple of Addai, brought the Gospel to Seleucia-Stesiphon (part of the Persian Empire).¹³ The East Syrian Church and the Church of Saint Thomas Christians, therefore, consider Saint Thomas as their common Patron.

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

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

¹³ See J J.-B. ABBELOOS (ed.), *Acta sancti Maris, Assyriae, Babyloniae ac Persidis seculo I apostoli Syriace sive Aramaice juxta manuscriptum alqoschianum adjectis aliorum codicum lectionibus variantibus versione Latina et annotationibus illustrata*, Brussels, Société Belge de Librairie, 1885, pp. 64-69; J.T. FITZGERALD (ed.), *The Acts of Mār Māri the Apostle*, translated with an introduction and notes by A. HARRAK, Atlanta, Society of Biblical Literature, 2005, pp. 3-81; S.H. MOFFET, *A History of Christianity in Asia*, vol. 1, Maryknoll, Orbis Books, 1998, p. 78.

The canons of the early ecumenical councils, especially Council of Nicaea (325), cc. 4¹⁴ and 6¹⁵, and Council of Constantinople IV (869-870), c. 22,¹⁶ prescribed that for an election of bishops the provincial synod should be convoked. According to the Synod of Mar Isaac (410), c. 1,¹⁷ a bishop was to be consecrated in the presence of the metropolitan and two other bishops. The same canon stated, however, that the consecration of bishops could be performed by any three bishops, with the written consent of the metropolitan. In the early stage of its existence however, the Church of Saint Thomas Christians did not have a metropolitan or a provincial synod; therefore it could not elect the metropolitan, and it could not consecrate bishops. Consequently, they depended upon the East Syrian Church for such appointments.¹⁸

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

¹⁴ See FIRST COUNCIL OF NICAEA, c. 4, in N.P. TANNER (ed.), *Decrees of the Ecumenical Councils* (= DEC), vol. 1, London/Washington, DC, Sheed and Ward Ltd and Georgetown University Press, 1990, p. 7.

¹⁵ See *ibid.*, p. 8.

¹⁶ See FOURTH COUNCIL OF CONSTANTINOPLE, c. 22, in DEC, vol. 1, pp. 182-183.

¹⁷ See *Synodicon Orientale ou recueil de synodes nestoriens, publié traduit et annoté par J.-B. Chabot*, Paris, Imprimerie Nationale, 1902, p. 263. This is a collection of East Syrian synodal canons, generally known as "Synodicon Orientale." An unpublished English translation by M.J. Birnie is used in the present study.

¹⁸ The hierarchical relation between the Church of Saint Thomas Christians and the East Syrian Church is seen clearly in the letter of Patriarch Isoyahb Adiabenus to Simon, the Metropolitan in Persia. The original letter is in the East Syriac language. For the original and its Latin translation, see GIAMIL, *Genuinae relationes inter Sedem Apostolicam et Assyriorum orientalium seu Chaldaeorum Ecclesiam*, pp. 579-581. The relevant portion of this letter has been translated into English by P.J. Podipara. See PODIPARA, *The Hierarchy of the Syro-Malabar Church*, p. 28.

¹⁹ See MOFFET, *A History of Christianity in Asia*, pp. 267-268.

III (650-660) revoked the authority of the metropolitan of Rewardashir over the Church of Saint Thomas Christians and instituted a distinct hierarchy.²⁰ Later, Patriarch Timothy I (780-823) confirmed the decision of Patriarch Isoyab III and reserved the right to ordain the metropolitan of Saint Thomas Christians to himself.²¹ On the other hand, the power of the patriarch was restricted only to the appointment and consecration of the bishops of India. Though the patriarch was the head of the Church of Saint Thomas Christians, he did not intervene in the administration of temporal goods of the Church of Saint Thomas Christians.

1.1.1.1 – Metropolitan of the Church of Saint Thomas Christians

The title of the metropolitan of India was “The Metropolitan and Gate.” “Gate” is a biblical term²² and a symbol of public authority. In this regards, Andrews Thazhath states that the term “‘Gate of All India’ meant the highest rank of authority in the Indian Church.”²³ The East Syrian Church had two kinds of metropolitans, namely electoral metropolitans²⁴ and autonomous missionary metropolitans.²⁵ The electoral metropolitans were members of the patriarchal synod. The missionary metropolitans were exercising their jurisdiction in far distant regions (like India), outside of the territory of the East Syrian Church. They were assisted by archdeacons chosen from the indigenous clergy.

²⁰ See MOFFET, *A History of Christianity in Asia*, p. 269. See also P. PALLATH, *The Catholic Church in India*, Rome, Mar Thoma Yogam Publications, 2003, pp. 10-11.

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

²² See Mt 16:18.

²³ THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, Kottayam, OIRSI Publications, 1987, p. 37.

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

²⁵ See *ibid.*, pp. 11-12.

The metropolitans of the Church of Saint Thomas Christians were considered missionary metropolitans.²⁶

The autonomous character of the Church of Saint Thomas Christians can be seen in the appointment of the metropolitan. Even though missionary metropolitans were normally elected by the patriarchal synod, nevertheless the Metropolitan of India was selected from among the monks by a delegation of the Saint Thomas Christians.²⁷ The prerogatives of the patriarch of the East Syrian Church over the Indian Church were practically limited to the approval of the election and consecration of the metropolitan of India. It was also possible that the lay Christian faithful may have had some role in the election of their bishops.²⁸

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

[...] Let the archbishop give the sacred orders and confirmation, consecrate the oils, altars, chalices etc., teach the ceremonies to his clerics, celebrate the pontifical Mass and other Divine Offices on solemn feast days, teach his people the way to heaven, and the works they have to do in order to attain it; and the rest of his time let him compose books about the way these and other things are to be observed.²⁹

²⁶ See MOFFET, *A History of Christianity in Asia*, pp. 449-450. See also PALLATH, *The Catholic Church in India*, pp. 11-12.

²⁷ For instance, two monks, Joseph and George, who belonged to the Saint Eugene monastery, were consecrated bishops by the patriarch in 1490. See J.S. ASSEMANI, *Bibliotheca orientalis Clementino-Vaticana*, vol. 1, Hildesheim, Georg Olms Verlag, 1975, pp. 589-599. See also J. KOLLAPARAMPIL, *The St. Thomas Christians' Revolution in 1653*, Kottayam, Catholic Bishop's House, 1981, pp. 5-6; PALLATH, *The Catholic Church in India*, p. 11.

²⁸ When the episcopal succession was broken, the Saint Thomas Christians used to send delegates to the patriarch of the East Syrian Church, and the patriarch usually allowed the delegates themselves to select the candidates. The delegates may have also included the lay faithful. See PALLATH, *The Catholic Church in India*, p. 11.

²⁹ In *Archivum Romanum Societatis Iesu*, Goa-Mal., vol. 18, f. 49, quoted after J. KOLLAPARAMPIL, *The Archdeacon of All-India: A Historico-Juridic Study*, JCD diss., Rome, Pontifical University of Lateran, 1972, pp. 196-197.

In brief, the metropolitan was considered to be a spiritual head of the Church of Saint Thomas Christians. During the first period of its history (up to the sixteenth century), the Church of Malabar remained under the authority of the metropolitan of India. There is no reference in history relating the metropolitan to a specific location. The metropolitans resided in various Christian centers like Mylapor, Cranganore, Quilon, and Angamaly.³⁰

The metropolitan exercised freely his power of jurisdiction in the entire Church of Saint Thomas Christians of India.³¹ As communities of Saint Thomas Christians existed in various parts of India, the usage of the title “Metropolitan of All India” was justified. However, with the invasion of Muslims between 1658-1707, the communities of the Saint Thomas Christians began to disappear outside Malabar.³²

On 31 January 1533, the first Latin diocese was erected in Goa, in the north-western part of India.³³ The Diocese of Goa was later elevated to metropolitan status on

³⁰ See PODIPARA, *The Hierarchy of the Syro-Malabar Church*, p. 35; A.M. MUNDADAN, *Sixteenth Century Traditions of St. Thomas Christians*, Bangalore, Dharmaram College, 1970, pp. 143-145.

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

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

³³ Soon problems arose between the Portuguese missionaries and the Chaldean hierarchy in Malabar. The presence of the Chaldean bishops who were ruling the Saint Thomas Christians was seen as a hindrance by the Portuguese missionaries. The Third Provincial Synod of Goa (1585) imposed the Portuguese *padroado* system on the Malabar Church. The term *padroado* (the Portuguese word for patronage) refers to the rights and privileges conferred by the Popes upon the Kings of Portugal in the 15th and 16th centuries. The reason for these grants was dissemination of the Christian faith in Asia and Africa. In particular, the kings had the power to present candidates to be appointed as bishops in the dioceses in

4 February 1557. The Latin jurisdiction over the entire Church of Saint Thomas Christians began when Bishop Francis Roz was appointed the successor of Mar Abraham,³⁴ the Metropolitan of Malabar, in 1599.³⁵ The ancient traditions regarding the juridical status of the metropolitan had changed and the practice of the Latin Church was implemented with regard to the office of the metropolitan. Moreover, with the institution of the Latin hierarchy in India and the jurisdiction of that hierarchy extended to the Church of Saint Thomas Christians, the title of “Metropolitan of All India” became extinct.³⁶ The liturgical texts for the Mass and

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

³⁴ See D. FERROLI, *The Jesuits in Malabar*, vol. 1, Bangalore City, Bangalore Press, 1939, p. 292. See also PALLATH, *The Catholic Church in India*, p. 74.

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

³⁶ For more details, see FERROLI, *The Jesuits in Malabar*, pp. 154-180. See also PODIPARA, *The Thomas Christians*, pp. 147-149.

Divine Office were translated from Latin to East Syriac (the liturgical language of Saint Thomas Christians) and implemented in the Church of Saint Thomas Christians.³⁷ A Latin Church metropolitan³⁸ held the power of jurisdiction over the Saint Thomas Christians until the institution of three vicariates for the Syro-Malabar Christians and the appointment of the indigenous vicars apostolic on 28 July 1896.³⁹

1.1.1.2 – Archdeacon of All India

For the origin of the office of archdeacon, tradition points to the first ecclesial community where Saint Stephen was the first among the seven deacons.⁴⁰ In the first centuries of Christianity one of the deacons acted as the principal assistant to the bishop in the task of governing his Church.⁴¹ In many places the archdeacon discharged the duties related to financial administration.⁴² Eventually, each bishop was expected to

³⁷ See SYNOD OF DIAMPER, Decree on the Eucharist and Correction of Missals, sessions V and VI, no. 1, in J.F. RAULIN *Historia Ecclesiae Malabaricae cum Diamperitana Synodo apud Indos Nestorianos, S. Thomae christianos nuncupatos coacta ab Alexio de Menezes Augustinensi An. Dni. MDXCIX*, Farnborough, Greg International Publishers Limited, 1969 (= RAULIN, *Historia Ecclesiae Malabaricae*), p. 145, English translation M. GEDDES, “A Short History of the Church of Malabar Together with the Synod of Diamper,” in G. MENACHERY (ed.), *The Nazranies*, vol. 1, Thrissur, South Asia Research Assistance Services (SARAS), 1998, p. 74. Saint Thomas Christians celebrated the East Syrian liturgy until the Synod of Diamper (1599). The Synod of Diamper stated that because of the presence of many impious and heretical errors, all copies of the missal were to be burned. Archbishop Dom Alexis de Menezes, soon after the Synod of Diamper in 1599 gave the *cassanars* (priests), “whom he had appointed parish priests, the newly consecrated altar stones, the vessels for the sacred oils, [...] the Roman rituals written in the East Syriac, a small catechism written in Malayalam, vestments and ornaments” (FERROLI, *The Jesuits in Malabar*, p. 205).

³⁸ Cf. footnote 35.

³⁹ See *Leonis XIII Pontificis Maximi Acta*, vol. 16, Rome, Ex Typographia polyglotta, 1896, pp. 229-232, English translation in PALLATH, *Important Roman Documents Concerning the Catholic Church in India*, pp. 194-197.

⁴⁰ See Acts 6:5.

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

⁴² In the legislation prior to *CCEO*, in various drafts of canons in the process of revisions and in *CCEO*, the Latin term for finance officer is *oekonomus*. Victor J. Pospishil rendered it as “economy.” See V.J. POSPISHIL, *The Law on Persons: Rites – Persons – Persons in General – Clergy – and Hierarchy – Monks and Religious – Laity, English Translation and Differential Commentary*, Ford City, PA, St. Mary’s Ukrainian Catholic Church, 1960, p. 149. In 1986, the draft of canon 122 used the term

appoint an administrator of ecclesiastical goods in the diocese. For instance, the Council of Chalcedon (451) in c. 26 prescribed that bishops have such an administrator:

According to our information, in some churches the bishops handle church business without administrators; so it has been decided that every church which has a bishop is also to have an administrator, drawn from its own clergy, to administer ecclesiastical matters according to the mind of the bishop concerned, so that the church's administration may not go unaudited, and that consequently the church's property is not dispersed and the episcopate not exposed to serious criticism. If he does not comply with this, he is to be subject to the divine canons.⁴³

Pope Leo the Great categorically ascertained to the Roman Emperor Marcian (450-457) that the archdeacon has the power in the diocese under the authority of the bishop.⁴⁴ Saint John Chrysostom, Bishop of Constantinople, wrote to Pope Innocent that, after the death of the bishop, the archdeacon is to be in charge of the administration of the diocese.⁴⁵ This evidence shows that already in the fifth century the office of archdeacon existed in the Church.

Although the time period of the origin of the office of archdeacon in the Church of Saint Thomas Christians is not known,⁴⁶ the administration of the Church of Malabar

“patriarchal steward.” See *Code of Eastern Canon Law 1986 Draft: English Translation*, preliminary edition for restricted distribution, Brooklyn, NY, United States Eastern Catholic Bishops Consultation, 1987, p. 22. CLSA translation has “finance officer,” while George Nedungatt uses “finance administrator.” See G. NEDUNGATT, *A Companion to the Eastern Code: For a New Translation of Codex Canonum Ecclesiarum Orientalium*, Kanonika 5, Rome, Pontifical Oriental Institute, 1994, p. 47. Since the English translation of *CCEO* used “finance officer,” we also use the same term throughout the thesis.

⁴³ “Quoniam quibusdam ecclesiis, ut rumore conperimus praeter oeconomos episcopi facultates ecclesiasticas tractant, placuit omnem ecclesiam habentem episcopum habere et oeconomum de clero proprio, qui dispenset res ecclesiasticas secundum sententiam episcopi proprii, ita ut ecclesiae dispensatio praeter testimonium non sit, et ex hoc dispergantur ecclesiasticae facultates, et derogatio maledictionis sacerdotio provocetur. Quod si hoc minime fecerit, divinis constitutionibus subiacebit” (English translation in *DEC*, vol. 1, p. 99).

⁴⁴ See J.P. MIGNE (ed.), *Patrologiae cursus completus, Series latina (=PL)*, vol. 54, Paris, J.-P. Migne, 1846, p. 1021. See also KOLLAPARAMPIL, *The Archdeacon of All-India*, p. 30, footnote 2.

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

⁴⁶ We cannot deny the possibility of its origin during the time when episcopal succession passed from the Indian line to that of the East Syrian bishops. With regard to the arrival of East Syrian bishops in India, we are unable to give an exact year due to the lack of evidence. Most probably from the fourth

was nevertheless clearly influenced by the administrative system of the East Syrian Church. From the decrees of the synods of the East Syrian Church, it is understood that from the fourth century onwards the office of archdeacon existed in the East Syrian Church. Canon 15 of the Synod of Mar Isaac I (410) describes the origin of the office of archdeacon (a mandatory office in the East Syrian Church) and his duty as steward:

One archdeacon shall be designated for the bishop in a city, one who is articulate and wise in word and doctrine, is attentive toward the poor and solicitous of strangers, and is able to direct and command all that is proper in the service of the church. [...] He shall be the arm, tongue, and venerator of the bishop, and the hidden will of the bishop shall be brought to pass openly through him [...]. Concerning the offerings and gifts of the church which are committed to a certain faithful steward, hereafter this shall be the law: the keys of stewardship shall be placed upon the altar and he who is (to be) the steward shall take them from the altar. When he resigns from his stewardship or the bishop is pleased to remove him, he shall go and place the keys upon the altar, and he will receive from the holy altar either good or ill, as he is deemed worthy [...].⁴⁷

According to the canons of the East Syrian Church, the powers associated with the office of archdeacon were inferior to those belonging to the office of bishop and superior to the prerogatives enjoyed by the presbyterate. The East Syrian traditions presented the archdeacon as the head of the ministry, the superior of every ecclesiastical order, spiritual father, teacher, visitor, ecclesiastical judge, and the confidential vicar of

century onwards bishops came from the East Syrian Church. See G. NEDUNGATT, *Laity and Church Temporalities: Appraisal of a Tradition*, Bangalore, Dharmaram Publications, 2000, p. 124. Since the Church of Saint Thomas Christians was hierarchically dependent on the East Syrian Church, the canon law that was in use should have been *de iure*, the canon law of the Church of Saint Thomas Christians. But due to the lack of documents regarding the relationship of the Saint Thomas Christians with the East Syrian Church, we do not know if or how the law of the East Syrian Church was applied in the Church of Saint Thomas Christians.

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

the bishop.⁴⁸ However, in the case of the Malabar Church, the archdeacon was mainly concerned with the administration of the temporal goods of the Church.

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

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

There are very few original sources from the period before the sixteenth century regarding the origin of the office or the required qualities and functions of the archdeacon in the Church of Saint Thomas Christians. One of the reasons for the lack of evidence dated before the arrival of Portuguese missionaries is that the canonical collections of the East Syrian Church which had been used in Malabar as the norms of the Saint Thomas Christians were intentionally destroyed after the Synod of Diamper.⁵⁰ In addition, the canonical collections of the East Syrian Church had been prohibited, under pain of excommunication, by decree no. 14 of the 3rd session (on the doctrine of

⁴⁸ See J. KURIEDATH, *Authority in the Catholic Community in Kerala*, Bangalore, Dharmaram Publications, 1989, p. 28.

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

⁵⁰ Portuguese missionaries suspected that Saint Thomas Christians were Nestorian heretics (belief in the presence of two persons rather than two natures in Christ). The East Syrian liturgy which was used in Malabar also was accused by the Portuguese missionaries as being heretical. Archbishop Menezes ordered the burning of the ancient liturgical books and other documents related to the East Syrian Church. See KOODAPUZZHA, *Bharathasabha charithram*, p. 292; ID., *Christianity in India*, Kottayam, OIRSI Publications, 1998, p. 91.

the faith) of the Synod of Diamper.⁵¹ The remaining available sources show that effective administration of the Church of Saint Thomas Christians was in the hands of archdeacons who,⁵² as a rule, were members of the Pakalomattam family⁵³ and, despite bearing the name of “archdeacons,” were in fact constituted in the order of presbyters.⁵⁴

The archdeacon was known as the *Jathickukarthavian* which means “the Lord of the community,” and by historians was also referred to as “archdeacon of India,” “archdeacon and Gate of All-India,” and “Governor of India.” While the official title of the metropolitan of India was “the Metropolitan and Gate of All India,” similarly the title of the archdeacon of the Saint Thomas Christians also indicated the Indian dimension of his jurisdiction. European missionaries testified that the archdeacon was the prince and head of the Christians of Saint Thomas.⁵⁵ In other words, in the socio-political circumstances of the time, the archdeacon represented the whole community.

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

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

⁵³ According to the belief of Christians in Kerala, the ancestors of the Pakalomattam family received baptism directly from Saint Thomas the Apostle. Originally this family came from Kuravilangadu, in Kerala. Even now one can see the graves of archdeacons there. See KOODAPUZHA, *Bharathasabha charithram*, pp. 59-60; MUNDADAN, *History of Christianity in India*, p. 183; PODIPARA, *The Thomas Christians*, p. 96; S.G. POTHEN, *The Syrian Christians of Kerala*, London, Asia Publishing House, 1963, p. 47; V.J. VITHAYATHIL, *The Origin and Progress of the Syro-Malabar Hierarchy*, Kottayam, OIRSI Publications, 1980, p. 18.

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

⁵⁵ See THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, pp. 37-38; C.V. CHERIAN, *A History of Christianity in Kerala: From the Mission of St. Thomas to the Arrival of Vasco Da Gama*,

The office of the archdeacon cannot be considered as hereditary – the archdeacon was always a celibate presbyter. But as we have seen earlier, only priests (presbyters) of the Pakalomattam family claimed a number of archdeacons.⁵⁶ The archdeacon cooperated with the legislators in the enactment of laws⁵⁷, the same function he had in the Chaldean Church. Nevertheless, as the metropolitans were devoted to ascetical life and exercised mainly the powers of (episcopal) orders, the archdeacon governed the entire Saint Thomas Christian community.⁵⁸ *Fontes iuris canonici Syro-Malankarensium* describes the faculties and rights of the archdeacons: “The archdeacons were trying to exercise many faculties, which the bishops hardly exercised. Those faculties were: the right to dispose of dispensations of all kinds, the right to nominate candidates for churches and benefices, the exclusive right to present candidates for holy orders, [and] the right to administer temporal goods.”⁵⁹ With regard to temporal goods,

A.D. 52-1498, Kottayam, Kerala Historical Society, 1973, p. 138; KOODAPUZHA, *Christianity in India*, p. 75.

⁵⁶ See FERROLI, *The Jesuits in Malabar*, pp. 177-178.

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

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

⁵⁹ “Archidiaconi amplas facultates exercere conabantur, quod episcopo aegre ferebant. Facultates istae fuerunt: Ius disponendi de dispensationibus omne genus; Ius nominandi candidates pro ecclesiis et

the archdeacon's prerogatives included accepting donations to arrange marriages of orphans, lending money to the poor without interest, constructing churches and redeeming captives. He was authorized to fix the amount for the sustenance of prelates and to respond to the general needs of the community.

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

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

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

Before the Synod of Diamper (1599) the churches of the Saint Thomas Christians supported their priests with the donations of the faithful collected on Jonas'

beneficiis; Ius exclusivum praesentandi candidatos ad S. ordines; Ius administrandi bona ecclesiastica" (*Codificazione canonica orientale, Fonti*, p. 52). See also footnote 10. We are grateful to Msgr. Kuriakose Parampath for the English translation of the Latin text.

⁶⁰ J. HOUGH, *The History of Christianity in India, from the Commencement of the Christian Era*, vol. 1, London, R. B. Seeley and W. Burnside, 1839, p. 326.

⁶¹ See MUNDADAN, *History of Christianity in India*, p. 182; FERROLI, *The Jesuits in Malabar*, p. 301; KOLLAPARAMPIL, *The Archdeacon of All-India*, p. 197.

⁶² See KOLLAPARAMPIL, *The Archdeacon of All-India*, p. 197; MUNDADAN, *History of Christianity in India*, p. 184. D. Ferroli wrote on the power of archdeacon under the East Syrian bishops, "They [archdeacons] settled quarrels, they fought Rajahs, they approved those who had to be ordained, they granted dispensations, they made and unmade appointments, so that the power of jurisdiction was practically in their hands" (FERROLI, *The Jesuits in Malabar*, p. 301).

feast and during Lent. But that custom was eventually dropped and priests began to receive subsidies from the Portuguese king.⁶³ The king of Portugal made the archdeacon one of the persons responsible for the distribution of those funds.

Certain prerogatives belonging to the office of the archdeacon became extinct after the sixteenth century. It was the tradition and practice of the Saint Thomas Christians that the administration of the vacant metropolitan see be exercised by the archdeacon.⁶⁴ However, when Mar Abraham, the last bishop of the Church of Saint Thomas Christians appointed by the patriarch of the East Syrian Church died in 1597,⁶⁵ Pope Clement III appointed Archbishop Menezes of Goa as administrator of Angamaly, on 21 January 1597.⁶⁶ Later the Holy See granted the privilege to the metropolitan of Goa to appoint the administrator to the episcopal see of Cranganore when it would have become vacant. Further, the office of archdeacon lost its special status after eliminating from the title of the archdeacon the reference to the place (“of all India”).⁶⁷

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

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

⁶⁵ See THEKKEDATH, *History of Christianity in India*, p. 64; FERROLI, *The Jesuits in Malabar*, p. 175; PODIPARA, *The Thomas Christians*, p. 134.

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

⁶⁷ See KOODAPUZHA, *Christianity in India*, p. 95; PODIPARA, *The Thomas Christians*, pp. 148-149.

1.1.1.3 – Presbyters in the Church of Saint Thomas Christians

There is very little information regarding the historical and canonical status of the presbyters of the Church of Saint Thomas Christians before the Synod of Diamper. Bishop Francis Roz, the first Latin bishop of the Saint Thomas Christians testified that 50 canons of the council of Nicaea (the so-called Arabic Canons) were used in Malabar and that he had seen them in a Syriac book written by Mar Ebedjesus.⁶⁸ Out of these 50 canons, 47 dealt with the government of the Church and the rest with monasteries.⁶⁹ The presbyters exercised their functions according to the prescriptions of those canons.

Vincenzo Maria, OCD, who visited Malabar around the middle of the seventeenth century, gave the following testimony to the way of life of the clergy: “The ecclesiastics are of two sorts: ordinary and recollected. The latter are obliged to certain major observances: they never eat meat nor drink wine. All are called Cassanars, a name taken from Arabic [...].”⁷⁰ Ordinary ecclesiastics were priests (presbyters) who could marry while the term “recollected” referred to those who led a life similar of that of religious.⁷¹ In the modern terminology, therefore, married and recollected priests can be

⁶⁸ See A.S. BARTHOLOMEO PAULINOS, *India Orientalis Christiana*, Rome, [n.p.], 1794, p. 64, quoted after T. PUTHIYAKUNNEL, *The Syro-Malabar Clergy and Their Obligations: An Historico-Juridical Study*, JCD diss., Rome, Pontifical Gregorian University, 1962, p. 18.

⁶⁹ See FERROLI, *The Jesuits in Malabar*, p. 169.

⁷⁰ VINCENZO MARIA, *Il Viaggio alle Indie Orientali*, Rome, Nella Stamperia di Filippomaria Mancini, 1672, p. 146, quoted after PUTHIYAKUNNEL, *The Syro-Malabar Clergy and Their Obligations*, pp. 99-100. See also PODIPARA, *The Thomas Christians*, p. 89.

⁷¹ See MUNDADAN, *History of Christianity in India*, p. 187; PUTHIYAKUNNEL, *The Syro-Malabar Clergy and Their Obligations*, p. 100; PODIPARA, *The Thomas Christians*, p. 89. Before the sixteenth century, besides secular clergy there seemed to be monks among Saint Thomas Christians.

considered as eparchial and religious priests, respectively. Generally priests (presbyters) were known as *cassanars* or *cathenars*.⁷²

Regarding the residence of priests (presbyters), Vincenzo Maria testified: “They live very near to the churches officiating in them in a collegiate form [...] the clerics are obliged to [live in] the same residence.”⁷³ The income of priests proceeds from ecclesiastical goods or from offerings for celebrating baptisms, marriages, and the commemoration of feasts called *chattam*.⁷⁴ Priests were ordained for the determined parish rather than for the diocese.⁷⁵ The candidates for priesthood were selected according to the needs of the community.⁷⁶

Clerics below the rank of presbyters were called *chemasas* (seminarians). After obtaining *desakkuri*, the approval of the parish assembly (*palliyogam*), they were allowed to go forward for ordination. Priests ordained for a given parish were called *desattupattakar* (local clergy).⁷⁷ The *cassanars* (presbyters) and *chemasas* (seminarians)

⁷² The words *cassanar* or *cathenar* were used by Saint Thomas Christians before the sixteenth century. According to Mathias Mundadan, these terms were instances of “malabarization” of the Syriac word *qasisa* (elder or presbyter). See MUNDADAN, *History of Christianity in India*, p. 185.

⁷³ VINCENZO MARIA, *Il viaggio alle Indie Orientali*, p. 145, quoted after PUTHIYAKUNNEL, *The Syro-Malabar Clergy and Their Obligations*, pp. 204-205.

⁷⁴ See MUNDADAN, *History of Christianity in India*, p. 191; THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, pp. 39-40; KURIEDATH, *Authority in the Catholic Community in Kerala*, p. 98.

⁷⁵ See PODIPARA, *The Thomas Christians*, p. 89. After the promulgation of different *motu proprio*s for the Eastern Catholic Churches the term “eparchy” was used in the Syro-Malabar Church, while prior to that, the term “diocese” was widely used in Kerala.

⁷⁶ See VADAKKEKARA, *Origin of India’s St. Thomas Christians*, p. 378; MUNDADAN, *History of Christianity in India*, p. 188. For a presentation on the socio-cultural background of the Malabar Church, see PODIPARA, *The Thomas Christians*, pp. 79-98.

⁷⁷ See PODIPARA, *The Thomas Christians*, p. 96; THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 51; KOODAPUZHA, *Bharathasabha charitram*, p. 194; VADAKKEKARA, *Origin of India’s St. Thomas Christians* p. 378.

recited the divine office in the East Syrian language.⁷⁸ Parochial functions were performed in turn, and the senior priest of the parish was the person responsible for directing the pastoral work.⁷⁹

1.2 – ANCIENT STRUCTURES OF FINANCIAL ADMINISTRATION IN THE SYRO-MALABAR CHURCH

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

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

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

⁷⁸ See PODIPARA, *The Thomas Christians*, p. 87; THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 51; MUNDADAN, *History of Christianity in India*, p. 190.

⁷⁹ The Synod of Diamper introduced the system of parish organization and the obligation of residence for priests. See RAULIN, *Historia Ecclesiae Malabaricae*, pp. 216-217, English translation in GEDDES, "A Short History of the Church of Malabar Together with the Synod of Diamper," p. 89.

⁸⁰ See V. SHIVRAM APTE, *The Practical Sanskrit-English Dictionary*, Delhi, Motilal Banarasidass, 1985, p. 788.

⁸¹ *Sanghakalam* means the period in ancient Tamil literature between the 3rd century B.C. and the 3rd century A.D. The most basic division of Indian society is into Aryans and Dravidians: the north

make decisions. This ancient basic unit of social organization is known as *manram*.⁸² The lord of the *manram* was later known as *mannan* (king). All matters concerned with the *manram* were discussed, and all problems were settled, in common. The elders of the tribes were qualified to take part in the meeting (*yogam*) and the head of the tribe usually presided. All members (except the *mannan*) were equal in the *manram*.

Palliyogam takes its historical origin from two casts⁸³ (sects) among the Hindus, *urar* and *uranmakar*.⁸⁴ The members of *urar* and *uranmakar* managed the affairs of the (Hindu) temple, without remuneration or profit for themselves.⁸⁵ The position of the priests (*santhikar*) in relation to the administration of the temple was notably inferior to that of a *yogam*.

On one hand, there is no evidence to prove that the system of *yogam* originated from the East Syrian Church. On the other hand, however, in the Hindu temples of Malabar the assemblies (*yogam*) were permanent bodies and they enjoyed legislative, judicial and administrative prerogatives.⁸⁶ It is therefore quite probable that the origin and development of the Malabar Church *yogam* owes its inspiration to the Hindu

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

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

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

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

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

⁸⁶ See MUNDADAN, *History of Christianity in India*, p. 147.

culture.⁸⁷ The involvement of the lay people in the ordinary administration of the Church was the unique characteristic of the Malabar Church. It might have been inspired by the early Christian converts from the Hindu religion.

Since *palli* stands for a place of worship of the Christians, that is, a church, consequently, *palliyogam* means a meeting of the church community. More precisely, the *palliyogam* is the gathering of the people to discuss the administration of a church community. Paulinus Bartholomeo, a Carmelite missionary in India, called the *palliyogam* “a republican system of government.” He wrote: “All the Christians combine or unite themselves into a kind of Christian civil republic (state), and when there is a problem in one parish, others come together to defend it. The parish priest and the elders judge and decide everything.”⁸⁸ The priests and the heads of the families, who were males, constituted the *palliyogam*. The oldest priest (presbyter) of the parish presided over it.⁸⁹

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

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

⁸⁸ P. BARTHOLOMEO, *Viaggio alle Indie Orientali*, Rome, [n.p.], 1796, pp. 136-139, quoted after X. KOODAPUZHA, *Oriental Churches: Theological Dimensions*, Kottayam, OIRSI Publications, 1988, pp. 74-75. See also ID., *Christianity in India*, p. 73.

⁸⁹ See PODIPARA, *The Hierarchy of the Syro-Malabar Church*, p. 96; THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 42.

the parish property. In particular, in Malabar each parish had authority to acquire, administer and alienate the temporal goods.⁹⁰

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

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

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

⁹¹ K. VANCHIPURACKAL, “Laity in the Syro-Malabar Church,” in *Christian Orient*, 5 (1984), p. 31.

⁹² See *ibid.*

*Varthamanapusthakam*⁹³ (travelogue). Throughout the history of the Malabar Church, the *pradesika yogam* was charged with the administration of justice.⁹⁴ Solely the *pradesika yogam* was competent to judge serious cases and to handle the cases involving priests. It (*pradesika yogam*) consisted of priests and representatives of the faithful of a given region of the Malabar Church. As Paremakal pointed out, the practice that existed in Malabar regarding the administration of justice required that before inflicting any punishment, the crime had to be proved before the representatives of four churches (*pradesika yogam*).⁹⁵

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

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

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

⁹⁵ See PAREMAKKAL, *The Varthamanapusthakam*, p. 41. Indeed, the general assembly of Angamaly (1778) prescribed that the punishment be inflicted only after the judgment of the representatives of four churches. See *ibid.*, pp. 43-44. See also PALLATH, *The Catholic Church in India*, p. 20.

important matters that affected the whole Church of Saint Thomas Christians.⁹⁶ As the members of the *mahayogam* enjoyed equality, it was an effective means for maintaining communion and solidarity in the community.⁹⁷

As an example of the decisions of the *mahayogam*, one can invoke sending a delegation to Rome, in 1778, under the leadership of Joseph Cariattil to handle the reunion of Mar Thomas VI (the Jacobite Metropolitan) with the Catholic Church.⁹⁸ The same *mahayogam* sent along with the delegation, two candidates to study at the Propaganda College in Rome. The Prefect of the Sacred Congregation for the Propagation of the Faith at first refused to admit the candidates on the ground that they were not sent by the bishop. Later, however, the Prefect gave consent to admit them.⁹⁹

The custom of convoking the *mahayogam* is still alive today in the non-Catholic churches of the Saint Thomas Christian tradition.¹⁰⁰

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

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

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

⁹⁹ See PAREMAKKAL, *The Varthamanapusthakam*, p. 138. See also PALLATH, *The Catholic Church in India*, p. 21.

¹⁰⁰ See PODIPARA, *The Thomas Christians*, p. 97.

1.3 – SYNODAL ENACTMENTS ON TEMPORAL ADMINISTRATION

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

1.3.1 – Synod of Diamper on Temporal Matters

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

The Synod of Diamper was convened by the Archbishop of Goa in 1599.¹⁰³ The decree no. 19 (on the doctrine of the faith) of session III of the Synod of Diamper prohibited all priests and curates from mentioning the name of the patriarch of the East Syrian Church during the liturgy. The Synod also decided not to accept any bishops sent

¹⁰¹ He was the Archbishop of Goa from 1595 to 1610.

¹⁰² See the letter of Archbishop Menezes, in *Subsidium ad Bullarium Patronatus Portugalliae*, Alleppey, [n.p.], 1903, pp. 12-13, reproduced in G. BELTRAMI, “La Chiesa nel secolo dell’Unione,” pp. 121-122. For the English translation, see PALLATH, *The Catholic Church in India*, p. 68. Among subject matters of the letter were the appointment of a Latin bishop for the metropolitan see of Angamaly, the question of a gradual extinction of the East Syriac language which was the liturgical language of the Saint Thomas Christians, and the introduction of the Latin language in its place. See also THEKKEDATH, *History of Christianity in India*, p. 66. The Latin text of the proceedings of the Synod of Diamper was published in RAULIN, *Historia Ecclesiae Malabaricae*, pp. 1-282. See also footnote 37. The validity of the Synod of Diamper is much disputed among the scholars. Cf. MENACHERY (ed.), *The Nazranies*, pp. 31-112.

¹⁰³ The synod which began on 20 June 1599 and lasted through 26 June 1599, counted 153 priests and 671 representatives of the faithful of the Malabar Church as its members. See FERROLI, *The Jesuits in Malabar*, pp. 184-185. Before the synod had taken place, Archbishop Menezes determined that Angamaly was the suffragan diocese of the archdiocese of Goa; it was in order to prove his authority that he convoked the synod. However, at the time of the Synod of Diamper, the episcopal see of Angamaly was vacant; therefore, a question arises as to whether the metropolitan could convoke a diocesan synod while the see remained vacant (“Sede vacante nihil innovetur”).

by him to Malabar,¹⁰⁴ effectively putting to an end to the Chaldean jurisdiction in India. The Synod decided that the appointment of bishops should be the prerogative of the pope, with the permission of the Portuguese king.¹⁰⁵

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

¹⁰⁴ See RAULIN, *Historia Ecclesiae Malabaricae*, pp. 109-110, English translation in GEDDES, “A Short History of the Church of Malabar Together with the Synod of Diamper,” p. 67.

¹⁰⁵ See Z. SCARIA (ed.), *Udayamperoor sunahadosinte kanonakal*, Edamattom, Indian Institute of Christian Studies, 1994, p. 58; THALIATH, *The Synod of Diamper*, p. 102.

¹⁰⁶ See J. MANSI (ed.), *Sacrorum Conciliorum nova et amplissima collectio*, vol. 35 B, Paris and Leipzig, H. Welter, 1902, p. 1189. The Portuguese missionaries succeeded in imposing changes in customs and practices of the Saint Thomas Christians by legislating the decrees of this synod.

¹⁰⁷ THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 10.

¹⁰⁸ See RAULIN, *Historia Ecclesiae Malabaricae*, pp. 198-199, English translation in GEDDES, “A Short History of the Church of Malabar Together with the Synod of Diamper,” pp. 85-86. The system of tithes from a dowry was common in the Malabar Church. A portion of that amount included the *pasaram* (the donation of the bridegroom to the parish church before his marriage). As a dowry was prohibited by civil law on 1 July 1961, instead the term “family right amount” (*kudumbaavakashathuka*) was used. See *Instructions of the Curia 1950-1979*, comp. and ed. by the CHANCELLOR OF THE ARCHEPARCHY OF CHANGANACHERRY, Changanacherry, St. Joseph’s Orphanage Press, 1979, p. 31. The Council of Trent also prescribed the norms for the tithes and determined the penalty of excommunication for those who did not give tithes. See COUNCIL OF TRENT, session XXV, c. 12, in *DEC*, vol. 2, p. 792.

15,000 crusados.¹⁰⁹ In session VIII, decree no. 1 (on the reform of Church [Church of Saint Thomas Christians] affairs), the Synod of Diamper divided the diocese of Angamaly into seventy-two parishes and appointed parish priests to each parish. This decree followed the enactments of the Council of Trent which in session XIV, c. 9 prescribed that dioceses and parishes be made distinct.¹¹⁰ Through another act of the Synod of Diamper (session VIII, decree no. 26, on the reform of Church affairs), the system of *kaikars*¹¹¹ commenced: the Synod prescribed that four lay overseers (*kaikars*) be elected annually in order to assist the vicar¹¹² of the parish in the management of the finances. In session VIII, decree no. 38, the Synod declared that the execution of wills belongs to the bishops. After one year from the death of the testator, if the will was not yet executed, the bishop had to instigate the heirs to fulfill it.¹¹³

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

¹¹⁰ “Et, quia iure optimo (1) distinctae fuerunt dioeceses, et parochiae ac unicuique gregi proprii attribue pastores [...]” (COUNCIL OF TRENT, session XIV, Decree on Reform, c. 9, in *DEC*, vol. 2, p. 717).

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

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

¹¹³ See RAULIN, *Historia Ecclesiae Malabaricae*, p. 246; English translation in GEDDES, “A Short History of the Church of Malabar together with the Synod of Diamper,” p. 93. The norm of the Synod of Diamper on the execution of the last will had a corresponding norm in the decrees of the Council of Trent. Regarding the commutations of last wills, the latter decreed: “In commutationibus ultimarum voluntatum, quae nonnisi ex iusta et necessaria causa fieri debent, episcopi tamquam delegati Sedis Apostolicae summarie et extrajudicialiter cognoscant, nihil in precibus tacita veritate vel suggesta falsitate fuisse narratum, priusquam commutationes praedictae executioni demandentur” (In commutations of last wills, which should not be made without a just and compelling reason, bishops and delegates of the Apostolic See must ensure, by summary examination without a judicial process, that nothing is stated in the petition

The above-mentioned enactments of the Synod of Diamper show that the Synod was a turning point in the history of the Saint Thomas Christians. It had changed some of the ancient practices of the Saint Thomas Christians, and in particular it curtailed to a great extent the powers of the archdeacon through the implementation of the office of *kaikars* in the Church of Saint Thomas Christians.

1.3.2 – Statutes of Mellano on the Administration of Temporal Goods

Archbishop Aloysius Mellano was the first archbishop of the Latin Archdiocese of Verapoly and, at the same time, Vicar Apostolic of the Malabar Church. On 20 February 1867, Archbishop Mellano reported to the Sacred Congregation for the Propagation of the Faith¹¹⁴ regarding the need for the norms regulating *palliyogam* (church assemblies).¹¹⁵ On 8 September 1869, the Congregation sent him such norms, modeled on the norms used in the dioceses of Holland since 1856.¹¹⁶ Consequently,

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

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

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

¹¹⁶ See NEDUNGATT, *Laiety and Church Temporalities*, pp. 147-148. In the discussion during the codification of *CCEO*, there was a reference to this particular issue. See PONTIFICIA COMMISSIO CODICI IURIS CANONICI ORIENTALIS RECOGNOSCENDO (= PCCICOR), “Canones de Episcopis,” in *Nuntia*, 9 (1979), pp. 47-48.

Archbishop Mellano abolished all existing norms regarding the administration of temporal goods in the Malabar Church.

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

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

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

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

¹¹⁹ This norm corresponds to the above-mentioned c. 11 of session XXV of the Council of Trent. See *DEC*, vol. 2, pp. 791-792.

only to deserving churches and they could not exceed 20 rupees (no. 12).¹²⁰ With regard to the Mass foundations, the Statutes prescribed that cash should not be accepted for that purpose. Instead, immovable property equal to the required amount of money was to be received, with the permission of the vicar apostolic (no. 18).¹²¹

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

Historically, the Statutes of Mellano were a turning point in the administration of ecclesiastical goods in Malabar. The codification of the diocesan statutes before the institution of the Syro-Malabar hierarchy was greatly influenced by the Statutes of Mellano. On 20 May 1887, by his brief *Quod iampridem*¹²² Pope Leo XIII instituted two vicariates for the Syrians of Malabar, namely Kottayam (Changanacherry) and Trichur.¹²³ The Pope appointed Bishop Charles Lavigne to Kottayam and Bishop Adolf Medlycott to Trichur as vicars apostolic.

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

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

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

¹²¹ See *ibid.*, pp. 83-84.

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

¹²³ Bishop Charles Lavigne (1840-1913), the Vicar Apostolic of Kottayam was a French Jesuit. On 13 November 1887 he received episcopal ordination at Marvejols (Lozere) as titular Bishop of Milevis and Vicar Apostolic of Kottayam. He was made Bishop of the Diocese of Trincomalee in Sri Lanka, on 27 August 1898. Bishop Adolf Medlycott (1835-1918), Vicar Apostolic of Trichur, was a priest of the Calcutta Archdiocese. He was the librarian of the Propaganda College in Rome. At the time when he was appointed Vicar Apostolic of Trichur, on 13 September 1887, he was a military chaplain at Fyzabad. He was consecrated by Archbishop Ajuti, Apostolic Delegate to the East Indies, on 11 December 1887. For more details, see TISSERANT, *Eastern Christianity in India*, pp. 127-134.

922) regarding the duties of the priests of his vicariate.¹²⁴ The important points of the circular letter were: 1) a reformed annual church account system (*terattu*) was to be used in the parishes; 2) the Mass foundations were to be submitted by the vicars to the bishop; 3) the priests were allowed to keep the Mass stipends that could be satisfied within two months and the excess stipends were to be sent to the bishop for distribution; 4) Mass wine marketed by the bazaar should not be used; 5) parishes were to send a copy of the annual account (*terattu*) to the Vicar Apostolic of Trichur, and 6) parishes were to submit the annual account before the principal feast of the parish and include in it the list of arrears and of inventory of the church articles.

Some similarities can be noticed in the Statutes of Archbishop Mellano and Bishop Medlycott. They are the following: 1) regarding the treasury key, Bishop Medlycott followed the prescription of the decrees of Archbishop Mellano and ordered that one of the keys of the treasury was to be kept by the vicar; 2) if a parish wanted to take a loan for more than Rs 100, the vicar and *kaikars* were to obtain prior permission from the Vicar Apostolic of Trichur.¹²⁵ Bishop Medlycott ordered that the vicar of the every parish must have a copy of the decrees of Archbishop Mellano.¹²⁶

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

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

¹²⁶ For the evaluation of the extent of executive power of Bishop Medlycott, see THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, pp. 242-245; KOODAPUZHA, *Bharathasabha charithram*, pp. 507-508; TISSERANT, *Eastern Christianity*, pp. 131-134.

1.3.3.2 – Bishop Charles Lavigne and Changanacherry Synod (1888)

A synod was convened¹²⁷ and took place on 18-20 December, 1888 at the cathedral church of Changanacherry, under the chairmanship of Bishop Charles Lavigne, with more than one hundred priests participating. Altogether, nine decisions were made by the synod. Among the nine, the last one concerned the administration of the vicariate. For the general administration of the churches, councils consisting of six priests (presbyters) and six laymen were to be elected. Institution of these councils was a novelty in the Malabar Church as its ancient way of administration was based on the *yogam*. Bishop Lavigne asked all the parishes of the vicariate to give a contribution to meet the expenses of the vicariate.¹²⁸

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

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

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

¹²⁸ For more on the annual contribution, see KOODAPUZHA, *Bharathasabha charithram*, p. 509.

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

*Matters like Faith, Priests, Faithful, Sacraments, Churches, Feasts, Income of Parish and of Priests etc.*¹³⁰ It contained 38 chapters. Chapter 18 dealt with temporal goods and chapter 19 considered the issue of the income of the Church and of the priests.

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

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

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

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

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

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

¹³² *Ibid.*, p. 127, English translation in MOOLAKATTU, *The Book of Decrees of Mar Mathew Makil*, p. 37.

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

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

Other important norms in the *Book of Decrees* concerning the bishop's financial administration are the following: 1) five percent of the income of each parish¹³⁵ was to be given to the bishop as the *cathedraticum*;¹³⁶ 2) every fourth year, the list of the movable and immovable property of the church was to be sent to the bishop;¹³⁷ 3) the annual accounts of the parishes and other property were to be submitted to the vicar apostolic;¹³⁸ 4) before the execution of the sale, of the mortgage, of the donation of immovable goods and movable goods, the vicar apostolic's consent was required;¹³⁹ 5)

¹³³ Ibid., English translation in MOOLAKATTU, *The Book of Decrees of Mar Mathew Makil*, p. 56.

¹³⁴ See COUNCIL OF TRENT, session XXI, Decree on Reform, c. 8, in *DEC*, vol. 2, p. 731.

¹³⁵ *Book of Decrees*, no. 19, section 1, spoke of the income of the church (parish) and the priests. A percentage of the amount of the dowry was to be given to the church and considered as a contribution to the church. For the administration of the sacraments and sacramentals and certain liturgical and para-liturgical ceremonies, special fees were prescribed and destined for the needs of the church. Section 2 spoke of the income of priests drawn from the parish. See MAKIL, *Book of Decrees*, pp. 140-147.

¹³⁶ See *ibid.*, pp. 130-131.

¹³⁷ See *ibid.*, pp. 140-147.

¹³⁸ See *ibid.*, pp. 127-128. The Council of Trent also prescribed that both ecclesiastical and lay administrators are bound to give an account of their administration annually to the bishop of the diocese. See COUNCIL OF TRENT, session XXII, Decree on Reform, c. 9, in *DEC*, vol. 2, p. 740.

¹³⁹ See MAKIL, *Book of Decrees*, pp. 134-135.

written consent was essential for the expenses which exceed a certain limit;¹⁴⁰ 6) written consent of the vicar apostolic was needed in the case of almsgiving which exceeded the prescribed limit, as also for giving aid to other churches and institutions;¹⁴¹ 7) reception of the deposit for the Mass foundations was to be done with the consent of the vicar apostolic;¹⁴² and 8) in order to appear before the civil court on behalf of the parish, the vicar had to obtain prior permission from the vicar apostolic.¹⁴³

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

1.3.3.3.2 – Administration of Temporal Goods of Parishes According to the *Book of Decrees*

The prescriptions of the *Book of Decrees* on the *yogam* and *kaikars* were identical to the Statutes of Mellano. The responsibility of the vicar of the parish towards the *yogam* (which was the administrative body at the parish level) is described in the *Book of Decrees* of Makil as follows:

¹⁴⁰ For the maintenance and renovations of churches, the vicar could spend Rs 300 with the permission of the church assembly. If he went beyond that amount, the vicar needed the vicar apostolic's consent. The church could give alms of up to Rs 20 to other churches that were in need of money and also to similar institutions of the Church. If the donation exceeded Rs 20, the vicar required a written permission from the vicar apostolic. See *ibid.*, p. 134.

¹⁴¹ See *ibid.*, pp. 134-135.

¹⁴² See, *ibid.*, pp. 137-138. The corresponding norm can be found in the Statutes of Mellano. See *Statutes of the Apostolic Vicariate of Verapoly*, pp. 83-84.

¹⁴³ See MAKIL, *Book of Decrees*, p. 139.

The vicar is responsible for convening *yogam* and presides over it. Any *yogam* convened without the permission and not being presided over by the vicar will be invalid itself and any decisions made in such a meeting are not binding and cannot be executed. Decisions made in a properly convened *yogam* will be considered and must be recorded in the minute-book. However, decisions which require the approval of the diocesan bishop will be invalid until they receive consent from the bishop.¹⁴⁴

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

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

¹⁴⁴ Ibid., p. 36 (translation is mine).

¹⁴⁵ Ibid., p. 129, English translation in MOOLAKKATT, *The Book of Decrees of Mar Mathew Makil*, p. 59.

¹⁴⁶ *Pallyogam* was to determine the number of the *kaikars* according to the size of the parish (however, no less than two) and elect them. In a filial church there could have been just one *kaikar*. Once the election of the *kaikars* was accomplished, the names were to be sent to the bishop, for his approval. If the bishop found the elects unsuitable, substitutions were to be made. See MAKIL, *Book of Decrees*, pp. 127-140.

¹⁴⁷ V. CHITTILAPPILLY, “Particular Laws in Temporal Administration,” in F. ELUVATHINGAL (ed.), *Syro-Malabar Church since the Eastern Code: An Evaluation and Future Prospects, Particular Laws, Statutes, Decrees, Bibliography*, Trichur, Marymatha Publications, 2003, p. 240. According to George Nedungatt, “Both priests and lay people have a share in the administration of the temporalities of the Church, subject to the holy canons. Canonically, there is a difference between priests and lay people as administrators. Makil calls the former ‘real administrators’ and the latter ‘co-administrators’” (NEDUNGATT, *Laity and Church Temporalities*, p. 293).

Each year was to be divided into periods and one of the *kaikars* together with the vicar was responsible for the temporal administration of the parish in each period. It was apparent that the *kaikars* were assisting the vicar in the administration of ecclesiastical goods of the parish.

The *yogam* had to approve the accounts of the parish.¹⁴⁸ Along with the annual account of the parish, the vicar of the parish was obliged to submit a written report to the vicar apostolic of Changanacherry regarding the observance of the *Book of Decrees* in the parish. The submission of an annual account was a novelty in the *Book of Decrees*. Later, in various statutes of the Syro-Malabar Church, eparchial bishops demanded that the financial report be audited by two lay persons elected by the *yogam*.¹⁴⁹ The vicar had to maintain a list of the Mass foundations which had to be presented to the bishop together with the annual account of the parish. The vicar had also to ensure that the accounts of the parishes kept by the *kaikars* were in order.¹⁵⁰ The *kaikars* were also asked to prepare a list of documents regarding land, lease and deeds.¹⁵¹ The losses incurred by the church because of the carelessness of the *kaikars* were to be rectified by them.¹⁵²

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

¹⁴⁸ See MAKIL, *Book of Decrees*, p. 130.

¹⁴⁹ See J. PEREPPADAN, "Palliyogam – Parish Council – In the Syro-Malabar Church," in ELUVATHINGAL (ed.), *Syro-Malabar Church Since the Eastern Code*, p. 223.

¹⁵⁰ See MAKIL, *Book of Decrees*, p. 24.

¹⁵¹ See *ibid.*, p. 140.

¹⁵² See *ibid.*, p. 140.

Major archiepiscopal Church *sui iuris*.¹⁵³ In this regard, Jose Kuriadath points to the importance of the Statutes of Mellano and of the *Book of Decrees* for the future development of the particular legislation: “The rules of Mellano and Makil have served as the basis for all subsequent diocesan statutes [...]”¹⁵⁴ Moreover, the *Book of Decrees* is to be appreciated as the first collection of canons formulated by an indigenous bishop of the Malabar Church. The *Book of Decrees* was in force in the Archeparchy of Changanacherry until 19 March 1959.

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

The promulgation of the motu proprio *PA*¹⁵⁵ played a significant role in the administration of eparchies. The Syro-Malabar Church was directly under the authority of the Roman Pontiff at the time of the promulgation of *PA*. This Church *sui iuris* was neither a major archiepiscopal nor a metropolitan Church. Each eparchy had its own statutes and its administrative bodies. Through the promulgation of *PA*, the Syro-Malabar Church received a veritable tool for the administration of temporal goods. One can note, however, that, except for the canons of *PA* concerning the finance officer¹⁵⁶ of

¹⁵³ See PEREPPADAN, “Palliyogam – Parish Council – In the Syro-Malabar Church,” p. 222.

¹⁵⁴ KURIADATH, *Authority in the Catholic Community in Kerala*, p. 134.

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

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

the patriarchal and major archiepiscopal Churches, the other canons on the administration and alienation of temporal goods seemed to be similar to those of *CIC/17*.

For the administration of ecclesiastical goods owned by the eparchy, the hierarch¹⁵⁷ was to establish an office that consisted of the eparchial finance officer, an accountant and his assistants (*PA*, c. 262).¹⁵⁸ The eparchial finance officer had to have the same qualities as those required of the patriarchal finance officer (*PA*, c. 262 §2, 1°). The patriarchal finance officer was to be a devout cleric (*clericus fidelis*), either priest or deacon, diligent and honest in his way of life, committed to his duties and an expert in the administration of temporal goods. He could not be related to the patriarch/eparchial bishop up to the fourth degree of consanguinity or affinity, inclusive.¹⁵⁹ *PA* gave additional provisions that, if necessary, the eparchial finance officer could have one or more associates or aides, and they could be chosen among lay persons (*PA*, c. 262 §2, 2°). The eparchial finance officer had to take an oath of office before the eparchial bishop (*PA*, c. 263 §5).¹⁶⁰

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

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

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

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

¹⁶⁰ *PA*, c. 267 had a parallel norm in *CIC/17*, c. 1522. According to Joseph J. Comyns it was fitting to demand an oath from each member of the diocesan board of administration as a guarantee that he would fulfill his duty properly. See J.J. COMYNS, *Papal and Episcopal Administration of Church Property*, JCD diss., Washington, DC, Catholic University of America, 1942, p. 120.

It was the first time that the office of the eparchial finance officer was considered part of the eparchial curia in the Eastern Catholic Churches. On the one hand, it seems that the reasons for introducing such an office into the ecclesiastical structures of Eastern Churches can be declared similar to those which dictated the introduction of this office in the Latin Church as the canonical discipline in this regard emulated that of the *CIC/17*. On the other hand, the dependence of the new legislation concerning the organization of the financial administration in an eparchy drew attention to the necessity of creating legislation for the Eastern Churches firmly founded on the Eastern tradition.

Due to the complexity of the task, the eparchial finance officer, especially in modern times when the financial management requires expert knowledge and practical experience, it is perfectly understandable that the new legislation provided the finance officer with an appropriate vehicle for consultation and safeguard. In accordance with *PA*, c. 263 §1, the eparchial bishop had to constitute an administrative council¹⁶¹ whose members were to be experts in administration, and were required to help him in the management of important financial affairs. The canon stated:

In his episcopal city the hierarch is to constitute a council, which consists of a president who is the hierarch himself, and of two or more suitable men, experts if possible in civil law also. They are to be elected by the hierarch himself, having heard the eparchial consultors unless some other equivalent but legitimate manner was provided already by particular law or custom, always ensured by law that those elected by others need to be confirmed by the local hierarch.¹⁶²

¹⁶¹ The “eparchial administrative council” was similar to the “diocesan board of administration” as stated in *CIC/17*, c. 1520 §1. The term “eparchial administrative council” was used in the eparchies of the Syro-Malabar Church before the promulgation of *CCEO*. George Nedungatt employs the term “finance council.” See NEDUNGATT, *Laité and Church Temporalities*, p. 242.

¹⁶² “In sua civitate episcopali Hierarcha consilium instituat, quod constet Praeside, qui est ipsemet Hierarcha, et duobus vel pluribus viris idoneis, iuris etiam civilis, quantum fieri potest, peritis, ab ipso Hierarcha, auditis consultoribus eparchialibus, eligendis, nisi iure vel consuetudine particulari iam alio aequivalenti modo legitime fuerit provisum, firma semper lege, ut ab aliis electi indigeant confirmatione loci Hierarchae” (*PA*, c. 263 §1, translation by Msgr. Kuriakose Parampath).

The legislation provided ample space for the participation of the lay-faithful in the delicate task of financial administration of an eparchy: members of the eparchial administrative council could be either clerics or lay people or both.¹⁶³ *PA*, c. 263 §2 stipulated that the members of the eparchial administrative council could not be related to the eparchial bishop both by consanguinity or affinity including the fourth degree. By the law itself the eparchial finance officer was a member of the eparchial administrative council (*PA*, c. 263 §3). The extent of competency of the eparchial administrative council was stated in *PA*, c. 263 §4: “In the more important administrative acts the local hierarch is not to fail to hear the administrative council, whose members, however, have only consultative vote, unless their consent is required by common law in cases specifically expressed or in the documents creating it [the administrative council].”¹⁶⁴

While *PA* stated that the Roman Pontiff is the supreme administrator and steward of ecclesiastical goods (*PA*, c. 257), the eparchial bishop had the right and duty of vigilance over the administration of all ecclesiastical goods in his territory that had not been withdrawn from his jurisdiction.¹⁶⁵ Legitimate prescriptions granting the eparchial bishop greater rights remained in full force (*PA*, c. 261 §1). The eparchial bishop had to promulgate statutes and issue timely instructions for the regulation of the

¹⁶³ According to C.J. Ritty, careful selection of laymen would assure qualified people to assist the ecclesiastical authority in the administration of the material goods of the Church. See C.J. RITTY, “Changing Economy and the New Code of Canon Law,” in *The Jurist*, 26 (1966), p. 483.

¹⁶⁴ “Loci Hierarcha in administrativis actibus maioris momenti consilium administrationis audire ne praetermittat; huius tamen sodales suffragium habent tantum consultivum, nisi iure communi in casibus specialiter expressis vel ex tabulis foundationis eorum consensus exigatur” (*PA*, c. 263 §4), translation is done by Msgr. Kuriakose Parampath.

¹⁶⁵ Stanislaus Woywod commented on the corresponding norm of *CIC/17*, c. 1521 §2 that, if laymen participate in the administration of ecclesiastical goods, either by legitimate title of the foundation or election or by the will of the ordinary, the administration must be conducted in the name of the Church. See Commentary on c. 1521, in S. WOYWOD, *A Practical Commentary on the Code of Canon Law*, new rev. ed., vol. 2, New York, Joseph F. Wagner, 1948, p. 204.

entire matter of the administration of ecclesiastical goods within his territory (*PA*, c. 261 §2). This was to be done according to common law taking into consideration the rights of persons and legitimate customs and circumstances at that time. According to *PA*, c. 262, §§ 3 and 4, the finance officer was to administer ecclesiastical goods under the authority of the eparchial bishop:

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

§4. The finance officer must render an annual account of his administration to the eparchial bishop, and whenever else it is requested from him. The (eparchial) bishop, assisted by at least one consultor, shall examine the accounts submitted by the finance officer [...].¹⁶⁶

The issue of accountability was further addressed in the norm that required that the eparchial finance officer keep an accurate and detailed inventory of ecclesiastical goods. Before taking possession of the office, he had to check the previous inventory (*PA*, c. 267 §1, 1°). One copy of the inventory was to be kept in the archives of the administration and another in the eparchial curia (*PA*, c. 267 §1, 3°).¹⁶⁷

The eparchial finance officer was to be vigilant so that property would neither be harmed nor lost (*PA*, c. 269, 1°).¹⁶⁸ He was to observe the regulations of canon law and civil law, as well as regulations imposed by the founder or donor, or by any legitimate

¹⁶⁶ “§3. Oeonomi est, sub Episcopi potestate, bona eparchiae administrare, bonorum ecclesiasticorum administrationi in tota eparchia invigilare, eorum conservationi, tutelae et incremento providere, administratorum localium negligentiam supplere et bona quae administratore, qui iure designatus sit, carent, per se administrare. §4. Oeconomus rationem administrationis Episcopo; quotannis et quoties ab ipso petitur reddere debet. Episcopus, adscito uno saltem consultore eparchiali, rationes ab oeonomo exhibitas examinat [...]” (*PA*, c. 262, §§ 3 and 4, translation by Msgr. Kuriakose Parampath).

¹⁶⁷ Cf. *CIC/17*, c. 1522.

¹⁶⁸ Similarly, the corresponding canon in *CIC/17* stated that the administrators of the diocesan board of administration must fulfill their office with the solicitude of a good father of a family. See WOYWOD, Commentary on c. 1523, in *A Practical Commentary on the Code of Canon Law*, vol. 2, p. 205.

authority (*PA*, c. 269, 2°).¹⁶⁹ Regarding the acts of extraordinary administration, the eparchial finance officer proceeded invalidly if he did not have the consent of the eparchial bishop when the acts exceeded the limits of ordinary administration (*PA*, c. 276 §1). The Church was not responsible for any invalid acts of its administrators (*PA*, c. 276 §2). The finance officer was obliged to make restitution (*PA*, c. 277) if he caused harm of his own accord and written consent of the eparchial bishop was required before entering into litigations (*PA*, c. 275).¹⁷⁰

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

The eparchial finance officer was bound to give an annual account to the eparchial bishop (*PA*, c. 273 §1), to keep the archives in good order, and preserve all documents referring to ecclesiastical goods in a secure safe. Authentic copies were to be kept in either the archives or the safe of the eparchial curia (*PA*, c. 269, 6°).¹⁷² While the question of the influence of the particular norms of *PA* on the norms of *CCEO* concerning the office of finance officer of the Syro-Malabar Major Archiepiscopal Church will be addressed in greater detail later in the thesis, this presentation offers on

¹⁶⁹ The corresponding norm in *CIC/17* is c. 1523, 2°.

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

¹⁷¹ *CIC/17* counterpart is c. 1523, 3°.

¹⁷² The corresponding norm of *CIC/17*, c. 1523, 6° also prescribed on the protection of legal documents.

overview of the canonical figure of the eparchial finance officer before the codification of the Eastern canonical discipline and prepares the ground work for further canonical analyses in Chapter II of the dissertation.

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

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

To the curia belong therefore: the syncellus, the economus, the accountant, the vicar judicial, the chancellor, the promoter of justice, the defender of the bond, the eparchial judges and examiners, the pastor consultants, the auditors, the notaries, the bailiffs and constables.¹⁷⁵

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

¹⁷³ In AAS, 49 (1957), pp. 433-603. For the English translation and commentary, cf. POSPISHIL, *The Law on Persons*, pp. 23-229, 327-334. The English translation of the canons of CS is taken from the aforesaid commentary.

¹⁷⁴ See WOJNAR, “The Code of Oriental Canon Law,” p. 451.

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

1.5.1 – Functions of the Eparchial Finance Officer

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

The duties of the finance officer were stated in *CS*, c. 438 §3.¹⁷⁷ He was to administer temporal goods for the entire eparchy,¹⁷⁸ to make provisions for the preservation, protection and increase of temporal property, to compensate for the negligence of the local administrators, and to administer property that lacked an administrator.

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

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

¹⁷⁷ The corresponding norm in *PA* is c. 262 §§3 and 4.

¹⁷⁸ “The existence of the office of an eparchial *econome* means that the bishop is not entitled to act as immediate administrator of the diocesan property. Although everything has to be managed according to the instructions of the bishop, who has the right and duty to control, inspect and supervise the temporal administration, it is the right and duty of the eparchial *econome* to be in direct charge of the administration” (POSPISHIL, *The Law on Persons*, p. 192).

an annual account to the eparchial bishop. Also, whenever requested by the eparchial bishop, the finance officer was to give a report to be examined by the eparchial bishop with the assistance of at least one consultor. The eparchial bishop had also the right to check the cash on hand and conduct inspections of the property, documents, and securities, without prior notice (CS, c. 438 §4).

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

1.5.2 –The Finance Officer and the Eparchial Consultors

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

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

¹⁷⁹ Ibid.

¹⁸⁰ See POSPISHIL, *The Law on Persons*, p. 197; WOJNAR, "The Code of Oriental Canon Law," p. 452.

¹⁸¹ "In omnibus eparchiis, etiam in patriarchatibus constitutis, nominentur ab Episcopo, firmo can. 460, consultores eparchiales qui sint presbyteri pietate, moribus, doctrina ac prudentia commendati, quique Episcopum consilio et auxilio adiuvent in regenda eparchia" (CS, c. 458 §1, 1°).

request the consent or advice of the eparchial consultors according to the regulations of the canons.

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

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

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

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

¹⁸⁴ *CIC/17* differed substantially from *CS* with regard to the term of office of the consultors: according to c. 426, the diocesan consultors in the Latin Church were appointed for a three year term. See WOJNAR, “The Code of Oriental Canon Law,” p. 452; POSPISHIL, *The Law on Persons*, p. 199.

¹⁸⁵ According to Pospishil, “it is the intention of the legislator that the consultors be appointed in a joint act of the bishop, and that the decennia thereby be established in a fixed and predetermined

case of the expiration of the term of an eparchial consultor during the vacancy of the eparchial see, the consultor remained in office until the new eparchial bishop attended to the issue within six months after having taken possession of the eparchy.¹⁸⁶ During the vacancy of the eparchial see, in the case of death or resignation of a consultor, the administrator of the eparchy could, with the consent of the remaining consultors, appoint another consultor in his place. The newly appointed consultor needed to be confirmed by the new eparchial bishop, in order to continue in office (*CS*, c. 462 §5).¹⁸⁷

It is worthwhile that the eparchial finance officer and the eparchial consultors had special obligations with regard to the support of elderly priests in the eparchy. *CS*, c. 59 §1 stated that the eparchial bishop must establish in his eparchy a special fund for the aged priests. Each eparchial consultor had to contribute to the establishment and increase of this fund (*CS*, c. 59 §2).¹⁸⁸ In the Syro-Malabar Church, in accordance with the spirit of the above canon, each eparchy had priests' welfare associations.¹⁸⁹

manner. Interim appointments are for shorter terms, i.e., till the expiration of the current decennium" (POSPISHIL, *The Law on Persons*, p. 199).

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

¹⁸⁷ See WOJNAR, "The Code of Oriental Canon Law," p. 452.

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

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

1.5.3 – Role of the Eparchial Finance Officer during the Vacancy of the Eparchial See

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

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

¹⁹⁰ Cf. *CS*, c. 469.

¹⁹¹ *CIC/17*, c. 433 §2 permitted joining the offices of vicar capitular and finance officer in the same person. See POSPISHIL, *The Law on Persons*, pp. 204-205; WOJNAR, “The Code of Oriental Canon Law,” p. 455.

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

¹⁹³ See POSPISHIL, *The Law on Persons*, p. 207; WOJNAR, “The Code of Oriental Canon Law,” p. 457.

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

1.6 – EPARCHIAL/DIOCESAN LEGISLATION OF THE SYRO-MALABAR CHURCH ON TEMPORAL GOODS

The hierarchy of the Syro-Malabar Church was established on 21 December 1923 through the apostolic constitution *Romani Pontifices* of Pope Pius XI.¹⁹⁴ By this act, the Holy Father established Ernakulam, in Kerala, as the ecclesiastical province of the Syro-Malabar rite. In the above-mentioned apostolic constitution, the Pope underlined the motives for granting a stable hierarchy: able administration of indigenous prelates, singular devotion of the Syro-Malabar Christian faithful towards the Blessed Virgin Mary as well as a deep reverence for the clergy, bishops and the Apostolic See.¹⁹⁵ On 10 January 1959, through the apostolic constitution *Regnum caelorum*,¹⁹⁶ Pope John XXIII elevated the Eparchy of Changanacherry to the status of an archeparchy.

1.6.1 – Diocesan Statutes of Trichur (1946)

Mar George Alappatt promulgated the Diocesan¹⁹⁷ Statutes of Trichur on 8

¹⁹⁴ In AAS, 16 (1923), pp. 257-262, English translation in PALLATH, *Important Roman Documents Concerning the Catholic Church in India*, pp. 206-219.

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

¹⁹⁶ In AAS, 51 (1959), pp. 580-581, English translation in PALLATH, *Important Roman Documents Concerning the Catholic Church in India*, pp. 230-233.

¹⁹⁷ While *PA* and *CS* used the term “eparchy,” the term “diocese” was widely used in the Syro-Malabar Church, even after the promulgation of *PA* and *CS*. For that reason particular legislation enacted before the promulgation of the four *motu proprio*s for the Eastern Catholic Churches (the Statutes of Trichur were promulgated in 1946) used the expression “diocesan statutes.”

December 1946, under the title *Trichur rupatha niyamavaly*.¹⁹⁸ The sources used for the compilation of the statutes were “canons of the Church and the legislations enacted for the diocese of Trichur.”¹⁹⁹ Although these statutes did not specify the expression “canons of the Church,” a comparative study shows that *Trichur rupatha niyamavaly* followed *CIC/17* both in structure and in contents.²⁰⁰ The Statutes of Trichur also show some influence of the Statutes of Mellano and the *Book of Decrees* of Makil.²⁰¹

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

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

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

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

²⁰⁰ See NEDUNGATT, *Laity and Church Temporalities*, p. 303; THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 293.

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

²⁰² *Trichur rupatha niyamavaly*, p. 17.

yogam; in his absence the assistant vicar or any other priest who is delegated by the vicar presides over the *yogam*.”²⁰³ On the role of the president of the *yogam*, especially regarding the procedures to follow, the Statutes determined: “The vicar of the parish, as the president of the *yogam* must not permit the members of the *yogam* to decide against the decisions of the diocesan bishop and no matters may be discussed in the *yogam* that challenge the authority of the diocesan bishop.”²⁰⁴ Although the definition indicated that the *yogam* was a decision-making body, without the approval of the diocesan bishop the decisions of the *yogam* would not be considered valid.²⁰⁵

With regard to the administration of parish property, the statutes prescribed that the *kaikars* had the duty to assist the vicar of the parish.²⁰⁶ The *kaikars* were to be elected democratically by the *yogam*, but they needed to be formally approved by the diocesan bishop. Regarding the office of *kaikars*, *Trichur rupatha niyamavaly* prescribed:

Kaikars must realize that it is a great responsibility before God to cooperate with the vicar of the parish in the administration of ecclesiastical goods of the parish. If a *kaikar*, however, fails to perform his duties at any stage of his tenure, the diocesan bishop will remove him from his office and appoint another person, or the bishop will advise the parish to continue administration without a *kaikar*.²⁰⁷

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

²⁰³ Ibid., p. 18.

²⁰⁴ Ibid., pp. 18-19.

²⁰⁵ See NEDUNGATT, *Laity and Church Temporalities*, p. 303.

²⁰⁶ The same norm can be found in the Statutes of Mellano and in the *Book of Decrees* of Mar Makil.

²⁰⁷ *Trichur rupatha niyamavaly*, p. 19.

niyamavaly with canons of *CIC/17*, except for the regulations on *yogam* and *kaikars*, all other norms seem to be taken from *CIC/17*. According to Andrews Thazhath, *Trichur rupatha niyamavaly* shows that a strong Latin influence still prevailed in Malabar at that time.²⁰⁸

1.6.2 – The Archeparchial Statutes of Changanacherry

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

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

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

²⁰⁸ See THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 294.

²⁰⁹ See *Changanacherry athirupatha niyamavaly*, promulgated by Mar Mathew Kavukattu, Changanacherry, St. Joseph's Orphanage Book Stall, 1959.

determined on the responsibilities of the archeparchial finance officer. In general, it followed the Statutes of Mellano and the *Book of Decrees* of Makil, with numerous adaptations of the canons of *PA* and *CS*.²¹⁰

The new legislation (*Changanacherry athirupatha niyamavaly* 1959) acknowledged that the finance officer was one of the members of the archeparchial curia (no. 68).²¹¹ He was to undertake his duties in accordance with the norms of law, under the authority of the Archbishop (no. 69). As a member of the curia, before taking possession of his office, he was to take an oath to express his dedication to serve with sincerity and without favoritism; the oath had to be taken before the Archbishop (no. 70).

Statute no. 229 acknowledged that the power to govern the archeparchy in spiritual and temporal affairs rests with the Archbishop.²¹² On the other hand, the finance officer had the duty to administer and supervise the property of the archeparchy, and to keep records of income and expenditures. He was also responsible for the verification of the accounts of parish churches and other institutions of the eparchy (no. 73).

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

²¹⁰ See THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 291.

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

²¹² Cf. *CS*, c. 399 §1.

right to acquire temporal property to meet the needs of the Church.²¹³ The statutes stressed that by reason of his primacy of jurisdiction, the Roman Pontiff is the supreme administrator of the Church and all ecclesiastical property is under his authority and power (no. 228).

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

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

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

²¹³ See *Changanacherry athirupatha niyamavaly*, 1959, pp. 42-43.

²¹⁴ This norm corresponds to *PA*, c. 233.

²¹⁵ See *Changanacherry athirupatha palliyoga nadapadikramam*, promulgated by Mar Antony Padiyara, Changanacherry, St. Joseph Orphanage Book Stall, 1975.

vicar in collaboration with the *kaiikars*. For any kind of alienation, permission from the archeparchial curia was demanded by the Statutes. Prior permission from the archbishop was also required for an administrator of ecclesiastical goods to file a suit in the civil courts.²¹⁶ A list of articles and account books were to be kept safe and up-to-date. In order to take parish records outside the parish, the vicar was required to obtain permission from the archeparchial curia.²¹⁷

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

The Statutes of the Archeparchy of Ernakulam were called *Athirupatha niyama samhitha*²¹⁸ (Summary of the Laws and Regulations). In the *Athirupatha niyama samhitha* there was only one norm²¹⁹ referring to the archeparchial finance officer, namely, statute no. 81. It acknowledged the canonical discipline of *PA* and *CS* concerning the eparchial finance officer:

[...] The archbishop must appoint an archeparchial finance officer whose responsibility is the administration of the goods of the archeparchy. He is to oversee the administration of parishes subject to the authority of the archbishop. He must keep and update accounts and documents concerning archeparchial goods and is responsible for supervising financial transactions and keeping of their accounts. As he is responsible for all archeparchial and parish goods, it is the duty of the archeparchial finance officer to ensure that all financial and property accounts of parishes are kept with utmost care and diligence. He has the power to review those accounts at his discretion at any time. Since canon law considers these institutions to be moral persons, they are treated as “minors” and the person in charge of administration of such goods (of minors) fulfills the role of the guardian (*PA*, cc. 262, 263; *CS*, cc. 28 § 3, 438).²²⁰

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

²¹⁷ See *ibid.*, p. 19.

²¹⁸ See *Ernakulam athirupatha niyama samhitha*, rev. and promulgated by Mar Antony Padiyara, Ernakulam, Archeparchial Curia, 1989.

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

²²⁰ *Ernakulam athirupatha niyama samhitha*, pp. 112-113.

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

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

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

²²¹ “Personae morales sive collegiales sive non collegiales minoribus aequiparantur” (CS, c. 28 §3).

²²² *Ernakulam athirupatha niyamasamhitha*, p. 63.

CIC/17, and four *motu proprios* for the Eastern Catholic Churches. Out of the three eparchial statutes, no statute derived from the canonical collections of the East Syrian Church which existed in the Church of Malabar before the sixteenth century. In the East Syrian period, the ecclesiastical governance, such as the office of archdeacon and the *yogam* functioned effectively in the Malabar Church. At the time of the promulgation of the statutes of three eparchies, the Syro-Malabar Church, lacking patriarchal or major archiepiscopal or metropolitan status, had no particular laws binding the whole Church. As underlined by the Supreme Pontiff on the occasion of the promulgation of *CCEO*, for any particular norm to have the force of law, it was necessary that it be in conformity with the universal law, the tradition of the Syro-Malabar Church, and the teachings of the Second Vatican Council.²²³

CONCLUSION

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

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

²²³ JOHN PAUL II, apostolic constitution *Sacri canones*, 18 October 1990 in *AAS*, 82 (1990), pp. 1033-1044, English translation in *Code of Canons on the Eastern Churches*, p. xxiv. See also CHITILAPPILLY, "Particular Laws in Temporal Administration," p. 246.

competence.²²⁴ The system of *yogam* in the Malabar Church has some resemblance to different types of synods.

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

The Pontifical Commission for the Redaction of Eastern Canon Law, established in 1935 by Pope Pius XI completed a draft of the *Codex iuris canonici Orientalis* in 1948. Out of the draft of the Eastern Code of Canon Law, Pope Pius XII promulgated two *motu proprio*s: *PA*, on 9 February 1952, and *CS*, on 2 June 1957.²²⁵ This partial codification served the Syro-Malabar Church well in the area of regulating the temporal goods.

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

²²⁴ For a detailed description of various types of synods, see P. PALLATH, *The Synod of Bishop's of Catholic Oriental Churches*, Rome, Mar Thoma Yogam Publications, 1994, pp. 99-103.

²²⁵ The other two *motu proprio*s promulgated by PIUS XII were *Crebrae allatae*, 22 February 1949, in *AAS*, 41 (1949), pp. 89-117 and *Sollicitudinem nostram*, 6 January 1950, in *AAS*, 42 (1950), pp. 5-120.

At the beginning of this chapter, two questions were raised. First, what types of finance administrative systems prevailed among Saint Thomas Christians? The answer is: the systems that existed in the early centuries were democratic in nature and depended upon the *yogam* (assembly) of the Syro-Malabar Church. Secondly, are these systems the real sources of the finance administrative system of today? The answer must be: yes, to a certain extent.

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

CHAPTER TWO

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

INTRODUCTION

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

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

¹ JOHN PAUL II, address to the Eighth Ordinary General Assembly of the Synod of Bishops, 25 October 1990, in *AAS*, 83 (1991), no. 8, p. 490, English translation in *L'Osservatore Romano*, Eng. ed., 5 November 1990, p. 4.

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

³ *OE*, no. 5, English translation in FLANNERY 1, p. 443. Cf. *UR*, no. 16, in *AAS*, 57 (1965), pp. 90-112, English translation in FLANNERY 1, p. 466.

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

The Guidelines for the Revision of the Code of Oriental⁴ Canon Law are helpful in deepening our understanding of the canons of the Eastern Code. Among the principles for the revision, there was one on preserving the Eastern character of the legislation:

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

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

2.1 – GENERAL ORGANIZATION OF THE FINANCIAL ADMINISTRATION OF THE MAJOR ARCHIEPISCOPAL CHURCH

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

⁴ According to George Nedungatt, most European languages lack a terminological pair corresponding to “Eastern” and “Oriental.” See NEDUNGATT, *The Spirit of the Eastern Code*, Bangalore, Dharmaram Publications, 1993, p. 34.

⁵ PCCICOR, “Guidelines for the Revision of Oriental Canon Law,” p. 19.

The most ancient tradition of the Church, special honor is to be given to the patriarchs of the Eastern Churches, since each is set over his patriarchate as father and head. Therefore this holy council enacts that their rights and privileges be restored in accordance with the ancient traditions of each church and the decrees of the ecumenical councils.⁶

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

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

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

⁷ See also FARIS, *The Eastern Catholic Churches*, p. 369; POSPISHIL, *Eastern Catholic Church Law: Revised and Augmented Edition*, New York, Saint Maron Publications, 1996, p. 196.

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

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

metropolitan sees.¹⁰

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

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

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

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

¹² See J. PAYNE SMITH (ed.), *A Compendious Syriac Dictionary Founded upon the Thesaurus Syriacus of R. Payne Smith, D.D.*, Winona Lake, IN, Eisenbrauns, 1998, p. 523.

¹³ See POSPISHIL, *The Law on Persons*, p. 192. In the Syrian Church a chief delegate of the patriarch was known under the title of *maphrian*. When a division took place in the Syrian (Jacobite/monophysitic) Church, one part of it remained in the Byzantine Empire and other in the Persian Empire. The Syrian Patriarch of Antioch appointed a metropolitan in Persia as his delegate. The delegate had the right to appoint and ordain metropolitans and bishops, and to bless the holy Myron. This delegate of the Syrian Patriarch of Antioch was called *maphrian*, “i.e., *fructifier*, because he transmitted the Holy Spirit in ordination.” See FARIS, *The Eastern Catholic Churches*, p. 368. See also POSPISHIL, *The Law on Persons*, p. 159; ID., *Eastern Catholic Church Law*, p. 195. Although *maphrian* was mentioned in *CS*, c. 355 §2, *CCEO* does not refer to the titles *catholicos* and *maphrian*.

The major archbishop presides over the major archiepiscopal Church which is constituted as a community of the Christian faithful, and is united by a hierarchy according to the norms of law (cf. *CCEO*, cc. 151 and 27). Though the status of the major archiepiscopal Church is not equal to the status of the patriarchal Church, the Second Vatican Council stated that the rights enjoyed by the patriarch are also applicable to the major archbishop: “What is laid down concerning patriarchs applies also, in accordance with canon law, to major archbishops who rule the whole of some individual church or rite.”¹⁴ *CCEO*, c. 152 determines that whatever common law states concerning patriarchal churches, it applies to major archiepiscopal churches as well, with a clause: “[...] unless the common law expressly provides otherwise or it is evident from the nature of the matter.”¹⁵ Consequently, the canons concerning the office of the patriarchal finance officer are also applicable to the finance officer of the major archiepiscopal Church in accordance with *CCEO*, c. 152.

2.1.1 – Distinction between the Financial Administration of the Major

Archiepiscopal Church and the Major Archbishop’s Eparchy

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

§1. A special office shall be established in the patriarchal curia for the administration of the goods of the patriarchate, distinct from the office which is in charge of the administration of goods that belongs to the patriarch’s own eparchy, and which shall consist of a finance officer, an accountant and other necessary ministers.

§2. 1° The patriarchal finance officer is in direct charge of this administrative office and he manages the goods of the patriarchate according to the canonical norms;

2° The office of patriarchal finance officer shall be committed to a trustworthy, diligent cleric of proven virtue and an expert in the duties of temporal goods; it cannot be validly

¹⁴ *OE*, no. 10, English translation in *FLANNERY* 1, p. 445.

¹⁵ Cf. FARIS, *The Eastern Catholic Churches*, p. 370; POSPISHIL, *Eastern Catholic Church Law*, p. 196.

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

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

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

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

§4. It is the right of the synod of bishops, if the majority of its members ask it expressly, to demand the account of administration and to subject it to its [synod's] examination.¹⁶

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

¹⁶ "§1. Pro administratione bonorum patriarchalis, in curia patriarchali speciale Officium, ab illo Officio distinctum quod administrationem bonorum eparchiae Patriarchae propriae curat, constituendum est, constans oeconomus, ratiocinatore et aliis necessariis ministris. §2. 1° Oeconomus patriarchalis Officio administrationis immediate praeest et bona patriarchalis ad normam canonum administrat; 2° oeconomus patriarchalis munus clerico fideli, diligenti, probatae vitae atque in administrandis bonis temporalibus experto committatur; iis autem qui cum Patriarcha consanguinitate vel affinitate usque ad quartum gradum inclusive coniuncti sint valide conferri non potest; 3° idem de consensu Synodi permanentis nominatur et amovetur a Patriarcha, a quo pendet in munere exercendo; 4° munus oeconomus patriarchalis cumulari potest, de consensu Synodi permanentis, cum munere oeconomus eparchiae Patriarchae propriae. §3. Oeconomus patriarchalis rationem administrationis Synodo permanenti quotannis et quoties ab ipso petitur in scriptis reddere debet; Synodus autem per duos saltem Episcopos eiusdem Synodi sodales, rationes ab oeconomus exhibitas examinat, arcam recognoscit, convenientes inspectiones bonorum, documentorum, nominum, inopinato etiam, exsequitur seu exsequendas iubet, et diligenter conservationi, tutelae, incremento patrimonii patriarchalis providet. §4. Integrum est Synodo Episcoporum, si maior pars sodalium id expresse petiverit, rationem administrationis exquirere et proprio examine subiicere" (PCCICOR, "De Ecclesiis patriarchalibus," in *Nuntia*, 22 [1986], pp. 88-89, English translation of the first three paragraphs in POSPISHIL, *The Law on Persons*, p. 149. Paragraph 4 was a new addition as compared to *CS*, c. 299. We are grateful to Msgr. Kuriakose Parampath for his valuable assistance in translating the texts from *Nuntia* for the purposes of this thesis; unless indicated otherwise, all the translations from *Nuntia* are provided by Msgr. Kuriakose Parampath).

of the result to the permanent synod”;¹⁷ (2) “the patriarch is to subject to his scrutiny the administration of the temporal goods of the eparchies, with the help of the patriarchal finance officer and his office according to the norms of the particular law.”¹⁸ Both proposals were eventually rejected by the study group of the PCCICOR. The reason for the rejection was that draft c. 93 referred exclusively to the administration of “the goods of the patriarchal Church,” that is, those goods over which the major archbishop (patriarch) has direct authority.

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

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

¹⁸ “Patriarcha administrationem bonorum eparchiarum scrutinio suo, adiuvante oeconomio patriarchali eiusque officio, secundum normas iuris particularis subiciat” (PCCICOR, “De bonis Ecclesiae temporalibus,” in *Nuntia*, 22 [1986], p. 48).

¹⁹ PCCICOR, “De Ecclesiis patriarchalibus,” in *Nuntia*, 22 [1986], p. 90.

²⁰ See PCCICOR, “De eparchis et episcopis,” in *Nuntia*, 23 (1986), p. 5.

The bishops, as vicars and legates of Christ govern by their councils, persuasion and example the particular churches assigned to them, and also by the authority and sacred power which they exercise exclusively for the spiritual development of their flock in truth and holiness, keeping in mind that the greater must become like the lesser, and the leader as the servant (see Lk 22:26-27). This power, which they exercise personally in the name of Christ, is proper, ordinary and immediate, although its exercise is ultimately controlled by the supreme authority of the Church and can be confined within certain limits should the usefulness of the Church and the faithful require that [...].²¹

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

Canon 122 §1 of the 1986 Schema read:

For the administration of the goods of the patriarchal Church, the patriarch, with the consent of the permanent synod, is to appoint a patriarchal finance officer, distinct from the finance officer of the eparchy which the patriarch governs. He [finance officer] should be one of the Christian faithful who is expert in economical matters and outstanding for honesty. Anyone who is related to the fourth degree of consanguinity or affinity inclusively is excluded from being validly appointed.²²

Compared with the 1985 Schema, this formulation was more in line with the principle of keeping separate the juridic entities of the major archiepiscopate (patriarchate) and the eparchy. In 1988, draft c. 122 §1 introduced only a slight change: the word *patriarcha* was changed to *patriarchae*.²³ In the 1990 Schema, draft c. 122 reaffirmed the stipulations of

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

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

²³ See PCCICOR, “Emendamenti redazionali allo schema Codex iuris canonici Orientalis del 1986,” in *Nuntia*, 27 (1988), p. 39.

the previous drafts.

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

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

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

²⁴ See J.D. FARIS, “The Patriarchal Churches,” in G. NEDUNGATT (ed.), *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, Kanonika 10, Rome, Pontifical Oriental Institute, 2002, p. 177. Victor J. Pospishil gives two reasons for the priority status of the liturgical commission: the importance of the worship of God in Eastern Christianity and the need for recovery by each Church of its own ritual patrimony, and for adaptation of the liturgy to the exigencies of time. See POSPISHIL, *Eastern Catholic Church Law*, p. 175.

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

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

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

Collegiality is enshrined in the traditions of the Eastern Churches and is in compliance with the teachings of the Second Vatican Council: “The patriarchs with their synods are the higher (*superior*) authority for all business of the patriarchate, not excepting the right of setting up new eparchies (dioceses) and appointing bishops of their rite within the patriarchal territory, without prejudice to the inalienable right of the Roman Pontiff to intervene in any particular case.”²⁵

²⁵ *OE*, no. 9, English translation in FLANNERY 1, p. 445; Flannery incorrectly translates “superior instantia” as “highest authority.” During the conciliar discussions the following areas were recommended by the conciliar fathers as especially important for the application of the principle of subsidiarity: 1) the bishops and governance of the eparchies; 2) the reform of the membership and of the praxis of the Roman Curia; and 3) juridic powers of the episcopal conferences. See *Acta synodalia Sacrosancti Concilii Oecumenici Vaticani II: cura et studio archive Concilii Oecumenici Vaticani II*, vol. 2, Typis polyglottis Vaticanis, 1970, p. 454. See also PALLATH, *The Synod of Bishops of Catholic Oriental Churches*, p. 76. The principle of subsidiarity greatly influenced the formulation of the canons of *CCEO* in all its sections, particularly with regard to particular law.

Within the territorial boundaries of a major archiepiscopal Church *sui iuris*, the synod of bishops²⁶ is competent to enact laws for the Church (*CCEO*, c. 110 §1).²⁷ It exercises its judicial power either acting directly as the superior tribunal in the Church *sui iuris* or as a synodal tribunal of three bishops (*CCEO*, cc. 110 §2, 1062). In accordance with *CCEO*, c. 110 §4 the synod of bishops is not competent to perform administrative actions unless common law allows for that, or the major archbishop determines so for certain actions. On the other hand, in administrative matters which affect the entire major archiepiscopal Church or are of special importance, the major archbishop is obliged to consult the permanent synod, or the synod of bishops, or the major archiepiscopal assembly (cf. *CCEO*, c. 82 §3).²⁸

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

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

²⁶ Other collegial bodies are: permanent synod (*CCEO*, cc. 115-121) council of hierarchs of autonomous metropolitan Churches (*CCEO*, cc. 164-169), patriarchal assembly (*CCEO*, cc. 140-145), metropolitan or eparchial assembly (*CCEO*, c. 238), assembly of several autonomous Churches (*CCEO*, c. 322), presbyteral council of the eparchy (*CCEO*, cc. 264-270), eparchial college of consultors (*CCEO*, c. 271), eparchial finance council (*CCEO*, c. 263), and the pastoral council (*CCEO*, cc. 272-275). See POSPISHIL, *Eastern Catholic Church Law*, pp. 167-168; FARIS, *The Eastern Catholic Churches*, pp. 279-281. Evidence of collegiality is found in the early canons of ecumenical councils, especially the early conciliar sources of *CCEO*, c. 122. See COUNCIL OF CHALCEDON, c. 26, in *DEC*, p. 99 and SECOND COUNCIL OF NICAIA, c. 11, in *DEC*, p. 147; D. SALACHAS, *Il diritto canonico delle Chiese orientali nel primo millennio confronti con il diritto canonico attuale delle Chiese orientali cattoliche: CCEO*, Rome, Dehoniane, 1997, pp. 424-425.

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

²⁸ See FARIS, “The Patriarchal Churches,” pp. 164-165.

2.2.1.1 – 1975 and 1977 Schemata

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

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

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

²⁹ See PCCICOR, “Instituzione e composizione della commissione,” in *Nuntia*, 1 (1975), pp. 6-7. See also P. ALAPPATT, *The Election of the Patriarch in the Eastern Catholic Canonical Tradition (A Historical-Juridical Study)*, JCD diss. [excerpts from thesis], Rome, Pontifical Oriental Institute, 1997, p. 15.

³⁰ See PCCICOR, “Allocutio SS. Patris Pauli VI, Papae Romae ad sodales commissionis,” in *Nuntia*, 1 (1975), pp. 6-7.

³¹ See PCCICOR, “Ecclesia universalis, particularis, singularis,” in *Nuntia*, 2 (1976), p. 80.

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

³³ “Secundum antiquissimum Ecclesiae morem, singulari honore prosequendi sunt Orientis Patriarchae, quippe qui amplissima potestate, a Romano Pontifice data seu agnita, suo cuique patriarchatui seu ritui tamquam pater et caput praesunt” (*CS*, c. 216 §1).

patriarch, who is always its president, [the synod of bishops] is the holder of the great part of superior authority that governs the patriarchal Churches.”³⁴ Ivan Žužek, the secretary of the PCCICOR, explained the reasons for that proposal:

[...] the synods of the patriarchate are considered in this *motu proprio* [CS] as synods of the patriarch “and not of the patriarchal Church.” Even the Second Vatican Council expresses it in this manner, as for example, *Orientalium Ecclesiarum*, number 9, which starts with the words, “patriarchs with their synods.” When we consider the matter well, this does not correspond to the “sacred canons” of the first millennium, which without any shadow of doubt, considered the synods of bishops of an autonomous Church superior also to the patriarchs, in such a way that, if necessary, they could proceed to their deposition.³⁵

It became necessary to clarify the distinction between various synodal bodies. During the revision of the synodal structure it was decided: “There should be only one synod in the patriarchates, the synod of bishops, presently called *synodus electionum*, and *synodus patriarchalis* (CS, cc. 340-342) should be eliminated.”³⁶ The proposal from the study group to include the expression “perfecta synodus” or “sancta synodus” was rejected. The final decision of the study group was to accept the name “synodus episcoporum Ecclesiae patriarchalis”³⁷ in order to show the interdependence of the synod of bishops and the patriarch.

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

³⁴ I. ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” in C. GALLAGHER, (ed.), *The Code of Canons of the Oriental Churches: An Introduction*, Rome, Mar Thoma Yogam Publications, 1991, pp. 45-46. For more details about the synod of bishops of the patriarchal Church, see J. CHIRAMEL, “Hierarchical Structuring in the Oriental Legislation,” in J. CHIRAMEL and K. BHARANIKULANGARA (eds.), *The Code of Canons of the Eastern Churches: A Study and Interpretation*, Alwaye, St. Thomas Academy for Research, 1992, pp. 98-100.

³⁵ ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 44.

³⁶ “Qu’il y ait dans les patriarchats un seul Synode, celui des évêques et qui est appelé actuellement ‘Synodus electionum,’ et que soit éliminé celui qu’on appelle ‘Synodus patriarchalis’ (CS, cc. 340-342)” (PCCICOR, “De patriarchis et archiepiscopis maioribus,” in *Nuntia*, 2 [1976], p. 50, English translation in PALLATH, *The Synod of Bishops of Catholic Oriental Churches*, p. 128).

³⁷ PCCICOR, “Canones de synodo Ecclesiae patriarchalis et de conventu patriarchali,” in *Nuntia*, 7 (1978), p. 24.

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

2.2.1.2 – 1984 Schema

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

2.2.1.3 – 1985 Schema

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

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

³⁹ See POSPISHIL, *The Law on Persons*, p. 146.

⁴⁰ See PCCICOR, “De curia patriarchali,” in *Nuntia*, 22 (1986), p. 89.

The patriarchal finance officer is appointed for the term determined by particular law. During this period he or she cannot be removed by the patriarch without the consent of the synod of bishops of the patriarchal Church or, if there is danger in delay, of the permanent synod.⁴¹

In the discussion, the study group was of the opinion that the wording of the 1984 Schema⁴² “report of the administration” was too general and should be changed. The last draft of the 1985 Schema included the formulation, “the report of the administration of the past year, as well as the budget of income and expense of the coming year.”⁴³ The draft of the canon at the end of the discussion was: “It belongs to the synod of bishops, if the majority of its members expressly ask for it, to demand from the patriarchal finance officer the administration report and the budget of income and expenditures, and to subject it to examination.”⁴⁴

2.2.1.4 – 1986 Schema

The discussion of the patriarchal (major archiepiscopal) curia also addressed the office of the finance officer. The draft of the canon on the finance officer was similar to the one of the 1985 Schema; however, the canon number was changed in the drafting process: instead of c. 93, the new draft had c. 122. In §4, the new text offered more clarity: “It belongs to the synod of bishops to require a report on the administration as well as the

⁴¹ “§2. Oeconomus patriarchalis nominatur ad tempus iure particulari determinatum; munere durante a Patriarcha amoveri non potest nisi de consensus Synodi Episcoporum aut, si periculum in mora est, Synodi permanentis” (ibid., p. 91).

⁴² See PCCICOR, “De curia patriarchali,” in *Nuntia*, 19 (1984), p. 39.

⁴³ “[...] rationem administrationis exeuntis annis necnon provisiones accepti et expensi anni incipientis” (PCCICOR, “De curia patriarchali,” in *Nuntia*, 22 [1986], p. 89).

⁴⁴ “Integrum est Synodo Episcoporum, si maior pars membrorum id expresse postulat, rationem administrationis necnon praevisionem accepti et expensi ab oeconomu patriarchali exquirere et examini subicere” (ibid., p. 91).

budget of income and expense from the patriarchal finance officer and subject it to its proper examination.”⁴⁵

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

CCEO, c. 110 refers to the authority of the synod of bishops. Concerning the legislative power, the synod of bishops is exclusively competent to make laws for the Church *sui iuris* but in accordance with *CCEO*, c. 111 §1, the laws are promulgated by the major archbishop in the manner and at the time determined by the synod of bishops. With regard to judicial power, the synod of bishops is the tribunal of the Church *sui iuris* according to *CCEO*, c. 1062. Concerning the exercise of executive power, the synod of bishops conducts the election of the major archbishop and bishops. On the other hand, the synod of bishops is not competent for administrative actions; nevertheless, the major archbishop can grant to the synod of bishops a faculty for certain acts. Also, common law reserves certain actions to the synod of bishops.⁴⁶

The *CCEO* requires that the major archbishop is to obtain counsel or consent of the synod of bishops when performing certain juridical acts.⁴⁷ In order to obtain the lawful consent from the synod of bishops, the consent of the absolute majority of those present is

⁴⁵ “Integrum est Synodo Episcoporum rationem administrationis necnon praevisionem accepti et expensi ab oeconomio patriarchali exquirere et proprio examini subicere” (PCCICOR, “De curia patriarchali,” *Nuntia*, 24-25 [1987], p. 21).

⁴⁶ John D. Faris provides examples of the exercise of administrative authority of the synod of bishops: 1) resolution of controversies regarding the transfer of bishops (*CCEO*, c. 85 §2, 2°); 2) requesting and examining the report of the financial administration and the budget (*CCEO*, c. 122 §4); 3) determining the matters to be discussed in the patriarchal assembly (*CCEO*, c. 144 §1); 4) providing for the support of bishops emeriti (*CCEO*, c. 211 §2), and 5) caring for the unity and integrity of the faith and morals (*CCEO*, cc. 605, 652 §2). See FARIS, *The Eastern Catholic Churches*, p. 295.

⁴⁷ See POSPISHIL, *Eastern Catholic Church Law*, pp. 169-170; FARIS, *The Eastern Catholic Churches*, pp. 293-297; PALLATH, *The Synod of Bishops of Catholic Oriental Churches*, pp. 143-181. The “consent” of the synod rather than “counsel” is required by the *CCEO* because “to convoke such a synod just to give counsel does not seem opportune” (ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 53).

generally required.⁴⁸ Since the major archbishop is obliged to obtain the consent of the synod of bishops for certain acts, if he acts without obtaining the required consent, then the juridic act of the major archbishop is invalid (*CCEO*, c. 934 §2, 2°).⁴⁹ The convocation of the synod of bishops, made in accordance with the norm of law,⁵⁰ must be followed by a meeting of the members. For the quorum of the sessions of the synod of bishops, the required majority that is stipulated either in common law or particular law is essential (*CCEO*, 107 §1).

2.2.2.1 – Legislating the Monetary Amount for Alienation

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

2.2.2.2 – Indemnification According to *CCEO* c. 1033

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

⁴⁸ Absolute majority is more than half of the votes. See L. NAVARRO, “Persons and Juridical Acts,” in NEDUNGATT (ed.), *A Guide to the Eastern Code*, p. 632.

⁴⁹ Cf. *CS*, c. 32 §1 and §1, 2°. The corresponding norm of the *CIC/83* is found in c. 127.

⁵⁰ For the procedure for the legitimate convocation, see *CCEO*, c. 948.

⁵¹ See *PA*, c. 66 §2, 2°, in *AAS*, 44 (1952), p. 84. *PA*, c. 281 §1, 3° provided the norms for alienation in an eparchy: after having heard the administrative council and having obtained the consent of the eparchial councilors, the hierarch was entitled to grant the permission for the alienation of property when its value exceeded 50,000 francs.

canon deals specifically with the resignation of the finance officer without giving proper notice to the higher authority. Indeed, if the finance officer abandoned his office in an arbitrary manner, the ecclesiastical superior might not have sufficient time to take measures to safeguard the ecclesiastical property.⁵²

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

2.2.2.3 – Role of the Synod of Bishops with Regard to the Expenses of the Curia

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

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

⁵² See R. METZ, “The Temporal Goods of the Church,” in NEDUNGATT (ed.), *A Guide to the Eastern Code*, p. 703.

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

⁵⁴ See PCCICOR, “De curia patriarchali,” in *Nuntia*, 19 (1984), p. 40.

canon.⁵⁵ The 1986 draft provided more clarification regarding the contribution of individual eparchies: “The expenses of the patriarchal curia are paid from the goods that the patriarch can use for this purpose; if these are not sufficient, the individual eparchies shall share in paying the expenses according to the formula defined by the synod of bishops.”⁵⁶

Canon 125 of the 1988 Schema included the words “that the patriarch can use for this purpose” (*quibus patriarcha ad hunc finem uti potest*) presumably for the purpose of showing that the authority of the patriarch (major archbishop) was exercised apart from the synod of bishops.⁵⁷ In fact, during the revision process of the section on the hierarchical constitution of the Eastern Catholic Churches, the study group of PCCICOR made some observations on the power of the patriarch (major archbishop): “The patriarchs and they alone, without their synods, have wider powers than they had before the separation between the Orthodox Church and the Catholic Church; even wider powers than that of Orthodox patriarchs today.”⁵⁸

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

⁵⁵ See, PCCICOR, “De curia patriarchali,” in *Nuntia*, 22 (1986), p. 92.

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

⁵⁷ See PCCICOR, “De curia patriarchali,” in *Nuntia*, 27 (1988), p. 39.

⁵⁸ “[...] les Patriarches à eux seuls, sans leurs Synodes, ont des pouvoirs plus larges que ce qu’ils avaient avant la séparation de l’Église orthodoxe et de l’Église catholique, plus larges encore que les pouvoirs de Patriarches Orthodoxes actuels” (PCCICOR, “La nuova revisione dello schema canonum de constitutione hierarchica ecclesiarum orientalium,” in *Nuntia*, 22 [1987], p. 5, English translation in ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 50). Ivan Žužek holds the same opinion as that of the study group of the PCCICOR that the Catholic patriarchs enjoyed more administrative power throughout the history than what the Orthodox patriarchs are enjoying to this date. See *ibid.*

of each eparchy to contribute.⁵⁹ That corresponds to the obligation of the Christian faithful to provide for the needs of the Church (*CCEO*, c. 25), as the Second Vatican Council reminded them:

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

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

⁵⁹ See FARIS, “The Patriarchal Churches,” p. 183.

⁶⁰ AA, no. 10, in AAS, 58 (1966), pp. 837-864, English translation in FLANNERY 1, p. 778.

2.2.2.4 – Examining the Report of the Administration, Budget, Income and Expenditure Account and Examination of the Accounts

The synod of bishops is authorized to request from the finance officer a report of the Church's finance administration (*CCEO*, c. 122 §4).⁶¹ The report is submitted for the examination of the synod of bishops. As mentioned earlier, according to *CCEO*, c. 110 §4, generally the synod of bishops has no competency for issuing administrative acts.⁶² However, the major archbishop can entrust to the synod of bishops the faculty to act in a determined administrative matter. Common law can also reserve certain administrative acts to the synod of bishops. In this context, requesting and examining the report of the financial administration and the budget of the patriarchal Church is an example of the synod of bishops acting in an administrative capacity (*CCEO*, c. 122 §4).⁶³

2.3 – THE ROLE OF THE PERMANENT SYNOD IN THE FINANCIAL ADMINISTRATION OF THE MAJOR ARCHIEPISCOPAL CHURCH

The permanent synod is a representative body of the synod of bishops of a major archiepiscopal (patriarchal) Church. The permanent synod acts as a council for the major archbishop. In *CCEO*, there are several canons referring to acts of the authority which require consent or consultation of the permanent synod.⁶⁴ Therefore, the members of the permanent synod are the immediate collaborators of the major archbishop. The permanent

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

⁶² See PCCICOR, “Work in the Revision of the Code of Oriental Canon Law,” in *Nuntia*, 6 (1978), pp. 21-33. See also ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 51.

⁶³ See FARIS, *The Eastern Catholic Churches*, p. 295; PALLATH, *The Synod of Bishops of Catholic Oriental Churches*, p. 185.

⁶⁴ See ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 53.

synod also functions as an executive committee in the major archiepiscopal Church.⁶⁵

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

Historically, in order to settle certain issues like ordinances for the patriarchate or dispositions of the recourses from the lower level of the patriarchate, patriarchs were required to obtain counsel of the synod of bishops. While convening the entire synod of bishops was not always practical, patriarchs “made use of the permanent or temporary presence of bishops in their city.”⁶⁶ CS, cc. 288-295 provided the norms regarding the institute of the permanent synod that existed in the Eastern Catholic Churches prior to CCEO.⁶⁷

CS, c. 288 set the norm on the institution of the permanent synod: “The patriarchs must have a synod permanently established, which is to aid them in transacting matters of importance and in deciding of questions which concern the patriarchate.”⁶⁸ Regarding the composition of the permanent synod, CS, c. 289 §1 stipulated that it consists of the patriarch (who is its president) and four bishops appointed for five years.⁶⁹ Out of the four bishops, the synod of bishops elected only one bishop to the permanent synod. The

⁶⁵ See D. SALACHAS, “De ecclesiis patriarchalibus,” in *Commento al Codice dei canoni delle Chiese orientali*, P.V. PINTO (ed.), with consultation of D. SALACHAS, Libreria editrice Vaticana, 2001, pp. 119-120.

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

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

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

⁶⁹ “Synodus permanens constat Patriarcha praeside et quatuor Episcopis ad quinquennium nominates” (CS, c. 289 §1).

patriarch had to appoint another and the two others were residential bishops designated for five years in order of seniority in episcopal ordination.⁷⁰ Substitutes were allowed when a member of the permanent synod was impeded (CS, c. 289 §3, 2°).

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

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

⁷⁰ See CS, c. 289. See also ŽUŽEK, "The Patriarchal Structure According to the Oriental Code," p. 52.

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

⁷² In accordance with CS, the permanent synod had no authority over the major archbishop's own eparchy. The permanent synod's competency was thus limited within the major archiepiscopate (patriarchate). See POSPISHIL, *Eastern Catholic Church Law*, p. 146.

appropriate delegates. With these controlling functions, the permanent synod contributed to the preservation, protection and increase of the patrimony of the Church.⁷³

2.3.1.1 – 1984 Schema

According to the draft c. 93 of the 1984 Schema, equivalent to *CS*, c. 299, the permanent synod was to give the consent for the appointment and the removal of the patriarchal finance officer: in §2, 3^o, it stated that the finance officer “is appointed or removed with the consent of the permanent synod by the patriarch [major archbishop], on whom he depends in the exercise of his function.”⁷⁴ As we have noted earlier, there was a discussion regarding joining of the office of the finance officer of the eparchy of the major archbishop with the office of the finance officer of the major archiepiscopate (patriarchate). Number 4 of the same section allowed that,⁷⁵ but in order to do so, the major archbishop was to solicit the consent from the permanent synod.

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

⁷³ See *ibid.*

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

⁷⁵ See *ibid.* The canon draft reads: “munus oeconomii patriarchalis cumulari potest, de consensu Synodi permanentis, cum munere oeconomii eparchiae Patriarchae propriae.”

conservation, protection and growth of the patriarchal patrimony.⁷⁶

2.3.1.2 – 1985 Schema

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

In the process of discussion, the study group made a substantial change concerning the removal of the finance officer: for the removal of the patriarchal (major archiepiscopal) finance officer, the patriarch (major archbishop) was obliged to obtain the consent of the synod of bishops, while in *CS*, c. 299 §2, 3° the patriarch was required to act in agreement with the permanent synod. On this matter, the study group adopted the identical provision of the Schema *De processibus* regarding removal of the judges.⁷⁸ The final draft of c. 93 read:

- 1) For the administration of the goods of the patriarchal Church, the patriarch with the consent of the permanent synod appoints a patriarchal finance officer [...].
- 2) [...] During his term in office he or she cannot be removed by the patriarch without the consent of the synod of bishops of the patriarchal Church or if there is danger in delay, of the permanent synod.
- 3) The patriarchal finance officer must submit annually to the permanent synod a written report of the past year of administration as well as the budget of revenue and expenditure for the coming year; the finance officer is to submit an administration report whenever it is requested by the permanent synod.⁷⁹

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

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

⁷⁸ See PCCICOR, “De modo procedendi pro tutela iurium seu de processibus,” in *Nuntia*, 14 (1982), p. 21.

⁷⁹ §1. “Pro administratione bonorum Ecclesiae patriarchalis Patriarcha, de consensu Synodi permanentis, nominet oeconomum patriarchalem, [...]. §2. [...] munere durante a Patriarcha amoveri non potest nisi de consensu Synodi Episcoporum aut, si periculum in mora est, Synodi permanentis. §3. Oeconomus patriarchalis rationem administrationis exeuntis anni necnon praevisiones accepti et expensi anni incipientis Synodo permanenti quotannis scripto reddere debet; ratio administrationis reddenda est

In the new formulation of a proposed norm on the patriarchal finance officer, the study group sought to safeguard justice (canonical equity) on the one hand, and, on the other hand, positive requirements of canon law as indicated first in c. 60 of the Schema and eventually in *CS*, c. 134 (just cause, appropriate procedure) with regard to the removal of a person from office.⁸⁰

2.3.2 – The Permanent Synod with Regard to the Financial Administration

Throughout history, permanent synods were constituted by patriarchs in order to seek advice for the enactment of ordinances.⁸¹ The members of the permanent synod resided usually, as a matter of fact, near the patriarchal city. The reason behind the institution of the permanent synod was that the summoning of the synod of bishops was not always feasible (due, for instance, to great geographical distances, political instability of the region, or persecution of the Church).⁸² *CCEO* provides for the provision of the permanent synod because it is not always practical to convene all the bishops to consult on important matters.

According to *CCEO*, c. 115 §1, the permanent synod consists of the major archbishop and four bishops. Among these bishops, one is to be appointed by the major archbishop and the other three are to be elected by the synod of bishops; this provision

etiam quotes a Synodo permanenti id petitur” (PCCICOR, “De curia patriarchali,” in *Nuntia*, 22 [1986], p. 91). This 1985 draft of c. 93 was similar to the 1986 draft of c. 122. See PCCICOR, “De curia patriarchali,” in *Nuntia*, 24-25 (1987), p. 21.

⁸⁰ See PCCICOR, “De amissione officii ecclesiastici,” in *Nuntia*, 18 (1984), p. 40.

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

⁸² See COUSSA, *Epitome praelectionum de iure ecclesiastico orientali*, vol. 1, pp. 281-282. See also POSPISHIL, *The Law on Persons*, pp. 145-146; FARIS, *The Eastern Catholic Churches*, p. 307.

signifies that the *CCEO*, unlike *CS*, gives the priority to the synod of bishops in the selection of members of the permanent synod.⁸³ Of the three elected members, two must be eparchial bishops. The members of the permanent synod have a five-year term so they enjoy certain stability. In this context, it is fair to say that it is a permanent structure of the representative body of the synod of bishops in the major archiepiscopal curia.⁸⁴ *CCEO*, c. 115 §3 stipulates that, according to the order determined by the synod of bishops, substitution can be made for impeded members of the permanent synod. The substitutes of the members of the permanent synod are to be appointed when they are prevented from attending meetings.

Regarding competency, the permanent synod and the synod of bishops differ substantially. The permanent synod acts as an “executive committee”⁸⁵ or “board of directors”⁸⁶ in a major archiepiscopal Church in the context of the exercise of executive power of governance of the major archbishop. Thus, a certain balance is achieved: although the major archbishop (patriarch) cannot make decisions against the majority of the members, the permanent synod also cannot accomplish anything without the major archbishop (patriarch).⁸⁷ While the synod of bishops enjoys legislative power (*CCEO*, c. 110 §1), the permanent synod does not have such power.

⁸³ For a detailed discussion of cc. 85-97 of the 1984 Schema in view of *CS*, cc. 286-305, see PCCICOR, “De ecclesiis patriarchalibus,” in *Nuntia*, 19 (1984), pp. 10-11. See also ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 52.

⁸⁴ See ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 52.

⁸⁵ FARIS, “The Patriarchal Churches,” p. 177. According to George Nedungatt, the permanent synod acts as a minor synod in the curia. See NEDUNGATT, *The Spirit of the Eastern Code*, p. 94.

⁸⁶ FARIS, *The Eastern Catholic Churches*, p. 307.

⁸⁷ See PALLATH, *The Synod of Bishops of Catholic Oriental Churches*, p. 76.

For the validity of certain acts,⁸⁸ the major archbishop either is to obtain consent from or is to consult with the permanent synod.⁸⁹ The appointment of the finance officer of the major archiepiscopal Church is one of the administrative acts of the major archbishop for which he needs the consent of the permanent synod (*CCEO*, c. 122 §1).

Although the finance officer exercises his office under the authority of the major archbishop, he is also accountable to the permanent synod. As was seen earlier in the discussion of the 1984 Schema, c. 93 §3, stipulated that the finance officer was obliged to submit annually a written report of the administration to the permanent synod,⁹⁰ and this same provision is found in *CCEO*, c. 122 §3. This obligation can be considered the minimum administrative duty on the part of the finance officer. The next clause of the same paragraph of the canon expresses the norm that the finance officer is bound to render the administration report whenever requested by the permanent synod. As *CCEO*, c. 122 §4, stipulates that the synod of bishops also has the right to demand from the finance officer a report of administration and a budget of income and expenditure, one can conclude that both the synod of bishops and permanent synod are competent to inspect the budget.

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

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

⁹⁰ See PCCICOR, “De curia patriarchali,” in *Nuntia*, 19 (1984), p. 39. See also PCCICOR, “De curia patriarchali,” in *Nuntia*, 22 (1986), p. 91.

CCEO is not assigning to the synod of bishops and permanent synod the competence to approve or disapprove the budget. According to V.J. Pospishil, the major archbishop (patriarch) is to approve the budget.⁹¹ For J.D. Faris, a particular law of the Church *sui iuris* can establish its norms concerning the details on the responsibilities of the office of the finance officer and its relationship towards other synodal structures (the synod of bishops and the permanent synod).⁹² Since *CCEO* does not mention the approval of the budget, the particular law can provide a suitable norm in this regard.

The 1985 draft c. 93 §3 was very similar to *CCEO*, c. 122 §3, especially with regard to the submission of the “budget of revenue and expenditures of the coming year” by the finance officer.⁹³ The budget which is to be submitted before the permanent synod must contain projected income and expenditures of the coming financial year.⁹⁴ As this may prove to be a complex task, the major archbishop, according to the particular law or with the consent of the permanent synod, can invite experts to provide their opinions to the synod of bishops (*CCEO*, c. 102 §3). The synod of bishops is also competent to make norms on the admittance of the experts and non-bishops. However, these participants will not have any voting capacity in the synod of bishops.⁹⁵

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

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

⁹¹ See POSPISHIL, *Eastern Catholic Church Law*, p. 175.

⁹² See FARIS, *The Eastern Catholic Churches*, p. 318.

⁹³ See PCCICOR, “De Ecclesiis patriarchalibus,” in *Nuntia*, 22 (1986), p. 91.

⁹⁴ See POSPISHIL, *Eastern Catholic Church Law*, p. 175.

⁹⁵ See FARIS, “The Patriarchal Churches,” p. 173.

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

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

The office of the eparchial finance officer has a very ancient tradition in the Church,⁹⁶ while in major archiepiscopal Churches the office is of recent origin. It is, therefore, necessary to consider first the development of the legislation pertaining to the finance officer of the major archiepiscopal Church.

2.4.1.1 – Distinction between the Eparchial and the Major Archiepiscopal Curia

The 1984 draft of *CCEO*, c. 122 stated: “The office of the patriarchal finance officer can be combined with the office of the finance officer of the eparchy of the patriarch himself, with the consent of the permanent Synod.”⁹⁷ However, this proposal was not accepted in the later discussions.

In accordance with *CCEO*, c. 921 §2, a major archiepiscopal (patriarchal) Church is to be considered as a separate legal entity, different from the eparchy of the major archbishop. By the law itself, both entities are endowed with juridic personality.⁹⁸ Both (major archiepiscopal Church and eparchial Church) should, therefore, have a curia of their own (c. 114 §3) and a separate financial administrative system in order to maintain

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

⁹⁷ “Munus oeconomii patriarchalis cumulari potest, de consensu Synodi permanentis, cum munere oeconomii eparchiae Patriarche propriae” (PCCICOR, “De curia patriarchali,” in *Nuntia*, 19 [1984], p. 39).

⁹⁸ See NAVARRO, “Persons and Juridical Acts,” p. 629.

the transparency of the financial administration.

CCEO, c. 942 determines that no person is to hold two or more offices which cannot be suitably fulfilled at the same time.⁹⁹ In accordance with *CCEO* c. 122 §1, for the administration of the goods of the major archiepiscopal Church, the major archbishop is required to appoint a finance officer, distinct however from the finance officer of the eparchy of the major archbishop. While the canon does not speak about the invalidity of the act of appointment when this norm is not followed, nevertheless the major archbishop who designates the holder of an office is to use every precaution so as to avoid instances that could negatively affect the legitimacy of the appointment.¹⁰⁰ According to J.D. Faris:

[T]he fiscal officer of the patriarchal curia should not be appointed as fiscal officer of the eparchy of the patriarch. While the law admits exception in the case of necessity, precaution should be taken even if there is no appearance of a conflict of interest or collusion in the exercise of the two offices by the same person.¹⁰¹

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

2.4.1.2 – Required Qualities of the Finance Officer

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

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

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

¹⁰¹ FARIS, *The Eastern Catholic Churches*, p. 306.

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

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

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

¹⁰² See J. ABBASS, “Ecclesiastical Offices,” in NEDUNGATT (ed.), *A Guide to the Eastern Code*, p. 639. *CCEO*, c. 940 §1 is very similar to *CIC/83*, c. 149 §1.

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

¹⁰⁴ “[...] iis autem qui cum Patriarcha consanguinitate vel affinitate usque ad quartum gradum inclusive coniuncti sint valide conferri non potest” (PCCICOR, “De curia patriarchali,” in *Nuntia*, 19 [1984], p. 39).

the draft of c. 75 §2, 1^o referred to the qualities to be possessed by the patriarchal finance officer as stipulated in *CS*, c. 299 §2, 2^o.¹⁰⁵

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

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

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

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

¹⁰⁸ *UR*, no. 15, English translation in FLANNERY 1, p. 465. See also D. SALACHAS, “*Receiving Other Christians in the Church*,” p. 600.

There is no doubt about the validity of baptism as conferred in the various Eastern Churches. It is enough to establish the fact of the baptism. In these Churches the sacrament of confirmation (chrismation) is properly administered by the priest at the same time as baptism. There it often happens that no mention is made of confirmation in the canonical testimony of baptism. This does not give grounds for doubting that this sacrament was also conferred.¹⁰⁹

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

The norm that the patriarchal finance officer should be one of the Christian faithful¹¹² brings forward other consequences as well. In conformity with the notion of “Christian faithful” given in *CCEO*, c. 7, it means that not only those in sacred orders, but also laity of both genders, religious, married, and unmarried are considered as admissible candidates for appointment to that particular office. However, the discussion of the study group of PCCICOR in 1985 revealed a difference of opinions with regard to the

¹⁰⁹ PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY, *Directoire pour l’application des principes et des normes sur l’œcuménisme*, 25 March 1993, in *AAS*, 85 (1993), pp. 1039-1119, Vatican English version *Directory for the Application of the Principles and Norms on Ecumenism*, Boston, St. Paul Books and Media, 1993, p. 60. See also D. SALACHAS, “Baptized Non-Catholics Who Enter into Full Communion with the Catholic Church,” in NEDUNGATT (ed.), *A Guide to the Eastern Code*, p. 597, footnote 3.

¹¹⁰ See FARIS, *The Eastern Catholic Churches*, p. 316. See a canonical and historical study of *CCEO*, c. 897, in SALACHAS, “Baptized Non-Catholics Who Enter into Full Communion with the Catholic Church,” pp. 597-605, esp. at pp. 599-601.

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

¹¹² “[...] oeconomum patriarchalem [...] qui sit christifidelis [...]” (*CCEO* c. 122).

appointment of the laity to the office of finance officer. A new proposal stated that the office of the patriarchal finance officer shall be committed to either a cleric or lay person.¹¹³ After further discussion, the respective norm of the 1985 Schema was formulated as: “[...] the patriarchal [major archiepiscopal] finance officer should be one of the Christian faithful who is an expert in economic matters and outstanding for honesty [...].”¹¹⁴ Later drafts and the final version of the canon in *CCEO* maintained the same wording.

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

According to *CCEO*, c. 122 §1, the finance officer is to be an expert in economic matters. Similarly, as some other ecclesiastical offices which call for expert persons as their holders,¹¹⁵ the canon requires a truly skilled person to be appointed to the office of finance officer which indeed demands very particular qualities from the office holder. Additionally, to be considered for such an appointment a person must demonstrate

¹¹³ “[...] oeonomi patriarchalis munus sive cleric sive laico, fideli [...]” (PCCICOR, “De curia patriarchali,” in *Nuntia*, 22 [1986], p. 89).

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

¹¹⁵ For instance, a person suitable for the episcopate must be knowledgeable in sacred sciences: “[...] at least have expertise in some sacred science” (*CCEO*, c. 180, 6°); the protosyncellus or the syncellus are to have “[...] expertise in some sacred science” (*CCEO*, c. 247 §2).

personal honesty and integrity.¹¹⁶ The criteria of “honesty” and “integrity” can be further specified in the particular law of the Church, while *CCEO* simply speaks in general terms (“outstanding for honesty”).

Finally, a person related to a major archbishop through blood or marriage within the fourth degree is to be excluded from being considered for the office.¹¹⁷ *CCEO*, c. 122 §1 reads: “[...] anyone who is related to the patriarch up to the fourth degree of consanguinity or affinity inclusively is excluded from being validly appointed”. As the canon does not specify the line, both the direct line and the collateral line are included in the prohibition. Likewise, in order to avoid any suspicion of partiality or conflict of interest, careful assessment of the situation is required at the very beginning of the process leading to the appointment.

2.4.2 – Appointment of the Finance Officer

The finance officer of the major archiepiscopal Church is to be appointed¹¹⁸ by

¹¹⁶ See FARIS, “The Patriarchal Churches,” p. 179.

¹¹⁷ See ID., *The Eastern Catholic Churches*, p. 316.

¹¹⁸ Appointment, resignation, and removal of the finance officer are juridic acts. *CCEO*, c. 931 states that for the validity of a juridic act the following requirements are necessary: 1) the act is to proceed from a person who is capable and competent; 2) all the essential elements must be included; and 3) all formalities and other requirements established in law are to be observed. See POSPISHIL, *Eastern Catholic Church Law*, p. 676. Luis Navarro offers the following definition of a juridic act: “These are acts that create, modify or terminate juridical relationships, acts that originate from the free activity of men and women (where the intellect and the will of the individual are involved)” (NAVARRO, “Persons and Juridical Acts,” p. 631). Olysius Robleda defines the juridic act in the following words: “[Juridic act] is an externally manifested act of the will by which a certain juridical effect is intended” (O. ROBLEDA, *Quaestiones disputatae iuridico-canonicae*, Rome, Libreria editrice Università Gregoriana, 1969, p. 13, English translation in M. HUGHES, “A New Title in the Code: On Juridical Acts,” in *StC*, 14 [1980], p. 392). See also M. WIJLENS, Commentary on cc. 124-128, in *CLSA Comm 2*, p. 177. Wijlens distinguishes between juridic facts and juridic acts. Her definition of juridic facts is: “[...] juridic facts [...] are facts or actions that have legal consequences by the law itself and for which no will is required” (ibid.). In accordance with *CCEO*, c. 931 §1, the person placing a juridic act must be capable and competent, and the act itself must have the required essential elements, while the formalities and prerequisites prescribed by law for the validity are to be followed. There are four types of capacities that are distinguished in canon law: 1) natural capacity (a psychologically capable person), 2) basic canonical capacity (physical or juridical person) 3) specific capacity (specific capacity necessary for the given juridic act) and 4) competence (capacity to

the major archbishop with the consent of the permanent synod (*CCEO*, c. 122 §1). The major archbishop is to convoke the permanent synod of bishops in accordance with *CCEO*, c. 120, in order to request its consent.¹¹⁹ *CCEO*, c. 934, determines the modalities of such convocation. In accordance with the prescriptions of *CCEO*, c. 948, the electors are to be summoned by the presiding officer of the college a place and time that is suitable to them. If a member has not been summoned and does not take part, that member can demand that it be declared invalid. If more than one-third of the electors were overlooked and did not take part, the election is null and void.¹²⁰

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

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

perform the act). See J.M. KUZIONA, "The Nature and Application of Juridical Acts according to Canon 124 of the Code of Canon Law," JCD diss., Ottawa, Saint Paul University, 1998, pp. 133-136.

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

¹²⁰ See NAVARRO, "Persons and Juridical Acts," p. 632; SALACHAS, "De ecclesiis patriarchalibus," p. 122; POSPISHIL, *Eastern Catholic Church Law*, p. 680.

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

According to *CCEO*, c. 934 §3, in order to express their informed opinion and judgment, the persons who are called upon are to be provided with the necessary information.

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

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

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

Because the appointment is an administrative act, it must be communicated to the concerned person in a written form (*CCEO*, c. 1514 §2) and should be notarized.¹²² *CCEO*, c. 123 §2 provides the directives on how to notarize the administrative acts of the major archiepiscopal curia: cc. 253-254 are applicable. The chancellor of the curia is obliged to preserve all the documents concerning appointments (*CCEO*, c. 252 §1).

2.4.3 – Term of Office of the Finance Officer

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

¹²² See FARIS, *The Eastern Catholic Churches*, p. 317.

purpose.”¹²³ Stability in office is essential for the exercise of each office. The finance officer is no exception. Its holder requires stability for an effective performance of his/her functions. The appointment for a determined period of time safeguards the stability of the finance officer in office. Additionally, *CCEO* guarantees some additional stability for the office holder: the major archbishop (patriarch) must obtain the consent of the permanent synod in order to remove the finance officer of the major archiepiscopal Church before the completion of his/her term of office (*CCEO*, c. 122 §2).

The 1985 discussion of draft c. 93 shows that the term of five years was suggested. Ultimately, however, the determination of the definitive term of office of the finance officer was left to each Church *sui iuris*.¹²⁴ *CCEO* follows this direction and stipulates that the finance officer is to be appointed for a time period determined by the particular law of the Church (*CCEO*, c. 122 §2).¹²⁵ With regard to the renewal of the term, the common norm left it to the particular law of the Church. In this regard, J.D. Faris states:

If particular law permits, the patriarch can renew the appointment six months before the expiration of the term of office or appoint a new finance officer who will acquire office upon the expiration of the term. The former patriarchal finance officer must be informed in writing of the expiration of the term in order for the position to be terminated and vacated.¹²⁶

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

¹²³ *PO*, no. 20, in *AAS*, 58 (1966), pp. 991-1024, English translation in *FLANNERY* 1, p. 899; see also *ABBASS*, “Ecclesiastical Offices,” p. 636.

¹²⁴ See *PCCICOR*, “De curia patriarchali,” in *Nuntia*, 22 (1986), p. 89.

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

¹²⁶ *FARIS*, “The Patriarchal Churches,” p. 179.

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

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

As to the issue of vacancy of the patriarchal [major archiepiscopal] see, *CCEO*, c. 126 §1 determines that “[it] becomes vacant at the death or resignation of the patriarch [major archbishop].” *CCEO*, c. 127 furnishes the provisions concerning the administrator of the vacant see. The administrator is designated in the following ways: 1) the bishop designated by the particular law; 2) or a senior¹²⁸ curial bishop; and 3) if there is no curial bishop, the senior bishop of the permanent synod.¹²⁹

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

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

¹²⁸ Seniority will be considered on the basis of the episcopal ordination.

¹²⁹ See FARIS, “The Patriarchal Churches,” p. 183.

¹³⁰ “Ad administratorem Ecclesiae patriarchalis transit ordinaria potestas iis omnibus exclusis quae agi non possunt nisi consentientibus vel *auditis* sodalibus Synodi Episcoporum” (PCCICOR, “De ecclesiis patriarchalibus,” in *Nuntia*, 19 [1984], p. 41). The 1985 draft of c. 101 made a small change in the wording: “The primary power passes to the administrator of the patriarchal Church excluding all those things which cannot be done unless with the consent or the counsel of the synod of bishops.” Instead of the words “having heard,” the word “counsel” was introduced: “Ad administratorem Ecclesiae patriarchalis transit ordinaria potestas iis omnibus exclusis quae agi non possunt nisi de consensu vel *consilio* Synodi

§1 specifies the character of the power of the administrator of the patriarchal Church (“the ordinary power of the patriarch”), and limits its scope by excluding “all those matters that cannot be performed without the consent of the synod of bishops of the patriarchal Church.”¹³¹ In particular, the administrator is not competent to remove the finance officer from office (*CCEO*, c. 122 §2) or to proceed with alienation of ecclesiastical goods because, as it will be considered in detail later in the thesis, alienation of ecclesiastical goods that exceed double the maximum amount, or alienation of precious goods that were given to the Church in virtue of a vow, require the consent of the synod of bishops (*CCEO*, c. 1037, 3°).

John D. Faris adds a useful clarification concerning the question of the restricted power that the administrator enjoys during the interim period: “The general restriction imposed on the patriarchal administrator when a see is vacant also applies here, i.e., there are to be no innovations (c. 228 §1) and that he is prohibited from doing anything which could be prejudicial to the rights of the future patriarch.”¹³² Victor J. Pospishil also holds the same opinion: the ordinary power passes to the administrator, “except the power to

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

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

¹³² FARIS, “The Patriarchal Churches,” p. 184.

make innovations.”¹³³ In accordance with *CCEO*, c. 131, the major archiepiscopal administrator is to present a report regarding his administration to the new major archbishop.

2.4.5 – Loss of Office of the Finance Officer

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

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

A person who holds an ecclesiastical office has the right to resign from an ecclesiastical office for just cause. For the validity of the resignation from an ecclesiastical office, the conditions include basic psychological competence and just cause (*CCEO*, c. 967),¹³⁴ freedom from grave fear, lack of substantial error, and exclusion of simony (*CCEO*, c. 968). The resignation is to be presented in a written form or made orally to the competent authority in the presence of two witnesses (*CCEO*, c. 969).¹³⁵ The resignation takes effect immediately unless acceptance is required;¹³⁶ then it takes effect after the acceptance has been communicated to the person resigning.¹³⁷ If the intimation of

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

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

¹³⁵ See ABBASS, “Ecclesiastical Offices,” p. 652.

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

¹³⁷ See *CCEO*, c. 970 §1. A similar norm can be found in *CS*, c. 132: “§1. When a renunciation was lawfully submitted and accepted, the office becomes vacant when the renouncing office holder has been notified of the acceptance. §2. The renouncing office holder remains in the office as long as he has not

acceptance does not reach the person within three months, the resignation has no effect and the person resigning has the right to revoke the resignation (*CCEO*, c. 970). The person who has resigned from office can obtain the same office by another canonical provision (*CCEO*, c. 971).

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

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

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

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

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

¹³⁹ POSPISHIL, *Eastern Catholic Church Law*, p. 682.

Following the reasoning of Pospishil that the absence of the requirement of an acceptance of resignation from office could be prejudicial to the good of the ecclesial community and taking into account Provost's opinion, one can maintain that the particular law of a major archiepiscopal Church should regulate this matter and demand acceptance of resignation of the finance officer by the major archbishop.¹⁴⁰

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

2.4.5.2 – Loss of Office of the Finance Officer by Removal from Office

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

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

¹⁴¹ There are, therefore, two personal judgments related to the juridic act of resignation from office. First, the person who resigns should be in a proper frame of mind before and during the submission of his resignation. Secondly, "[the] authority must consider the proportionality of the cause presented against the other information that makes up the other side of the proportion" (P. GEFAELL, Commentary on c. 189, in *Exegetical Comm*, vol. 1, p. 1045).

PA, c. 259 §2, 3° granted the major archbishop the power to appoint and remove the major archiepiscopal finance officer, with the consent of the permanent synod. The same norm was repeated in *CS*, c. 299 §2, 3°. With regard to *CCEO*, the removal of the finance officer before the completion of his/her term of office rests with the major archbishop, and is possible only after obtaining the consent of the synod of bishops or, if there is a danger in delay, the consent of the permanent synod (*CCEO*, c. 122 §2). As it is not always feasible to convene the synod of bishops for the entire major archiepiscopal Church, in specific situations when the finance officer's further exercise of authority could cause harm to the Church and removal appears warranted, obtaining the consent of the permanent synod is necessary and sufficient. With regard to the removal of a person from office, *CCEO*, c. 974 §2 must be followed: "To take effect, the decree of removal must be intimated in writing."

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

2.4.5.3 – Loss of Office by Privation

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

¹⁴² See ABBASS, "Ecclesiastical Offices," p. 655. Cf. *CIC/83*, c. 193. See also P. GEFAELL, Commentary on c. 193, in *Exegetical Comm*, vol. 1, pp. 1066-1068.

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

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

The privation of office is to be inflicted upon the finance officer by a penal procedure. The penal sanctions are treated in *CCEO*, cc. 1401-1467 and the penal procedure for imposing penalties is outlined *CCEO*, cc. 1468-1487.¹⁴⁵

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

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

2.5.1 – Finance Officers as Members of the Curia

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

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

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

¹⁴⁵ See ABBASS, “Ecclesiastical Offices,” p. 656.

canons are placed in the sections on the patriarchal curia and the eparchial curia, respectively.¹⁴⁶

The office of the eparchial finance officer, which is outlined in *CCEO*, emerged from the early traditions of the Church. Canon 10 of Theophilus of Alexandria (385-412) stated that in order to expend the goods of the Church, a finance officer (*oecome*) must be named.¹⁴⁷ The Council of Chalcedon (451), c. 26 advised the bishops that they must deal with the administration of the property of the Church through an administrator.¹⁴⁸

In the modern era, *CS*, c. 438 concerned the eparchial finance officer.¹⁴⁹ The renaissance of the office of eparchial finance officer is the characteristic feature of the Eastern tradition in which the eparchial bishop was relieved from all of the duties of temporal management. All of the eparchial bishop's efforts were directed towards responding to other pastoral aspects of his office.¹⁵⁰

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

CIC/83, c. 494 §1 also mandates the diocesan bishop to appoint a finance officer. When compared with *CIC/17*, this office is a new figure in the diocesan curia: as per

¹⁴⁶ With the introduction of the figure of syncellus, the status of the finance officer in the Eastern Catholic Churches diminished. See POSPISHIL, *The Law on Persons*, p. 192. *CIC/17* did not include the office of finance officer *sede plena*. See FARIS, *The Eastern Catholic Churches*, p. 534.

¹⁴⁷ In SACRED CONGREGATION FOR THE EASTERN CHURCHES, *Codificazione canonica orientale, Fonti*, fasc. 9, Typographia polyglotta Vaticana, 1933, p. 497.

¹⁴⁸ See COUNCIL OF CHALCEDON, c. 26, in *DEC*, vol. 1, p. 99.

¹⁴⁹ Pospishil commented on this canon: "The existence of the office of an eparchial *oecome* means that the bishop is not entitled to act as immediate administrator of the diocesan property" (*The Law on Persons*, p. 192).

¹⁵⁰ See FARIS, *The Eastern Catholic Churches*, p. 533.

CIC/17, c. 1520, the council of administration was the body that existed for the purposes of administration of the temporal goods of the diocese.¹⁵¹

2.5.1.1 – The Appointment of the Finance Officers

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

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

¹⁵² See FARIS, *The Eastern Catholic Churches*, p. 536.

¹⁵³ See POSPISHIL, *Eastern Catholic Church Law*, p. 198; FARIS, *The Eastern Catholic Churches*, p. 383. *CIC/83* has no corresponding canon.

¹⁵⁴ See POSPISHIL, *Eastern Catholic Church Law*, p. 174; FARIS, *The Eastern Catholic Churches*, p. 534.

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

As to the prescriptions regarding the personal qualities of the finance officer at the major archiepiscopal level, the law prohibits those who are related to the major archbishop up to the fourth degree of consanguinity or affinity, inclusively to be appointed (*CCEO*, c. 122 §1). Although at the eparchial level (see *CCEO*, c. 262), and at the diocesan level of the Latin Church (see *CIC/83*, c. 494), the exclusion of close relatives of the bishop is not prescribed in the canons on the office of the finance officer, nevertheless the law does exclude close relatives of the eparchial/diocesan bishop from membership in the finance council (*CCEO*, 263 §3).¹⁵⁵ In effect, the eparchial finance officer who *ipso iure* is a member of the eparchial finance council (*CCEO*, 263 §2),¹⁵⁶ cannot be related to the eparchial bishop up to the fourth degree of consanguinity or affinity, inclusively.

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

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

¹⁵⁶ See POSPISHIL, *Eastern Catholic Church Law*, p. 239. For the Latin Church, *CIC/83*, c. 492 does not mention the participation of the finance officer in the finance council. See FARIS, *The Eastern Catholic Churches*, p. 570, footnote 21.

with *CCEO*, c. 262 §1, the eparchial bishop is to consult both the college of eparchial consultors and the eparchial finance council and a lack of required consultation results in the invalidity of the act of the appointment.¹⁵⁷

While the major archbishop needs to obtain consent from the permanent synod for the appointment of the finance officer of the major archiepiscopal Church (*CCEO*, c. 122 §1), the eparchial bishop is obliged to consult the college of eparchial consultors and the eparchial finance council. As we have mentioned earlier, although there was a discussion about the need for freedom to be accorded to the patriarch in the appointment and removal of the finance officer, the *coetus* decided to consider the office of the patriarchal finance officer as comparable to that of a judge of the patriarchal ordinary tribunal¹⁵⁸ who is appointed with the consent of the permanent synod (*CCEO*, c. 1063 §2).

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

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

¹⁵⁸ See PCCICOR, “De Ecclesiis patriarchalibus,” in *Nuntia*, 22 (1986), p. 90. See also ELUVATHINKAL, *Patriarchal and Major Archiepiscopal Curias in the Eastern Catholic Legislations Based on CCEO Canons 114-125*, p. 32.

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

2.5.1.2 – Term of Office

The appointment of the eparchial finance officer is for a definitive term and the eparchial bishop can renew the mandate for another period of time (term).¹⁶⁰ As mentioned already, the term of office of the major archiepiscopal finance officer is to be determined by the particular laws of the Church *sui iuris* (*CCEO*, 122 §2). The term of an eparchial finance officer also is to be determined by the particular law (*CCEO*, c. 262 §2). Most of the eparchial statutes in the Syro-Malabar Church fix the term as three years.¹⁶¹ However, some eparchial statutes do not provide for a fixed term. As the term of office indicates the stability of the office holder and allows for a certain independence of action, it is worthwhile to include such a norm in the statutes of the eparchies. As far as *CIC/83* is concerned, the term of office of the finance officer is fixed at five years and can be renewed for another five years (*CIC/83*, c. 494 §2).¹⁶²

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

¹⁶⁰ See M. BROGI, “Norms on Eparchies and Bishops,” in *The Code of Canons of the Eastern Churches: A Study and Interpretation*, p. 116.

¹⁶¹ The following statutes fixed the term of office as three years: J. PAZHAYATTIL, *Irinjalakuda rupathaniyamavalay*, Irinjalakuda, The Eparchial Curia, 2000, p. 8; M. ANIKUZHICKATTIL, *Idukki rupatha niyama samgraham*, Idukki, The Eparchial Curia, 2010, p. 27; G. PUNNAKOTTIL, *Kothamangalam rupatha niyama samgraham*, Kothamangalam, The Eparchial Curia, 2005, p. 25; P. CHITILAPPILLY, *Thamarassery rupatha niyamavalay*, Thamarassery, The Eparchial Curia, 2003, p. 17.

¹⁶² In this sense, like in an Eastern Catholic Church *sui iuris*, a diocesan finance officer of the Latin Church also enjoys stability in the office. See CUSACK, Commentary on c. 494, p. 651.

2.5.1.3 – Specific Obligations of the Finance Officers in Accordance with *CCEO* and Particular Laws

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

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

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

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

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

¹⁶⁴ According to J.D. Faris “the fiscal officer is not restricted to the execution of the policy of others; the fiscal officer shares in the responsibility of preservation, protecting, and increasing the goods of the eparchy” (*ibid.*, p. 537).

archiepiscopal finance officer with regard to other institutions (juridic persons) that are common to the major archiepiscopal Church.¹⁶⁵

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

Regarding the annual statement of income and expenditure account, *Ernakulam-Angamaly athirupatha niyamasamhitha* (Statutes of the Archeparchy of Ernakulam)¹⁶⁹ state:

¹⁶⁵ The specific limits of power of the major archiepiscopal finance officer of the Syro-Malabar Church will be discussed in the last chapter.

¹⁶⁶ See FARIS, *The Eastern Catholic Churches*, p. 536; BROGI, “Norms on Eparchies and Bishops,” p. 239.

¹⁶⁷ NEDUNGATT, *Laity and Church Temporalities*, p. 241.

¹⁶⁸ See POSPISHIL, *Eastern Catholic Church Law*, p. 701; FARIS, *The Eastern Catholic Churches*, p. 536.

¹⁶⁹ On 16 December 1992, through the apostolic constitution *Que maiori* Pope John Paul II constituted the Syro-Malabar Church as a major archiepiscopal Church. The permanent residential see of the major archbishop is in the town of Ernakulam. The Archeparchy of Ernakulam is the major

The finance officer is appointed to administer the temporal goods of the archeparchy under the authority of the archbishop. He is responsible for the maintenance of the details of movable and immovable goods and to keep the income and expenditure accounts of the archeparchy. He is to supervise vigilantly the operations of other administrators of parish property of the entire archeparchy. The finance officer is required to present the annual audited account to the finance council and the college of consultors. He is also required to present the same account to the pastoral council and the meeting of the *presbyterium* of the archeparchy.¹⁷⁰

Similar norms are promulgated in other eparchies of the Syro-Malabar Church.¹⁷¹

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

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

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

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

¹⁷⁰ V. VITHAYATHIL, *Ernakulam-Angamaly athirupatha niyamasamhitha*, Ernakulam, The Archeparchial Curia, 2009, pp. 112-113 (the author's translation).

¹⁷¹ Cf. PAZHAYATTIL, *Irinjalakuda rupatha niyamavaly*, p. 8; PUNNAKOTTIL, *Kothamangalam rupatha niyama samgraham*, p. 25; J. MANANTHODATH, *Palakkad rupatha niyamavaly*, Palakkad, The Eparchial Curia, 2009, p. 181.

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

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

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

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

The college of eparchial consultors is an obligatory body in an eparchy: in accordance with *CCEO*, c. 271 §1 the eparchial bishop is obliged to establish the college of eparchial consultors.¹⁷² The eparchial bishop appoints them freely, but there is a certain limitation as to the choice of the members. They must be selected from the presbyteral council (*CCEO*, c. 271 §4).¹⁷³ Their term of office is fixed at five years. Due to the

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

¹⁷³ Regarding *CIC/83*, c. 502, the Pontifical Council for the Interpretation of Legislative Texts issued a clarification that a member of the college of consultors who ceases to be a member of the presbyteral council retains the office of consultor. The diocesan bishop is not bound to replace one who ceases to hold office in the course of a five year term. See PONTIFICAL COUNCIL FOR THE INTERPRETATION OF LEGISLATIVE TEXTS, Reply to private questions, 11 July 1984, in *AAS*, 76 (1984), p. 747, English translation in *CLD*, vol. 11, p. 72. Only if the number of members of the college falls below the minimum, the eparchial bishop is required to name another member. See POSPISHIL, *Eastern Catholic Church Law*, p. 242. According to Pospishil the concept of eparchial consultors is borrowed from Latin canon law and

importance of this body, in order to provide for the continuity of the existence and its functioning, the law determines that the college of eparchial consultors continues after the completion of the term until the new college is established (*CCEO*, c. 271 §2). The number of members of the eparchial college of consultors must be not less than six and not more than twelve (*CCEO*, 271 §3). This stipulation safeguards a sufficient pool of opinions, and at the same time, assures an effective functioning of the college due to the adequate number of members.

With regard to the financial administration of an eparchy, the eparchial bishop is to consult with the college of eparchial consultors prior to carrying out the following acts: 1) appointment of the eparchial finance officer (*CCEO*, 262 §1); 2) appointment of the eparchial finance council (*CCEO*, 263 §1); and 3) removal of the eparchial finance officer during the term of office (*CCEO*, c. 262 §2). On the other hand, the eparchial bishop is to obtain consent of the same college for an alienation of goods within the proper territory of the Church *sui iuris*, the value of which falls between the minimum and the maximum sum as determined by the synod of bishops (*CCEO*, c. 1036 §1, 1^o).¹⁷⁴ Moreover, during the vacancy of an eparchial see (outside of the proper territory), the college of eparchial consultors elects the finance officer (if necessary), or receives his/her resignation.¹⁷⁵

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

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

¹⁷⁵ See BROGI, “Norms on Eparchies and Bishops,” p. 241; FARIS, *The Eastern Catholic Churches*, pp. 485-487.

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

The eparchial finance council is part of the eparchial curia. In cases of greater importance, the eparchial bishop is obliged to consult with the finance council, “unless their consent is required by common law in cases specifically mentioned or by the founding document (*CCEO*, c. 263 §4).”¹⁷⁶ The eparchial bishop is *ex officio* president of the finance council. Since the finance council is to offer advice or consent to the eparchial bishop,¹⁷⁷ he (the eparchial bishop) cannot be considered as a finance council member. On the other hand, by virtue of his office, the eparchial finance officer is a member of the finance council.¹⁷⁸ *CCEO*, c. 263 §1 requires that the members of the finance council be suitable persons and, if possible, have expertise in civil law (*CCEO*, c. 263 §1).¹⁷⁹

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

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

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

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

¹⁷⁹ According to J.D. Faris, the eparchial finance council can advise the eparchial bishop on particular aspects of the civil legal order concerning real estate and finance. See *The Eastern Catholic Churches*, p. 538.

college of eparchial consultors.¹⁸⁰ The statutes of several eparchies provide specific norms on the composition of the finance council: the eparchial statutes of Irinjalakuda determine that, by virtue of the office, the protosyncellus, syncelli, finance officer, chancellor of the eparchial curia, and regional forane vicars (protopresbyters) are members of the finance council. Apart from them, there are to be two elected members from the presbyteral council and two lay faithful elected by the pastoral council members. The eparchial bishop nominates three persons who are experts in civil and tax laws.¹⁸¹ In accordance with *CCEO*, c. 263 §1, those who are elected or nominated by others following the norms of particular law require confirmation of the eparchial bishop.

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

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

¹⁸¹ See *Irinjalakuda rupatha niyamavaly*, pp. 8-9.

or if it is a case of precious goods or gifts to the Church made in virtue of a vow (*CCEO*, cc. 1036 §1, 1°; 1036 §4).¹⁸²

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

CONCLUSION

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

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

¹⁸³ See PCCICOR, “De Ecclesiis patriarchalibus,” in *Nuntia*, 22 (1986), p. 91; SALACHAS, “De ecclesiis patriarchalibus,” p. 124.

¹⁸⁴ See NEDUNGATT, *Laity and Church Temporalities*, p. 374.

¹⁸⁵ The following issues of the *Synodal News* provide the annual statement of accounts: 1) *Synodal News*, 5 (1997), pp. 110-124; 2) *Synodal News*, 6 (1998), pp. 112-118; 3) *Synodal News*, 7 (1999), pp. 109-116; and 4) *Synodal News*, 8 (2000), pp. 75-80.

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

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

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

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

guidelines. The analysis of this chapter supports the determination that the PCCICOR was, in fact, faithful to the Eastern canonical tradition in the formulation of the canons concerning the finance officer.

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

CHAPTER THREE

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

INTRODUCTION

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

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

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

¹ See *CCEO*, c. 1007.

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

³ See *PO*, no. 17, English translation in *FLANNERY* 1, p. 895.

⁴ See *CCEO*, c. 122.

office in the temporal administration of the Church, the finance officer is to take into account the principles such as subsidiarity, collaboration, accountability and sincerity.

From the description of the office of finance officer, it is clear that to fulfill the functions of this office its holder is not required to possess the *potestas ordinis*. Accordingly, PCCICOR states in the Guidelines for the Revision of Oriental Canon Law: “Though the Church by divine institution is a hierarchical society and though, consequently, the hierarchy, invested with the *potestas ordinis*, pertains to the Church’s essential structure, nevertheless, the ecclesiastical organization calls for many other public functions which are not necessarily connected with the *potestas ordinis*.”⁵

The functions of the finance officer of the major archiepiscopal Church, who, historically, was called the “great oeconomus,”⁶ are quite different from those of the finance officer of an eparchy. Since the proper subject of this study is the legislation concerning the major archiepiscopal level of administration, the main source of this analysis is *CCEO*, complemented with other sources, especially *PA* and *CS*, both of which were abrogated with the promulgation of *CCEO*. By way of comparison, the corresponding canons of *CIC/17* and *CIC/83* on temporal goods are incorporated into this chapter.

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

⁵ PCCICOR, “Guidelines for the Revision of the Code of Oriental Canon Law,” p. 21.

⁶ See NEDUNGATT, *Laity and Church Temporalities*, p. 238.

as it were, with two ventricles.”⁷ By the promulgation of *CCEO*, John Paul II also expressed the need for comparative studies, especially in the faculties of canon law;⁸ up to this time, however, very few comparative analyses of *CCEO* and *CIC/83* have been done.⁹

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

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

3.1.1 – The Principle of Subsidiarity

The principle of subsidiarity legitimizes or guarantees the autonomy of the lower office versus the superior authority. This principle admits the fact that subordinate offices on certain occasions need assistance from the higher offices: by exercising its functions, the subordinate office cannot exceed its capacities, so it has to depend upon the higher authorities. This rule also regulates the relationship between a society (organization) and the state, in which the state respects the rights and responsibilities of the society and vice versa.¹⁰ The term subsidiarity underlines the dependence and the reciprocal assistance

⁷ JOHN PAUL II, apostolic constitution *Sacri canones*, English translation in *Code of Canons of the Eastern Churches*, pp. xxiii-xxiv.

⁸ See JOHN PAUL II, address to the Eighth Ordinary General Assembly of the Synod of Bishops, 25 October 1990, in *AAS*, 83 (1991), pp. 486-493, English translation in *L'Osservatore Romano*, Eng. ed., 5 November 1990, p. 4. See also J. ABBASS, *Two Codes in Comparison*, *Kanonika* 7, Rome, Pontifical Oriental Institute, 1997, p. 15.

⁹ See J. ABBASS, “Alienation in the Eastern Catholic Churches,” in *Folia canonica*, 5 (2002), p. 146.

¹⁰ See J.C. ORSI, “O princípio de subsidiariedade e a sua aplicabilidade no Livro V do código de Direito Canônico,” in *Apollinaris*, 78 (2005), pp. 405-406.

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

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

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

¹¹ See T.J. GREEN, “The Eastern Code Revision Process,” in *The Jurist*, 51 (1991), pp. 24-25.

¹² PIUS XI, encyclical letter *Quadragesimo anno*, 15 May 1931, in AAS, 23 (1931), pp. 177-228, English translation in D.J. O’BRIEN and T.A. SHANNON (eds.), *Catholic Social Thought: The Documentary Heritage*, New York, Orbis Books, 2010, p. 62. See also the encyclical letter *Centesimus annus*: “[T]he principle of subsidiarity must be respected: a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good” (JOHN PAUL II, encyclical letter *Centesimus annus*, 1 May 1991, no. 48, in AAS, 83 [1991], pp. 793-867, English translation in *The Encyclicals of John Paul II*, edited with introductions by J.M. MILLER, Huntington, IN, Our Sunday Visitor, Inc., 1996, p. 639).

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

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

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

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

¹³ See J.L. LINNAN, “Subsidiarity, Collegiality, Catholic Diversity, and Their Relevance to Apostolic Visitations,” in *The Jurist*, 49 (1989), pp. 415-416.

¹⁴ See PALLATH, *The Synod of Bishops of Catholic Oriental Churches*, p. 76.

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

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

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

the Code.¹⁸ The Guidelines for the Revision of the Code of Oriental Canon Law provide that “The new code should limit itself to the codification of the discipline common to all the Oriental Churches, leaving to the competent authorities of these Churches the power to regulate by particular law all other matters not reserved to the Holy See.”¹⁹ Indeed, the synod of bishops is competent to make laws for the entire Church *sui iuris* (*CCEO*, c. 110 §1). Thus *CCEO* recognizes the principle of subsidiarity (e.g., *CCEO*, cc. 1012 §2 and 1036 §3). On the other hand, in accordance with *CCEO*, c. 150 §2, in a major archiepiscopal Church, disciplinary laws and those which concern other decisions of the synod of bishops do not have force of law outside of the territory of this Church.²⁰

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

¹⁸ See PCCICOR, “Guidelines for the Revision of the Code of Oriental Canon Law,” p. 21. See also “Guidelines for the Revision of the Code of Oriental Canon Law,” in G. NEDUNGATT (ed.), *A Guide to the Eastern Code*, pp. 61-62. As J.D. Faris comments: “The principle of subsidiarity is to find expression in the Code, namely, that what an institution on a lower hierarchical level can accomplish for itself shall not be reserved to a superior authority” (FARIS, *The Eastern Catholic Churches*, p. 89).

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

²⁰ See FARIS, *The Eastern Catholic Churches*, pp. 362-363; POSPISHIL, *Eastern Catholic Church Law*, p. 189. Liturgical laws enacted by the synod of bishops of the patriarchal or major archiepiscopal Churches have the force of law everywhere in the world (*CCEO*, c. 150 §2). In all the Latin dioceses outside of Kerala state there are faithful from the Syro-Malabar Church. In this respect Bishop Jose Porunnedom writes: “Even though the Malabarians [faithful of Syro-Malabar Church] form only 19.20% of the Catholic population, the Malabar jurisdiction extends itself only to 16.61% of the total area of India. The Malabar Church has such a surplus of vocations as to cater for the Latin dioceses and congregations also. [...] Until recently there was hardly any move to implement the conciliar declarations in India either for the pastoral care of the Malabarians living under the Latin ordinaries or tap fully the vocations from the Syro-Malabar Church for the missionary activity” (J. PORUNNEDAM, “The Right of the Syro-Malabar Church for an All-India Jurisdiction,” in CHIRAMEL and BHARANIKULANGARA [eds.], *The Code of Canons of the Eastern Churches*, p. 317). Despite constant requests from the Syro-Malabar Church to establish the all India jurisdiction, the apostolic constitution *Quae maiori* of Pope John Paul II limited the jurisdiction of the Syro-Malabar Church to the ecclesiastical provinces of Ernakulam and Changanacherry. In other words, apart from liturgical laws, the synod of bishops of the Syro-Malabar Church does not enjoy legislative, judicial and electoral powers in the extra-territorial eparchies. The major archbishop also does not enjoy any administrative power beyond the proper territory. See PALLATH, *The Catholic Church in India*, p. 127.

subsidiarity as a directive for the revision of both Codes (*CCEO* and *CIC/83*)²¹ specifically called for more local, regional, and national autonomy in the areas of temporal goods and procedures.²²

The influence of the principle of subsidiarity can be found in the formulation of all sections of *CCEO*. In particular, *CCEO* gives “ample space”²³ for particular law for all Eastern Catholic Churches *sui iuris*, and other lower bodies of each Church *sui iuris*: “In fact, this principle covers every type of *ius particulare*, ranging from the law of the eparchy to that of an individual religious community or of an association or to the legitimate internal rules of a seminary, a faculty of higher studies and so on.”²⁴

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

²¹ See PCCICR, “Principia quae codicis iuris canonici recognitionem dirigant,” in *Comm*, 1 (1969), pp. 77-85, especially at pp. 80-82. Although PCCICR and PCCICOR have received principle of subsidiarity as one of the guiding principles for the revision of the respective Codes, they did not define it. See T.J. GREEN, “The Latin and Eastern Codes: Guiding Principles,” in *The Jurist*, 62 (2002), p. 258.

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

²³ “It [principle of subsidiarity] shaped one of the principle characteristics of the Code, namely to leave ample space for the *ius particulare* of each *sui iuris* Church” (I. ŽUŽEK, “Particular Law in the Code of Canons of the Eastern Churches,” in CHIRAMEL and BHARANIKULANGARA [eds.], *The Code of Canons of the Eastern Churches*, p. 44).

²⁴ *Ibid.*

3.1.2 – The Principle of Collaboration

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

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

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

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

²⁸ J.H. PROVOST, *Interecclesial Communion in the Light of the II Vatican Council*, Rome, Pontifical University of Lateran, 1967, p. 124. See also VATTAKUZHAY, “The Synodal Functioning in the Syro-Malabar Church,” p. 42.

aspect of communion is essential to the office of bishop. The unity of the Church is rooted in the unity of the episcopate.²⁹

In particular, the trinitarian communion of the synodal structure was emphasized by Pope John Paul II on the occasion of the Synod of Bishops of the Syro-Malabar Church held in the Vatican from 8 to 16 January 1996: “The synodal structure of the Eastern Churches is a particularly eloquent way of living and manifesting the mystery of the Church as communion.”³⁰

In a patriarchal/major archiepiscopal Church, the juridic expression of communion is the aspect of collaboration, vividly present in the synod of bishops. “The Synod of the patriarchal Churches is based on ecclesial identity [...]. It is juridically the operative organism of a hierarchy with a unifying head such as a patriarch, major archbishop or *sui iuris* metropolitan.”³¹ In particular, the canonical requirement of obtaining consent or seeking the counsel of the synod of bishops or the permanent synod prior to certain acts concerning the administration of ecclesiastical goods underscores a close working relationship between the major archbishop and these colleges (synod of

²⁹ See J. RATZINGER, “Community among Bishops and Church’s Synodal Functions,” in *Acts of the Synod of Bishops of the Syro-Malabar Church*, p. 55. Pope Paul VI, in his allocution at the opening of the Extraordinary Synod of Bishops in 1969 stressed that collegiality is nothing other than the communion of bishops. See PAUL VI, allocution at the opening of the Extraordinary Synod, 11 October 1969, in *AAS*, 61 (1969), pp. 716-721, English translation in *The Pope Speaks*, 14 (1968-1969), p. 348. See also PALLATH, *The Synod of Bishops of Catholic Oriental Churches*, p. 68. Card. Joseph Ratzinger stated elsewhere: “Collegiality must not be taken in a secular juridical sense much less may it be reduced to the meaninglessness of a mere ornament. It expresses an aspect of the juridical structure of the Church that arises from the communion and community of the individual Churches and the harmonious plurality of the bishops representing them” (J. RATZINGER, “The Pastoral Implications of Episcopal Collegiality,” in *Concilium*, 1 [1965], pp. 23-24).

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

³¹ VATTAKUZHAY, “The Synodal Functioning in the Syro-Malabar Church,” p. 44.

bishops and permanent synod). This collaboration has its other realization in the area of temporal goods in the exercise of the legislative power of the synod of bishops.

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

To collaborate means 'to work together' for a common purpose, whether as equals, as agents of a superior, as persons who give consent, or as persons who offer their counsel. Several examples of these kinds of collaboration are found throughout the code [...]. Since ecclesiastical goods belong to the Church and not to individuals, and must be used for the proper purposes of the Church, those charged with caring for them wisely collaborate with others.³²

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

3.1.3 – The Principle of Accountability and Transparency

The Second Vatican Council insisted that temporal goods be used only within the framework supplied by the teaching of Christ and the regulations of the Church (*PO*, no. 17).³³ Maintaining the principle of accountability in the finance management of the

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

³³ See *PO*, no. 17, English translation in FLANNERY 1, p. 895. Cf. H. VORGRIMLER (gen. ed.), *Commentary on the Documents of Vatican II: Declaration on Christian Education, Declaration on Religious Freedom, Decree on the Church's Missionary Activity, Decree on the Ministry and Life of Priests*, vol. 4, Freiburg, Herder, Montreal, Palm Publishers, 1969, pp. 288-292. For a study on the conciliar teaching on temporal goods, see F.G. MORRISSEY, "Acquiring Temporal Goods for the Church's Mission," in *The Jurist*, 56 (1996), pp. 587-589.

Church *sui iuris* is, therefore, of vital importance.³⁴ Regarding the duty of the administrator of ecclesiastical goods, *CCEO*, c. 1028 §1 states: “Every administrator of ecclesiastical goods is bound to fulfill his or her office with the diligence of a good householder.”³⁵

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

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

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

³⁴ See J. HITE, “The Administration of Church Property,” in J. HITE, *Readings, Cases, Materials in Canon Law: A Text Book for Ministerial Students*, Collegeville, MN, The Liturgical Press, 1990, p. 413; POSPISHIL, *Eastern Catholic Church Law*, p. 700; MORRISEY, “Acquiring Temporal Goods for the Church’s Mission,” p. 586.

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

³⁶ V.G. D’SOUZA, “General Principles Governing the Administration of Temporal Goods of the Church,” in V.G. D’SOUZA (ed.), *In the Service of Truth and Justice: Festschrift in Honour of Prof. Augustine Mendonça Professor Emeritus*, Bangalore, Centre of Canon Law Studies, St. Peter’s Pontifical Institute, 2008, pp. 476-477.

³⁷ See V. DE PAOLIS, “Temporal Goods of the Church with Particular Reference to Institutes of Consecrated Life,” in *The Jurist*, 42-43 (1982-83), p. 352.

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

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

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

³⁸ See NEDUNGATT, *Laity and Church Temporalities*, p. 241.

³⁹ For more details, see L.Y. MEDROSO, "Administration of Temporal Goods of the Church and Transparency," in *Philippine Canonical Forum*, 6 (2004), pp. 244-245.

⁴⁰ Transparency and accountability of the administrators of the public and private juridic persons, in the context of *CIC/83*, has been elaborately treated in RENKEN, "The Principles Guiding the Care of the Church Property," pp. 168-171.

foundations (*CCEO*, c. 1051 §1); and 7) prohibiting the alienation of ecclesiastical goods to the administrator or his/her close relatives (*CCEO*, c. 1041).

Before beginning to exercise his/her functions, the finance officer has to take a promise of office before the major archbishop⁴¹ or his delegate (*CCEO*, c. 1025, 1°). He/she promises to fulfill the office conscientiously and faithfully. Trustworthiness, as was mentioned in the earlier chapter, is one of the prerequisites of candidates for the office of the major archiepiscopal finance officer, as described in *CS*, c. 299 §2, 2°, the draft of c. 93 §2, 2°⁴² and in the *CCEO*.⁴³

3.1.4 – Social Principles With Regard to the Remuneration of Workers

The social teaching of several popes showed clearly the concept of “wages of workers” in the social system. Pope Leo XIII, in his encyclical letter *Rerum novarum* declared that the workers’ wages should be sufficient to support their families.⁴⁴ Through the encyclical letter *Quadragesimo anno* Pope Pius XI established the teaching regarding family wages: that the fathers of families should receive sufficient wages to meet adequate domestic needs.⁴⁵ Pope John XXIII, by his encyclical letter *Mater et magistra* stressed that human dignity must be reflected through just wages: by fair remuneration for their work, workers and their families can live in conditions in accord with human

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

⁴² See PCCICOR, “Canons de episcopis,” in *Nuntia*, 9 (1979), pp. 47-49; PCCICOR, “De curia patriarchali,” in *Nuntia*, 22 (1986), p. 91.

⁴³ See *CCEO*, c. 122 §1.

⁴⁴ See LEO XIII, encyclical letter *Rerum novarum*, 15 May 1891, in *ASS*, 23 (1890-1891), pp. 641-670, English translation in *The Great Encyclical Letters of Pope Leo XIII*, translation from approved sources with preface by J.J. WYNNE, New York, Benziger Brothers, 1903, p. 237.

⁴⁵ See PIUS XI, encyclical letter *Quadragesimo anno*, 15 May 1931, in *AAS*, 23 (1931), pp. 177-228, English translation in O’BRIEN and SHANNON (eds.), *Catholic Social Thought*, p. 60.

dignity.⁴⁶ Pope John Paul II, in his encyclical letter *Laborem exercens* stated that working people should be properly remunerated in accordance with the socio-economic system. Remuneration can be given either through family wages or through social measures.⁴⁷

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

[...] Remuneration for work should guarantee man the opportunity to provide a dignified livelihood for himself and his family on the material, social, cultural and spiritual level to correspond to the role and the productivity of each, the relevant economic factors in his employment, and the common good.⁴⁸

During the process of the formulation of *CCEO*, c. 1030, discussions were held regarding c. 101 of the 1982 Schema, similar to *PA*, c. 272. The latter stipulated that clerics, religious (for the services rendered to them), and administrators of ecclesiastical goods must compensate the workers with honest and just salaries. Even though the study group suggested including the word "sustenance" (*sustentatio*) in place of "salary" (*merces*),⁴⁹ nevertheless the word *merces* remained in the draft. The study group also wanted to keep the structure of c. 101 §2, in line with the corresponding legislation of the *CIC/83*, c. 1286, 2° which stated that the administrators of ecclesiastical goods must pay

⁴⁶ See JOHN XXIII, encyclical letter *Mater et magistra*, 15 May 1961, in *AAS*, 53 (1961), pp. 401-464, English translation in W.J. GIBBONS (ed.), *Mater et Magistra: Encyclical Letter of His Holiness Pope John XXIII*, New York, Paulist Press, 1961, p. 29.

⁴⁷ See JOHN PAUL II, encyclical letter *Laborem exercens*, 25 March 1981, no. 19, in *AAS*, 73 (1981) pp. 577-647, English translation in *The Encyclicals of John Paul II*, pp. 198-200.

⁴⁸ *GS*, no. 67, in *AAS*, 58 (1966), pp. 1025-1120, English translation in *FLANNERY* 1, p. 973.

⁴⁹ "Omnes, et praesertim clerici, religiosi ac rerum ecclesiasticarum administratores, in operum locatione debent assignare operariis honestam iustamque mercedem [...]" (*PA*, c. 272 §1). The draft of c. 101 reads: "Administratores bonorum: 1° in operum locatione leges etiam civiles, quae ad laborem et vitam socialem attinent, adamussim servant, iuxta principia ab Ecclesia tradita; 2° iis, qui operam ex conducto praestant, iustam et honestam mercedem tribuant ita ut eisdem facultates praebeantur suam suorumque vitam religiosam, familiarem, socialem, culturalem adaequate colendi" (PCCICOR, "De bonis ecclesiae temporalibus," in *Nuntia*, 18 [1984], p. 59).

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

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

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

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

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

⁵⁰ KENNEDY, Commentary on c. 1286, in *CLSA Comm 2*, p. 1489, footnote 119. See also J. A. RENKEN, “Temporal Goods in the Latin and Eastern Codes: A Comparative Study,” in *Studies in Church Law*, 5 (2009), p. 101, footnote 37.

⁵¹ RENKEN, “Temporal Goods in the Latin and Eastern Codes,” p. 102, footnote 38. There is no corresponding canon in *CIC/83*.

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

The canonical discipline of the Church outlined in the norms regarding justice in employment reflects the Church’s social principles⁵⁵ which are to be observed in the matters of employment and social policy. In a word, priests, religious, and lay faithful who render services in the offices of the Church are to be paid just and decent wages and personal and family needs are to be satisfied by decent remuneration. The ecclesiastical regulations on just wages may, therefore, become inspirational for the society at large, especially in the political and social circumstances of injustice and exploitation.

⁵² See CHIAPPETTA, *Il codice di diritto canonico*, vol. 2, p. 527.

⁵³ See *ibid.*

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

⁵⁵ Cf. the following encyclicals: JOHN PAUL II, encyclical letter *Sollicitudo rei socialis*, 30 December 1987, in *AAS*, 80 (1988), pp. 513-586, English translation in *The Encyclicals of John Paul II*, pp. 411-477; JOHN PAUL II, encyclical letter *Centesimus annus*, English translation in *The Encyclicals of John Paul II*, pp. 588-650.

3.2 – THE NOTION OF ADMINISTRATION OF ECCLESIASTICAL GOODS

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

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

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

⁵⁶ See V. DE PAOLIS, *I beni temporali della Chiesa*, Bologna, Edizioni Dehoniane, 1995, pp. 21-24.

⁵⁷ *GS*, no. 69, English translation in FLANNERY 1, p. 975.

⁵⁸ *PO*, no. 17, English translation in FLANNERY 1, p. 894.

⁵⁹ *PO*, no. 17, English translation in FLANNERY 1, p. 895.

⁶⁰ *PC*, no. 13, in AAS, 58 (1966), pp. 702-712, English translation in FLANNERY 1, pp. 618-619.

The Church needs temporal means to carry out her mission.⁶¹ The use of the material resources must be understood, however, in the spirit of solidarity and sharing. In particular, the ecclesiology of communion has to be expressed also in the contribution of the material resources to particular Churches. In this regard, *CD*, no. 6, stated: “[B]ishops should bear it in mind that in the expenditure of ecclesiastical resources they must take into account the needs not only of their own dioceses but of other individual churches, since they too form part of the one Church of Christ.”⁶²

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

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

⁶¹ See *LG*, no. 8, English translation in FLANNERY 1, p. 358.

⁶² English translation in FLANNERY 1, p. 567.

⁶³ *CD*, no. 28, English translation in FLANNERY 1, p. 580.

⁶⁴ *AA*, no. 10, English translation in FLANNERY 1, p. 778.

⁶⁵ See *GS*, no. 68, in *AAS*, 58 (1966), pp. 1025-1115, English translation in FLANNERY 1, p. 974.

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

CCEO defines ecclesiastical goods as: “All temporal goods which belong to juridic persons [...]” (*CCEO*, c. 1009 §2).⁶⁶ According to *CIC/83*, c. 1257 §1, only the goods of the public juridic persons belong to the category of ecclesiastical goods because public juridic persons “fulfill in the name of the Church, according to the norm of the prescripts of the law, the proper function entrusted to them in view of the public good;”⁶⁷ temporal goods of private juridic persons are excluded from the notion of “ecclesiastical goods.”⁶⁸

However, *CCEO* does not distinguish between private and public juridic persons. The understanding of *CCEO* is that “once temporal goods are acquired in the Church, they are defined as ecclesiastical goods.”⁶⁹ The Pontifical Council for the Legislative

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

⁶⁷ J.A. RENKEN, *Church Property: A Commentary on Canon Law Governing Temporal Goods in the United States and Canada*, New York, St. Paul, 2009, p. 57.

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

⁶⁹ ABBASS, *Two Codes in Comparison*, p. 178. According to Jobe Abbass, “the qualification ‘ecclesiastical’ in chapter II of the Eastern Code reveals a terminological precision not present in the corresponding Latin title.” *Ibid.* The laws regarding the administration of ecclesiastical goods are to be interpreted as other ecclesiastical laws, that is, in accordance with *CCEO*, c. 1499: according to the proper sense of the words drawn from the text and the context. If the meaning of a word (or of an expression) is not clear, other means such as recourse to parallel places, to the purpose and circumstances of the law and to the mind of the legislator are to be followed. For the detailed study of this subject matter, see W. KOWAL, *Understanding Canon 17 of the 1983 Code of Canon Law in Light of Contemporary Hermeneutics*, Lewiston, NY, The Edwin Mellen Press, 2000, pp. 41-60. Cf. also V. DE PAOLIS, “Prescription and Computation of Time,” in NEDUNGATT (ed.), *A Guide to the Eastern Code*, pp. 821-822.

Texts remarked on *CCEO*, c. 1009 §2 and *CIC/83*, c. 1257 §1 that the qualification “ecclesiastical goods” has a two-fold effect, namely: it recognizes the power of the Church over ecclesiastical goods, and it expresses the fact that ecclesiastical goods come under the authority of the competent ecclesiastical authority.⁷⁰ *CCEO*, c. 1010 affirms that juridic persons “can acquire temporal goods by any just means permitted to others,” so in accordance with the norms of *CCEO*, each Church *sui iuris* is entitled to acquire goods for the fulfillment of its purposes.

3.2.3 – The Supreme Administrator and Other Administrators

The administration of ecclesiastical goods of a juridic person in the Church implies a structure of a hierarchical dependency.⁷¹ First, all administrators of ecclesiastical goods administer under the authority and power of the supreme administrator. In this regard *CIC/17*, c. 1518 stated: “The Roman Pontiff is the supreme administrator and dispenser of all ecclesiastical goods,”⁷² while *PA*, c. 236 §2 also had a similar stipulation (*sub suprema auctoritate Romani Pontificis*). During the process of the codification of *CCEO*, the draft of the corresponding norm, c. 79 was formulated on the basis of *PA*, cc. 236 and 257⁷³. As a result, *CCEO*, c. 1008 §1 affirms the supreme authority of the Roman Pontiff over all ecclesiastical goods. The corresponding Latin legislation *CIC/83*, c. 1273 also has a similar norm but with an explanation of the reason:

⁷⁰ See PCCICR, “La funzione dell’autorità ecclesiastica sui beni ecclesiastici,” in *Comm*, 36 (2004), p. 818.

⁷¹ See DE PAOLIS, *I beni temporali della Chiesa*, p. 43.

⁷² “Romanus Pontifex est omnium bonorum ecclesiasticorum supremus administrator et dispensator” (English translation in E.N. PETERS [ed.], *The 1917 or Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001, p. 507).

⁷³ “Dominium bonorum, sub suprema auctoritate Romani Pontificis, ad eam pertinet moralem personam quae eadem bona legitime acquisiverit” (*PA*, c. 236 §2). *PA*, c. 257 read: “Romanus Pontifex est omnium bonorum ecclesiasticorum supremus administrator et dispensator.”

“by virtue of his primacy of governance.”⁷⁴ In the ordinary course of affairs the pope exercises this power through: 1) establishing the laws for the juridic persons; 2) reserving for himself certain acts of administration;⁷⁵ 3) exercising the role of supreme administrator through the structures of the Roman Curia; 4) standing as the highest appeal authority; and 5) deciding for the good of the Church and common interest.⁷⁶ It should be noted in this context that the Pontifical Council for the Legislative Texts, in its instruction of 12 February 2004, stated that the Roman Pontiff who acts as the *primatus regiminis* by virtue of his public office in the Church is not, nevertheless, to be held responsible for the consequences of the acts of financial administration made by the immediate administrators of the juridic persons.⁷⁷

On the part of other ecclesiastical authority, common law demands that in order to have control over the administration of ecclesiastical goods, the authority should be vigilant.⁷⁸ In short, the authorities who are ultimately responsible for ecclesiastical goods and those who offer counsel or consent in view of certain acts of administration of ecclesiastical goods also participate in the responsibility of the administrator.

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

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

⁷⁶ See CHIAPPETTA, *Il codice di diritto canonico*, vol. 2, p. 537-538.

⁷⁷ See PONTIFICAL COUNCIL FOR THE LEGISLATIVE TEXTS, “La funzione dell’autorità ecclesiastica sui beni ecclesiastici,” in *Comm*, 36 (2004), pp. 24-32.

⁷⁸ See DE PAOLIS, *I beni temporali della Chiesa*, p. 44.

3.2.4 – Temporal Goods in the Service of the Proper Purposes of the Church

The teaching of the Second Vatican Council underlines the right of the Catholic Church to own property. Fulfilling the mission of the Church is the ultimate purpose of ecclesiastical property. While *PO*, no. 17, specified the proper purposes of ecclesiastical goods as “the organization of divine worship, the provision of decent support for the clergy, and the exercise of the works of the apostolate and of charity, especially for the benefit of those in needs,”⁷⁹ *GS*, no. 42, pointed out that the mission of the Church also consists of the works of mercy.⁸⁰

CCEO, c. 1007 states that the Church has an innate right to provide for the spiritual well-being of people and to possess and use for that purpose temporal goods. This claim includes the Church’s innate and inalienable “right to acquire, possess, administer and alienate those temporal goods which are necessary for achieving its own purposes.”⁸¹ Consequently, the canon underlines the foundation of its claim, the right granted to the Church by God and to be respected by secular society. In this context, Victor J. Pospishil states:

⁷⁹ *PO*, no. 17, English translation in FLANNERY 1, p. 895.

⁸⁰ “[...] the Church is able, indeed it is obliged, if times and circumstances require it, to initiate action for the benefit of all men, especially of those in need, like works of mercy and similar undertakings” (*GS*, no. 42, English translation in FLANNERY 1, p. 942).

⁸¹ *CCEO*, c. 1007: “In taking care of the spiritual well-being of people, the Church needs and uses temporal goods insofar as its proper mission demands it. Therefore, the Church has the innate right to acquire, possess, administer and alienate those temporal goods which are necessary for its own purposes, especially for divine worship, works of the apostolate, charity, and also for suitable support of ministers.” The corresponding norm of *CIC/83* is c. 1254. Content wise *CCEO*, c. 1007 and corresponding law of *CIC/83*, c. 1254 are similar except that *CCEO* omits the phrase “independently from civil power” (RENKEN, *Church Property*, p. 24).

While the goals of the Church as an institution established by its divine founder Jesus Christ are directed toward the spiritual, supernatural world, they have to be attained in this material world, in a society of humans, a task that requires the means appropriate to this world, which refers to temporal possessions, pecuniary income, real and personal property, legal claims, and the freedom to acquire, possess, administer and alienate them for the purposes of the Church.⁸²

As to the acquisition of temporal goods by juridic persons, *CCEO*, c. 1010 allows for every just means permitted to others. The corresponding legislation of *CIC/83*, c. 1259 refers to the “Church” instead of “juridic persons.” Jobe Abbass explains in this regard: “The Latin canons reference to ‘Church’ is defined to include the universal Church, the Roman Apostolic See and public juridic persons.”⁸³ Moreover, *CIC/83*, c. 1259 adds the phrase “natural or positive law permitted to others,” which is absent in *CCEO*.⁸⁴ To sum up, we can conclude that the moral quality of the means of acquisition of temporal goods is essential for the validity of the act of acquisition.

3.3 – CANONICAL OBLIGATIONS OF THE FINANCE OFFICER RELATED TO HIS FUNCTIONS

The administrator of ecclesiastical goods as a good *paterfamilias* or steward in accordance with the prescriptions of canon law must demonstrate in his exercise of duties “the same solicitude he would have for his own property.”⁸⁵ Various canons of *CCEO* explicitly show the ardent desire of the Church to safeguard the highest moral and professional standards in the administration of ecclesiastical goods.

⁸² POSPISHIL, *Eastern Catholic Church Law*, p. 694.

⁸³ J. ABBASS, “Temporal Goods of the Church: A Comparative Study of the Eastern and Latin Codes of Canon Law,” in *Periodica de re canonica*, 83 (1994), p. 673.

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

⁸⁵ METZ, “The Temporal Goods of the Church,” p. 701.

3.3.1 – Preliminary Obligations of the Office

The administration of ecclesiastical goods requires faithfulness on the part of an administrator. The canonical discipline demands a promise that the administrator will faithfully carry out his/her duties according to the formalities determined by *CCEO*. Making a promise by the administrators of Church property before the hierarch or his delegate to fulfill faithfully his/her office presumes the intention to carry out the functions with the diligence of a good householder in order to accomplish the proper purposes of the Church. *CCEO*, c. 1025 §1, 1° corresponds to *CIC/83*, c. 1283, 1°. The term “promise” (*promissio*) is used in *CCEO* instead of “oath” (*iureiurandum*) found in *CIC/83*. Taking an oath is different from a mere promise: an oath invokes God as a witness to the matter promised, so it is an act of the virtue of religion,⁸⁶ while a promise does not invoke God and will not have force in civil law.⁸⁷

During the revision process of *CCEO*, in 1981, a study group of the PCCICOR made a proposal to include the term “oath” in the text. It was not accepted by the group because they desired to reduce the demands for an oath to the minimum. Finally, the commission chose the obligation of a promise which is less demanding than an oath.⁸⁸ René Metz explains the reason behind the decision of the PCCICOR for the inclusion of a

⁸⁶ See RENKEN, *Church Property*, p. 206.

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

⁸⁸ See PCCICOR, “*De bonis ecclesiae temporalibus*,” in *Nuntia* 18 (1984), p. 57.

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

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

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

⁸⁹ See PCCICOR, “De bonis ecclesiae temporalibus,” in *Nuntia* 18 (1984), p. 57.

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

⁹¹ Cf. C.D. CLERCQ, *Fontes iuridici ecclesiarum orientalium; studium historicum*, Rome, Pontificum Institutum Orientalium Studiorum, 1967, pp. 124-125; D. SALACHAS, *Istituzioni di diritto canonico delle Chiese cattoliche orientali: strutture ecclesiali nel CCEO*, Rome, ED, Bologna, EDB, 1993, p. 40.

⁹² Chapter 4, c. 27, 2° of the Synod of Lebanese of the Maronite Church stated: “There may be goods belonging to the bishop, different from the goods of the Church; when one is elevated to the episcopacy, those things, which belong to the bishop before the episcopacy, shall be listed by the archdeacon in a special catalogue; the bishop has the power to do whatever he likes with regard to these goods and to dispose of them in any way. Not so about the goods belonging to the Church, or about the goods, whether they are immovable or movable, acquired by the bishop with the episcopal revenue coming to him. After the death of the bishop, these goods, if they are immovable, like landed estates, lands in cultivation, houses, belong to the episcopal see, if they are movable, they pertain to the patriarchal camera as pillage, and if it is about household properties, they will return to the patriarchal see. Objects left by the deceased bishop, such as the ecclesiastical furniture, the jars, the books of the mass and the prayers and the

previous Eastern norm (*PA*, c. 267 §1, 2°) also referred to the need of taking an accurate and detailed inventory of all subscriptions, immovable goods, precious movable goods, and other things, with their description and valuation. The administrators of ecclesiastical goods were also to note which things in the interim had been lost or acquired.⁹³

As the inventory is a guarantee for maintaining the transparency of stewardship of the administrator of ecclesiastical goods and for their safe custody, the inventory must be carefully reviewed by the hierarch. The administrator of ecclesiastical goods is to check the accuracy of the already existing inventory in accordance with the prescription of *CCEO*, c. 1025, 2° which states that before an administrator begins his or her office, he or she “[...] must sign an accurate inventory, reviewed by the hierarch, of the ecclesiastical goods entrusted to his or her administration.”⁹⁴ The administrator maintains the accuracy of the inventory of ecclesiastical goods, which also implicitly necessitates detailed documentation. Thus, in accordance with the prescription of *CCEO*, the details of the inventory must contain the description and estimate of the value of ecclesiastical goods and also include such data as the number of the series of things and the measurements of particular items. In this regard, the photographs or the videos of ecclesiastical goods

other sacred objects intended for the worship to God will not be verified; not even those of his private chapel: chairs, tables, sacred vessels and the other similar properties such as furniture of the house, because all this should be registered by the *oeconomus* in an inventory book to be handed to the bishop who will succeed him” (MANSI [ed.], *Sacrorum Conciliorum nova et amplissima collectio*, vol. 38, p. 198, translated by Msgr. Kuriakose Parampath).

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

⁹⁴ *CIC/83* also mandates drawing up of an inventory with the description and the estimate value of the immovable property, precious movable property, property of cultural interest and other goods (c. 1283, 2°). Cultural goods are the property which bear witness to culture and is inspired by faith. Financially, it is not measurable. See M.L. ALARCÓN, Commentary on c. 1283, in *Code of Canon Law Annotated*, p. 990.

could be used and kept appropriately.⁹⁵ If changes occur during the course of his/her administration, the administrator must record them in the inventory.

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

3.3.2 – Acquisition of Goods

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

⁹⁵ See A. RAJEH, *I beni temporali nella Chiesa Maronita in Libano: visione storica e commento esegetico alla normativa vigente*, Rome, Pontificia Università Lateranense, 1999, pp. 108-109.

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

⁹⁷ MORRISEY, “Acquiring Temporal Goods for the Church’s Mission,” p. 590.

3.3.2.1 – Acquisition of Temporal Goods through Voluntary Contributions of the Faithful

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

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

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

The corresponding norm prior to *CCEO*, c. 1016¹⁰² was *PA*, c. 286. Numerous times, during the process of the revision of the Eastern law, it was stressed that the intentions of the donors must be carefully and diligently fulfilled. In the process of the

⁹⁸ See DE PAOLIS, *I beni temporali della chiesa*, p. 120.

⁹⁹ See COPPOLA, "I beni temporali della Chiesa," p. 851.

¹⁰⁰ MORRISEY, Commentary on c. 1284, p. 728.

¹⁰¹ See POSPISHIL, *Eastern Catholic Church Law*, p. 697.

¹⁰² The corresponding norm in *CIC/83*, c. 1267 is similar to that of *CCEO*, c. 1016.

revision, c. 87 addressed that matter. It is interesting to note that §3 of c. 87 of the 1981 Schema, treating the intention of the donor¹⁰³ became §1 of the same canon during the discussion on the 1982 Schema.¹⁰⁴ In this way, the study group emphasized the great importance of the donor's intentions.¹⁰⁵ No other changes were introduced to the text of the canon.

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

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

¹⁰³ "Oblationes ad certum finem factae non nisi ad eundem finem destinari possunt" (PCCICOR, "De bonis ecclesiae temporalibus," in *Nuntia*, 13 [1981], p. 34).

¹⁰⁴ See PCCICOR, "De bonis ecclesiae temporalibus," in *Nuntia*, 18 (1984), p. 52. *CIC/83*, c. 1267 §3 states that offerings given by the faithful for a certain purpose must be applied only for that same purpose. Cf. RENKEN, *Church Property*, p. 30.

¹⁰⁵ See PCCICOR, "De bonis ecclesiae temporalibus," in *Nuntia*, 18 (1984), p. 52.

¹⁰⁶ See METZ, "The Temporal Goods of the Church," p. 697.

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

¹⁰⁸ See CHIAPPETTA, *Il codice di diritto canonico*, vol. 2, p. 527.

1016 §3).¹⁰⁹ Since the meaning of the expression “greater importance” is not specified in *CCEO*, it can be determined in the particular law of the Church *sui iuris*.¹¹⁰ René Metz offers some examples of the just cause for refusal of an offering: ill gotten money, donation by an ill reputed agency or by a person who deprives others.¹¹¹ The same norm (*CCEO*, 1016 §3) reminds the administrators of ecclesiastical goods that the norm on alienation, which is outlined in *CCEO*, c. 1042, must be observed when there is a question of a modal obligation¹¹² or a condition is attached to an offering. In accordance with *CCEO*, c. 1042, the prescriptions concerning alienation are to be observed in any business transaction which could worsen the patrimonial condition of the juridic person.¹¹³ Uncertain demands attached to a donation are not welcomed by the Church.

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

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

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

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

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

¹¹³ See POSPISHIL, *Eastern Catholic Church Law*, p. 703.

legitimate norms.¹¹⁴

3.3.2.2 – Prescription

CCEO, c. 1017 states that the Church recognizes prescription as one of the means of acquiring temporal goods in accordance with the norms of *CCEO*, cc. 1540-1542. “Prescription is a manner of acquiring property or of freeing from an obligation, and applies when a property, while belonging to someone else, is held in good faith as one’s own for the duration of a certain period of time.”¹¹⁵ Regarding the acquisitive and liberative prescription, Velasio De Paolis states: “Prescription is a way to become a titleholder of rights (acquisitive or usucaptive prescription) or to free oneself from obligations (liberative prescription), when the conditions foreseen by the law are verified.”¹¹⁶

The Church accepts prescription as it exists in civil law as a means of acquiring or losing subjective right and freeing oneself from obligations unless otherwise established in civil law (*CCEO*, c. 1540).¹¹⁷ The administrator of ecclesiastical goods must, therefore, follow the civil law of the place.¹¹⁸ Civil laws, to which canon law refers, are to be observed in canon law with the same effects, with the exception of the cases when they would be found contrary to the precepts of divine law or it is provided otherwise in canon

¹¹⁴ See MORRISEY, “The Temporal Goods of the Church,” p. 728.

¹¹⁵ POSPISHIL, *Eastern Catholic Church Law*, pp. 697-698.

¹¹⁶ DE PAOLIS, “Prescription and Computation of Time,” p. 843.

¹¹⁷ See POSPISHIL, *Eastern Catholic Church Law*, p. 779. *CCEO*, cc. 1540-1542 correspond to *CIC/83*, cc. 197 and 198. See KENNEDY, Commentary on cc. 197 and 198, in *CLSA Comm 2*, pp. 230-231.

¹¹⁸ During the codification, the expression “*ius civilis*” replaced “*legislatio civilis respectiva*” of an earlier text. See PCCICOR, “De lege, consuetudine, actibus, administrativis, praescriptione atque temporis supputatione,” in *Nuntia*, 18 (1984), p. 94. See also DE PAOLIS, “Prescription and Computation of Time,” p. 843, footnote 2.

law (*CCEO*, c. 1504).¹¹⁹ Compliance with the requirements that are stipulated in canon law and civil law is essential for the validity of prescription.¹²⁰ The basic requirements for validity are:¹²¹ the object must be actually held, the object must be held in good faith for the entire time,¹²² the object must be subject to prescription, and the time required by law must have passed.¹²³

Prescription is not applicable in the following areas of administration¹²⁴: 1) rights and obligations which directly relate to the spiritual life (*CCEO*, c. 1542, 3^o)¹²⁵; 2) certain and undisputed ecclesiastical boundaries (*CCEO*, c. 1542, 4^o)¹²⁶; and 3) mass offerings (*CCEO*, c. 1542, 5^o). The prescription time period with regard to immovable property, precious movable property, other real or personal property rights, and claims of the Church *sui iuris*, is fifty years. With regard to the prescription period, *CCEO*, c. 1019

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

¹²⁰ See METZ, "The Temporal Goods of the Church," p. 694.

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

¹²² For more details see DE PAOLIS, "Prescription and Computation of Time," pp. 843-844; KENNEDY, Commentary on c. 198, pp. 230-231; J. MIÑAMBRES, "Prescription," in *Exegetical Comm*, vol. 1, pp. 1089-1090.

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

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

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

¹²⁶ The previous Eastern norm, *PA*, c. 247, 4^o referred to the territories of the patriarchal, major archiepiscopal, ecclesiastical provinces, eparchies, exarchates and parishes. If a particular territory is uncertain and disputed, then the territory is subject to prescription. See *ibid*.

treats the Church *sui iuris* and the eparchy as equal.¹²⁷ According to René Metz, the prescription period of the non-precious movable goods is to be determined according to civil law.¹²⁸ It would be appropriate to establish norms regarding the prescription period of the non-precious movable goods in the particular laws of a Church *sui iuris*.

Acquisition of sacred things by prescription is regulated by *CCEO*, c. 1018.¹²⁹ Sacred things which are the property of the ecclesiastical juridic person can be acquired only by another juridic person.¹³⁰ The reasons for that are the protection of the proper use of the objects, and the prevention from any profanity.¹³¹ On the other hand, the sacred character of the objects of the Church *sui iuris* can be lost by different ways, namely,

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

¹²⁸ See METZ, “The Temporal Goods of the Church,” p. 695.

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

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

¹³¹ See RAJEH, *I beni temporali nella Chiesa Maronita*, p. 91.

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

3.3.3 – Administration of Ecclesiastical Goods

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

3.3.3.1 – Protection of Property through the Instruments of Civil Law

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

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

¹³³ See METZ, “The Temporal Goods of the Church,” p. 700.

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

¹³⁵ See COPPOLA, “I beni temporali della Chiesa,” p. 856.

goods against any misappropriation by the administrator. On the proper registration of the property, *CCEO*, c. 1020 states:

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

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

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

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

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

If civil law does not allow real property to be registered in the name of an ecclesiastical juridic person, as it was in all communist nations, or has other demands, such as that the Catholic Church is first recognized by civil law, the Church authority must protect the rights of the Church by employing other means available in civil law, having heard civil law experts and the appropriate council.¹³⁶

Therefore, as not only the law but also as common sense dictates, through consultation with civil law experts, enquiries are to be made about the most efficacious means to safeguard the temporal goods.¹³⁷

Like *CCEO*, c. 1020 §1, also *CIC/83*, c. 1284 §2, 1° prescribes that all administrators are to be vigilant over property so that goods in no way can be lost or damaged. In accordance with *CIC/83*, c. 1284 §2, 2° administrators must protect the property of the public juridic person by means of civil methods.¹³⁸ According to John

¹³⁶ POSPISHIL, *Eastern Catholic Church Law*, p. 698.

¹³⁷ See *PA*, c. 256 §§3 and 4. *CCEO*, c. 1020 §§3 and 4 have no parallel norm in *CIC/83*.

¹³⁸ The following aspects must be taken into account by the administrator in performing his duties: 1) acquisition of the goods by means recognized by the civil law (*CCEO*, c. 1010); scrupulously following the civil law requirements concerning contracts (*CCEO*, c. 1034), prescriptions (*CCEO*, c. 1540), and

Renken, “if public juridic persons themselves are civilly incorporated, the civil legal documents must reflect canon law.”¹³⁹ With regard to the civil incorporation, administrators are to observe canonical norms and they must uphold the canonical relationship between the owner and the goods. Civil legal documents of incorporation should be prepared in such a way that they protect the rights to the property of the Church in order to guarantee that civilly incorporated ecclesiastical goods serve the achievement of the proper purposes of the Church.¹⁴⁰

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

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

¹³⁹ RENKEN, *Church Property*, p. 214.

¹⁴⁰ See *ibid.*

¹⁴¹ See POSPISHIL, *Eastern Catholic Church Law*, p. 700.

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

¹⁴³ See METZ, “The Temporal Goods of the Church,” p. 702.

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

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

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

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

¹⁴⁵ See RAJEH, *I beni temporali nella Chiesa Maronita*, p. 109; V. DE PAOLIS, "Law, Custom and Administrative Acts," in NEDUNGATT (ed.), *Guide to the Eastern Code*, p. 834.

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

¹⁴⁷ See POSPISHIL, *Eastern Catholic Church Law*, p. 700.

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

¹⁴⁹ One has to remember that this canon speaks directly on the administration of ecclesiastical goods on the eparchial level, therefore it mentions a hierarch. *CCEO*, c. 1032 corresponds to *CIC/83*, c. 1288 but differs in one aspect. *CIC/83* requires a prior written permission, while *CCEO* omits that clause. The reason for the difference is not explained. See RENKEN, *Church Property*, p. 237; RAJEH, *I beni temporali nella Chiesa Maronita*, p. 118; KENNEDY, Commentary on c. 1288, in *CLSA Comm 2*, p. 1491;

from the hierarch is that the hierarch could, in a particular case, decide on resolving the dispute out of court.¹⁵⁰ The previous Eastern norm, *PA*, c. 275 also included a similar restriction that the administrator must not begin a lawsuit without having obtained prior permission from the hierarch: written permission had to be acquired by the administrator. Similar legislation can be found in *CIC/83*, c. 1288: the administrator is to obtain prior written permission from his own ordinary. Although *CCEO* omits the term “prior written (permission),” the study group of PCCICOR clarified the reason for that during the 1982 discussion:¹⁵¹ c. 151 of the Schema has included the provision of written permission when the proof of the administrative acts was mentioned.¹⁵² As the former Schema c. 151 became *CCEO*, c. 1514, it states that an administrative act issued for the external forum is to be set forth in writing.¹⁵³

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

MORRISEY, Commentary on c. 1288, pp. 730-731. See also POSPISHIL, *Eastern Catholic Church Law*, p. 718.

¹⁵⁰ See RENKEN, *Church Property*, p. 237; KENNEDY, Commentary on c. 1288, p. 1491; MORRISEY, Commentary on c. 1288, pp. 730-731.

¹⁵¹ See PCCICOR, “Nuova revision dello Schema canonum de normis generalibus et de bonis ecclesiae temporalibus,” in *Nuntia*, 18 (1984), p. 60.

¹⁵² See *ibid.*, p. 85. The study group of PCCICOR did not give the reason for obtaining the prior permission.

¹⁵³ See POSPISHIL, *Eastern Catholic Church Law*, p. 773.

¹⁵⁴ See CHIAPPETTA, *Il codice di diritto canonico*, vol. 2, p. 553.

3.3.3.2 – Provisions and Remedies for Fulfilling the Duties of Administrators

Canon 99 of the 1981 Schema was the draft of *CCEO*, c. 1028. Paragraph 1 reads: “§1. All administrators of ecclesiastical goods are to be fulfilled their duty as would a diligent head of a household.”¹⁵⁵

In 1982, during the discussion on that canon, there was a suggestion regarding the term *paterfamilias* in the new legislation as this term would not indicate the possibility of appointing women as administrators. The proposal was not accepted because the expression *paterfamilias* is a traditionally accepted term by which it is possible to identify the administrator without any gender discrimination.¹⁵⁶

The administrators of ecclesiastical goods are obliged to fulfill their duty with the diligence of a good householder.¹⁵⁷ These duties of the administrators refer to several provisions and remedies that are outlined mainly in *CCEO*, cc. 1028 and 1029:

1) The administrators of ecclesiastical goods are obliged to collect income accurately and on time (*CCEO*, c. 1028 §2, 3^o).¹⁵⁸ After the collection, it is the duty of the administrator to protect the income. The income must be used for the proper purposes of the Church in accordance with the intention of the founder or according to legitimate norms of law.

¹⁵⁵ PCCICOR, “De bonis ecclesiae temporalibus,” in *Nuntia*, 13 [1981], p. 37.

¹⁵⁶ See PCCICOR, “De bonis ecclesiae temporalibus,” in *Nuntia*, 18 (1984), pp. 58-59.

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

¹⁵⁸ *PA*, c. 269, 3^o prescribed that the administrators of ecclesiastical goods were bound to collect the income accurately and in due time and to keep the income in a safe place: “Reditus bonorum ac proventus accurate et iusto tempore exigere exactosque loco tuto servare.” Canon 99 of the 1981 Schema read: “[...] they must: [...] 3^o collect the income from goods and the proceeds accurately, and at the correct time, and preserve them in a safe place and spend them according to the mind of the founder or established laws and norms.”

2) A timely debt reduction schedule has to be maintained by administrators of ecclesiastical goods (*CCEO*, c. 1028 §2, 4°). This Eastern norm corresponds to *CIC/83*, c. 1284 §2, 5°. Luigi Chiappetta points out that the administrator is to consider debt repayment as a primary obligation and he is to be punctual in the repayment of loans and mortgages before the expiration of date.¹⁵⁹ Both Codes give priority to paying interest on loans. In accordance with *CCEO*, c. 1028 §2, 4°, the following are the important aspects of the duties of the administrators in this regard: 1) paying debts in a timely manner; 2) giving priority to the payment of interest rather than the debt; and 3) payment of the loan before the expiration of the time period of the debt.¹⁶⁰

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

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

¹⁵⁹ See CHIAPPETTA, *Il codice di diritto canonico*, vol. 2, p. 550.

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

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

¹⁶² See RAJEH, *I beni temporali nella Chiesa Maronita*, p. 112.

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

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

¹⁶³ See KENNEDY, Commentary on c. 1284, in *CLSA Comm 2*, p. 1487.

¹⁶⁴ See MORRISEY, Commentary on c. 1284, p. 728. See also RENKEN, *Church Property*, p. 216.

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

¹⁶⁶ Canon 99 of the 1981 Schema read: “[...] they must: [...] 6° keep well organized books of receipts and expenditures.”

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

internal and external bodies. Former Eastern legislation, *PA*, c. 269, 5° also prescribed such an obligation.¹⁶⁸

5) Presentation of the annual administration report is an obligation of an administrator of ecclesiastical goods (*CCEO*, cc. 1028 §2, 7°, 1031 §1).¹⁶⁹ The presentation of this report reflects the success or failure of annual planning, or deviations from it. This annual report is to be submitted to the hierarch (*CCEO*, c. 1031 §1).¹⁷⁰ The report should “minimally reflect other issues concerning the administration”¹⁷¹ of ecclesiastical goods such as: 1) the balance sheet of the current year; 2) debts incurred or reduced; 3) investments; 4) insurance coverage; 5) compliance with the intentions of the donors; and 6) legal protections.¹⁷² The rendering of this annual account is regulated by the particular laws of the Church.¹⁷³ The hierarch is to decide in which form the public account should be done and to what degree made public (*CCEO*, c. 1031 §2).¹⁷⁴

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

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

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

¹⁷¹ RENKEN, *Church Property*, p. 217.

¹⁷² See *ibid.*

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

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

6) Maintaining records and documents related to ecclesiastical goods on a daily basis is necessary for proper administration. Thus *CCEO* c. 1028 §2, 8° obliges administrators to maintain an archive of the documents.¹⁷⁵

7) Juridic persons have an obligation to dispense charity, therefore *CCEO*, c. 1029 provides a norm for making donations:¹⁷⁶ “An administrator of ecclesiastical goods is not to make donations from movable goods that do not belong to the stable patrimony, except for donations within moderation according to legitimate custom, and unless for a just cause of piety or charity.” The previous Eastern norm, *PA*, c. 285 was similar and determined that, in principle, prelates and rectors were not to make donations out of mobile goods (*bona mobilia*); they could, however, donate small and moderate amounts as sanctioned by the legitimate custom of the place, unless just cause intervened, for the sake of remuneration, piety, or Christian charity.¹⁷⁷ While *PA*, c. 285 corresponded to *CIC/17*, c. 1535,¹⁷⁸ neither norm used the term “stable patrimony” (*patrimonium stabile*), unlike *CCEO*, c. 1029 and the corresponding *CIC/83*, c. 1285. Therefore, the term “stable patrimony” is a novelty in *CCEO* as well as in *CIC/83*. In fact, in the process of the revision of *CIC*, at the time of the discussion on c. 29 of the 1979 Schema, there was a difference of opinion among the consulters regarding the inclusion of the term “stable

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

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

¹⁷⁷ “Praelati et rectores de bonis mobilibus suarum ecclesiarum donationes, praeterquam parvas et módicas secundum legitimam loci consuetudinem, facere ne praesumant, nisi iusta interveniente causa remunerationis aut pietatis aut christianae caritatis; secus donatio a successoribus revocari poterit” (*PA*, c. 285). See PCCICR, “Coetus studiorum de bonis ecclesiae temporalibus,” in *Comm*, 12 (1980), p. 420.

¹⁷⁸ See WOYWOD, *A Practical Commentary on the Code of Canon Law*, p. 212.

patrimony.” The commission sought to limit the possibility of the administrators to make gifts and the norm that the administrators can donate from the movable property serves to protect the immovable property and the stable patrimony of the juridic person.¹⁷⁹ In other words, the administrator can never touch in any way the stable patrimony¹⁸⁰ to make such donations.

3.3.3.3 – Preparing the Budget of Income and Expenditures Account

In order to fulfill the purposes of every juridic person, planning is necessary. In conformity with *CCEO*, c. 1028 §3, it is strongly recommended that administrators of each juridic person establish a budget; particular laws regulate and determine the manner of its preparation. The corresponding norm of *CIC/83*, c. 1284 §3 also leaves to particular law the manner of the preparation of the annual budget.¹⁸¹

In accordance with *CCEO*, c. 122 §3, the finance officer of a patriarchal (major archiepiscopal) Church must submit to the permanent synod a budget of projected income and expenditures for the forthcoming year. With respect to the formulation of *CCEO*, c. 122 §3, the respective text of the 1982 Schema was the same as that of *CS*, c. 299 §3 which stipulated that the patriarchal/major archiepiscopal finance officer must submit to the permanent synod a written annual report on his administration.¹⁸² The above

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

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

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

¹⁸² See PCCICOR, “De ecclesiis patriarchalibus,” in *Nuntia*, 19 (1984), p. 39.

mentioned Schema did not mention the annual budget.¹⁸³ However, the discussions on the 1985 Schema led the study group of PCCICOR to include the obligation of drawing up of a budget annually and presenting it to the permanent synod, namely, the study group observed that the clause “report of the administration” that was included in the earlier 1982 Schema was too general a term, and decided that the past year’s balance and the budget of income and expenditure of the coming year be specified in the new draft.¹⁸⁴ The draft of c. 93 §3 of 1985 and 1986 Schema c. 122 §3 were effectively the same as that of *CCEO*, c. 122 §3. Canon 122 §3 of the 1986 Schema reads:

The patriarchal finance officer must submit annually to the permanent synod a written report of the past year of administration as well as the budget of revenue and expenditures for the coming year; the finance officer is to submit an administration report whenever it is requested by the permanent synod.¹⁸⁵

The budget is to reflect the proper purposes of the Church, namely: providing for divine worship, works of the apostolate, charity, and suitable support of ministers (*CCEO*, c. 1007). Generally, a budget includes the following analysis: 1) the previous year’s projected income and expenses, the actual income and expenses, and the difference; 2) the current financial year’s projected income and expenses, the actual income and expenses, and the difference; and 3) the next financial year’s projected income and expenses. The budget must be focused on the following considerations: 1) increasing the income; 2) provisions for meeting expenditures; 3) provisions for the

¹⁸³ “Oeconomus patriarchalis rationem administrationis Synodo permanenti quotannis et quoties ab ipso petitur in scriptis reddere debet; Synodus autem per duos saltem synodales Episcopos, rationes ab oeconomio exhibitas examinat, aream recognoscit, convenientes inspectiones bonorum, documentorum, nominum, inopinato etiam, exsequitur seu exsequendas iubet, et diligenter conservationi, tutelae, incremento patrimonii patriarchalis providet” (*CS*, c. 299 §3).

¹⁸⁴ See PCCICOR, “De ecclesiis patriarchalibus,” in *Nuntia*, 22 (1986), p. 89.

¹⁸⁵ “Oeconomus patriarchalis rationem administrationis exeuntis anni necnon praevisionem accepti et expensi anni incipientis Synodo permanenti quotannis scripto reddere debet; ratio administrationis reddenda est etiam quoties a Synodo permanenti id petitur” (PCCICOR, “Schema codicis iuris canonici orientalis,” in *Nuntia*, 24-25 [1987] p. 21). See also PCCICOR, “De ecclesiis patriarchalibus,” in *Nuntia*, 22 (1986), p. 91.

unforeseen circumstances; and 4) provisions for fulfilling the proper purposes of the Church. As with regard to general principles guiding a budget, Garrett J. Roche states that formulation of a budget is to include the demands of social justice, especially the works of charity to the needy.¹⁸⁶ Robert T. Kennedy concurs with these views and stresses that to include the provision to raise funds for the works of charity, the drawing up of the budget is to be in accordance with social justice.¹⁸⁷ Simply accumulating money is not the aim of the Church and it should not be considered as the goal of administrators. Acquired funds are to be utilized in accord with the budget provisions.¹⁸⁸

3.3.3.4 – Acts of Extraordinary Administration

In a major archiepiscopal Church, while the administrator of ecclesiastical goods is the major archbishop himself, as the chief hierarch of the Church, the finance officer fulfills his/her function under the authority of the major archbishop. The major archbishop represents the Church *sui iuris* in all its juridic affairs (*CCEO*, c. 79).

Administrators of ecclesiastical goods act invalidly when they exceed the boundaries of ordinary administration unless they obtain prior written consent from the competent authority (*CCEO*, c. 1024 §1).¹⁸⁹ In accordance with *CCEO*, c. 1024 §2, the statutes of the juridic person are to determine the acts which exceed the limits

¹⁸⁶ See G. J. ROCHE, “The Poor and Temporal Goods in Book V of the Code,” in *The Jurist*, 55 (1995), pp. 326-328.

¹⁸⁷ “All budgeting in the Church should be done, not just with a view to increasing income, meeting expenditures, and providing for unforeseen circumstances, but also in the light of the demands of social justice (see c. 1286) and in the light of one of the principal purposes of raising funds in the Church, namely, to be able to perform the works of charity toward the needy (see c. 1254, §2)” (KENNEDY, Commentary on the c. 1284, p. 1487).

¹⁸⁸ It is worthwhile to mention that it is the responsibility of the eparchial finance council to prepare the annual budget for the eparchy (*CCEO*, c. 263 §5).

¹⁸⁹ See POSPISHIL, *Eastern Catholic Church Law*, p. 700.

and manner of ordinary administration.¹⁹⁰ If the statutes remain silent with regard to such acts, the authority to whom the juridic person is immediately subject is to determine the matter, after consultation with the competent council.¹⁹¹ Generally, the accepted scope of the acts of extraordinary administration includes the following: accepting or renouncing inheritances and legacies; purchasing immovable goods; selling or mortgaging objects of art, historical documents, or other movable property of great importance; selling, exchanging, mortgaging immovable church property or subjecting it to servitudes or other burdens; borrowing large sums of money as temporary loans; building, razing or rebuilding a church or making extraordinary repairs; establishing a cemetery; entering a law suit as an involved party.¹⁹²

With regard to the validity of the acts which go beyond the ordinary administration, *PA*, c. 276 §1 prescribed: “Unless they [administrators] have first sought the faculty of the hierarch to be given in writing, administrators invalidly place acts that exceed the limits and manner of ordinary administration.”¹⁹³ Canon 1039 of the 1986 draft had a similar formulation: if administrative acts exceed the limits and manner of

¹⁹⁰ For the contemporary notion of ordinary and extraordinary administration, see MORRISEY, “Ordinary and Extra Ordinary Administration,” p. 711.

¹⁹¹ See See COPPOLA, “I beni temporali della Chiesa,” p. 857; POSPISHIL, *Eastern Catholic Church Law*, p. 700. In the Syro-Malabar major archiepiscopal Church, the specification regarding the acts of ordinary and extraordinary administration is provided by its particular laws. See SSMMAC, “Particular Laws of the Syro-Malabar Church,” in *Synodal News*, 11 (2003), pp. 50-51.

¹⁹² See MORRISEY, “Ordinary and Extra Ordinary Administration,” p. 712.

¹⁹³ “Nisi prius ab Hierarcha loci licentiam impetraverint, scriptis dandam, administratores invalide actus ponunt qui ordinariae administrationis fines et modum excedant” (*PA*, c. 276 §1). The Congregation for the Propagation of the Faith provided the criteria for the extraordinary administration for the dioceses of Holland on 21 July 1856. See *Collectanea S. Congregationis de Propaganda Fide*, pp. 607-610. See also MORRISEY, “Ordinary and Extra Ordinary Administration,” pp. 711-712.

ordinary administration, the acts of the administrator are valid only if he acted with the written consent of the competent authority.¹⁹⁴

The norm of *CCEO*, c. 1024 §1 limits the competency of the administrator of ecclesiastical goods and requires written consent from the competent authority which stands as the necessary element for valid administration. In a major archiepiscopal Church *sui iuris*, its particular law defines the acts which go beyond the limits and manner of ordinary administration.¹⁹⁵

3.3.4 – Alienation of Ecclesiastical Goods

Alienation is described by V.J. Pospishil as follows: “The term *alienation* refers to legal transactions of any kind which could place the property or right in a less favorable position.”¹⁹⁶ *CCEO*, cc. 1035-1042 provides the norms which govern alienation of ecclesiastical goods in the Eastern Catholic Churches, while *CIC/83* stipulates the corresponding norms in cc. 1291-1298. Jobe Abbass states that the norms of *CCEO* and *CIC/83* are similar with regard to the general principles governing alienation.¹⁹⁷ Except for canons on public and private juridic persons,¹⁹⁸ “[...] the parallel Latin and Eastern norms are similar in identifying [...] ecclesiastical goods legitimately designated as part

¹⁹⁴ “Administrator actus, qui finem et modum ordinariae administrationis excedunt, valide ponere non potest nisi de consensus auctoritatis competentis scripto dato” (PCCICOR, “De bonis ecclesiasticis administrandis,” in *Nuntia*, 24-25 [1987], p. 185).

¹⁹⁵ *CCEO*, c. 1024 corresponds to *CIC/83*, c. 1277.

¹⁹⁶ POSPISHIL, *Eastern Catholic Church Law*, p. 701.

¹⁹⁷ According to J. Abbass, the norms of *PA* largely followed *CIC/17*. The norms of *CCEO* on alienation were undoubtedly formulated with the *CIC/83* canons in mind. The report of the PCCICOR (May 8-21, 1977) showed that most of the former norms of *PA* were changed very little. And [...] “the new Eastern legislation relies heavily on the text used to formulate the 1983 Latin Code” (ABBASS, *Two Codes in Comparison*, p. 177); ID., “Alienating Ecclesiastical Goods in the Eastern Catholic Churches,” p. 132; see also PCCICOR, “De laicis deque consociationibus christifidelium ac de officiis ecclesiasticis et iure Ecclesiae patrimoniali,” in *Nuntia*, 5 (1977), p. 49.

¹⁹⁸ *CCEO*, 1009 §2 refers to juridic persons, while *CIC/83*, c. 1291 concerns the goods of public juridic persons and *CIC/83*, c. 1257 §2 treats on the goods of private juridic persons.

of the juridic person's stable patrimony to be subject to the general norms governing alienation."¹⁹⁹

As to the sources of the present legislation in *CCEO*, one can point to *PA*, c. 280 which regulated alienation of ecclesiastical goods.²⁰⁰ Ecclesiastical goods were not to be alienated for a lower price than indicated in an appraisal made by the experts (*PA*, c. 280 §1). Alienation was to be accomplished through public auction or the administrator was to make sure that alienation was conducted in some other public manner, unless circumstances dictated otherwise. Ecclesiastical goods had to be transferred to the person who offered the highest value (*PA*, c. 280 §2). The amount received was to be invested carefully, safely and usefully in favor of the Church (*PA*, c. 280 §3). According to *PA*, c. 281 §4, the hierarch was to obtain consent for alienation from the finance council (board of administrators) and interested parties. The canons on prescriptions were to be observed regarding alienation and any kind of contracts (*PA*, cc. 279-282).²⁰¹ In accordance with *PA*, c. 284, the Church, as a moral person, had the right to take personal action against the illegal holder of the goods, and against the administrator who irregularly alienated them. The corresponding Latin legislation was *CIC/17*, c. 1534.

If ecclesiastical goods were to be pledged or mortgaged, or debts had to be contracted, the legitimate superior was obliged to give permission. Before granting permission, the legitimate superior had to insist that the interested parties be heard

¹⁹⁹ ABBASS, "Alienating Ecclesiastical Goods in the Eastern Catholic Churches," p. 127.

²⁰⁰ *PA*, cc. 278-293 referred to contracts. The norms accepted the prescriptions of civil law with regard to contracts unless they were contrary to divine law or unless canon law stipulated otherwise.

²⁰¹ All the necessary precautions were to be taken by the superiors (*PA*, c. 279 §2).

(*PA*, c. 288 §1). The corresponding Latin norm was *CIC/17*, c. 1538.²⁰²

3.3.4.1 – Canonical Notion of Alienation

CCEO, c. 1035 concerns alienation of ecclesiastical goods. This norm corresponds to *CIC/83*, c. 1295. *CCEO*, c. 1035 §1, refers to temporal goods lawfully designated as the stable patrimony of a juridic person and stipulates the basic requirements for alienation: 1) just cause (necessity, advantage, piety, charity, or pastoral reason),²⁰³ 2) written appraisal by experts, and 3) written consent of the competent authority. In accordance with *CCEO*, c. 1495, the norm of *CCEO*, c. 1035 §1, 3° is considered as an invalidating law: alienation is not valid if written consent of the competent authority is not obtained.²⁰⁴

The meaning of the term alienation is a matter of discussion by different authors. Though *CCEO* does not give a direct definition regarding alienation in the strict sense, the definitions proposed in the context *CIC/83*, should be examined. Adam J. Maida and Nicholas P. Cafardi state: “Alienation is the conveyance to another party, the encumbrance or the placing in jeopardy of loss of any interest in a public juridic person’s stable patrimony (immovable goods or fixed capital).”²⁰⁵ For them, the sale of real property, the use of fixed capital for other purpose than the initial purposes, leasing, pledging, and mortgaging come under the title of alienation. On the other hand, according to their definition, any transfer of movable goods will not come under the title of

²⁰² See WOYWOD, *A Practical Commentary on the Code of Canon Law*, p. 213.

²⁰³ See POSPISHIL, *Eastern Catholic Church Law*, p. 702.

²⁰⁴ See DE PAOLIS, “Law, Custom and Administrative Acts,” pp. 818-819.

²⁰⁵ A.J. MAIDA and N.P. CAFARDI, *Church Property, Church Finances, and Corporations: A Canon Law Handbook*, St. Louis, MO, The Catholic Health Association of the United States, 1984, p. 85.

alienation.²⁰⁶ Francis Morrissey, while commenting on the Latin norms on alienation,²⁰⁷ which are similar to the general norms governing alienation in *CCEO*, states: “It would seem that the generally accepted meaning of the term today is ‘conveyance,’ or transfer of ownership, at least when alienation is considered in the strict sense of the term.”²⁰⁸ He categorizes a number of transactions which come under the title of alienation, namely: transferring of the title of the property; spending fully or partly the immobilized goods for other purposes than that for which they were originally immobilized (for instance, conveying money or investments to other persons for whom they were not originally intended, withdrawals of money and investments for other purposes, conveyance to others of money and its equivalents received from the sale of property, transferring money or securities received in the form of annuities, transferring money or securities accrued from pious foundations, bursaries, endowments, and the like); acts which are a preparation for conveyance such as giving security, a mortgage, an option compromise, settlement, either perpetually or for a long time burdening ecclesiastical goods; acts that burden ecclesiastical goods perpetually or for a long time by usufruct or easements of various kinds; sale or conveyance of precious works and relics; and establishing of a

²⁰⁶ See *ibid.*, p. 86.

²⁰⁷ Generally, the norms concerning temporal goods in *CCEO* and *CIC/83* have many similarities. René Metz states: “In *CIC – 17*, the legislation concerning temporal goods comprised 57 canons (cc. 1495 – 1551). In *CICO*, it was the section that formed Title XIX (*De bonis Ecclesiae temporalibus*) of the entire Schema and was promulgated on 9 February 1952 in *PA*, constituting cc. 232 – 301 of this MP [motu proprio], a total of 70 canons. The two pieces of legislation, the Eastern and Latin had much in common; this is easily understood. The issues regarding material things are such as hardly allow a choice of concrete solutions” (METZ, “The Temporal Goods of the Church,” p. 599).

²⁰⁸ F.G. MORRISSEY, “The Alienation of Temporal Goods in Contemporary Practice,” in *StC*, 29 (1995), p. 294.

trust.²⁰⁹ Morrisey's definition that alienation is the transfer of ownership is more plausible. As the notion of alienation includes also the transfer of the right to the property, alienation is the absolute transfer of the title and rights to another person: the donor loses the rights of ownership over the property and the receiver obtains the rights of ownership.

Stable patrimony is defined as "immovable and movable goods which, by legitimate designation of competent authority, through an act of extraordinary administration, form the secure basis of a juridic person so that it can perform its works."²¹⁰ Stable patrimony can be further described, as in the study of Francis Morrisey,²¹¹ as: 1) property immobilized through investment;²¹² 2) invested stabilized money for a specific purpose; 3) an investment fund for a specific purpose but not for a long period; 4) free or working capital amount; 5) a gift which after the expiration of time determined by the donor becomes a free capital; and 6) a quasi-reserve fund which is destined for the general purposes of the juridic person.

²⁰⁹ See *ibid.*, pp. 295-296. Contracting debts, mortgages, annuity obligations, arbitration in financial matters, easements acts of security for others and all contracts of the similar nature come under the term alienation. See T. L. BOUSCAREN, A.C. ELLIS, and F.N. KORTH, *Canon Law: A Text and Commentary*, Milwaukee, WI, The Bruce Publishing Company, 1963, p. 845. Morrisey lists certain acts that do not come under the realm of alienation, namely: 1) spending of the free (not fixed) capital; 2) transfer of goods from one ecclesiastical juridic person to another; 3) transfer of a title for a similar title; 4) acts of renegotiating loans; 5) sale of furniture and equipment; 6) observing the intentions of the donors; 7) curtailment of property rights through negligence; 8) refusal of gifts; 9) acceptance of foundations; 10) involuntary surrender of property; and 11) conversion of capital assets. For a detailed study, see MORRISEY, "The Alienation of Temporal Goods in Contemporary Practice," pp. 306-310. See also POSPISHIL, *Eastern Catholic Church Law*, p. 702.

²¹⁰ RENKEN, *Church Property*, p. 24. Though the term "non-stable patrimony" is not used in *CCEO*, commentators define it as immovable and movable goods which are not legitimately designated as stable patrimony (cf. *CIC/83*, c. 1285). See *ibid.*

²¹¹ See MORRISEY, "The Alienation of Temporal Goods in Contemporary Practice," pp. 302-303.

²¹² It is a permanent investment through which income is generated; it is an immovable property. See *ibid.*, p. 302.

CCEO, c. 1042 helps to understand the meaning of alienation in the broader sense, even though the canon does not provide a definition of alienation. It reads: “Canons 1035-1041 must be observed not only in alienation but also in any transaction which can worsen the patrimonial condition of a juridic person.”²¹³ On the basis of that stipulation which points to a rather technical meaning of the term “alienation” as opposed to other transactions of similar kind, a definition of alienation in the broad sense of the term was proposed by René Metz: “[alienation] designates the transfer of a right of any kind over a thing belonging to a juridic person, who risks diminishing the value of his stable patrimony: such as, for example, lending on use, pledging, mortgage, emphyteusis.”²¹⁴ *CCEO*, c. 1042 has a Latin counterpart in *CIC/83*, c. 1295. On the latter, F. Morrisey comments: “The difficulty arises not from the understanding of transfer or conveyance, but rather because of the prescription of c. 1295 which gives a broader meaning to the term since it applies the norms of the law to those transactions whereby the patrimonial condition of the juridic person could be jeopardized.”²¹⁵

Indeed, regarding understanding alienation in such a broader sense, there are differences of opinion. For instance, Robert T. Kennedy, while commenting on *CIC/83*, c. 1295 warns that the notion of alienation in the broad sense “can lead to confusion and

²¹³ Cf. *CIC/83*, c. 1295. *PA*, c. 283 stated: “Quae in can. 279-282 de alienatione statuuntur, servanda sunt etiam in quolibet contractu quo, ex ipsa contractus natura, condicio Ecclesiae peior fieri posit.”

²¹⁴ METZ, “The Temporal Goods of the Church,” p. 704.

²¹⁵ MORRISEY, “The Alienation of Temporal Goods in Contemporary Practice,” p. 294. See also ABBASS, “Alienation in the Eastern Catholic Churches,” p. 128. *CIC/83*, c. 1295 reads: “The requirements of cann. 1291-1294, to which the statutes of juridic persons must also conform, must be observed not only in alienation but also in any transaction which can worsen the patrimonial condition of a juridic person.”

to canonical errors,²¹⁶ because under the scope of c. 1295 would fall the act of acceptance of donations made under an onerous condition or obligation, an act which is acquisition, not alienation!²¹⁷ Jobe Abbass maintains nevertheless that the canonical norms have to be observed in the context of a broader application of *CCEO*, c. 1042 and *CIC/83*, c. 1295.²¹⁸ He concludes in this regard:

In any event, it seems clear that *CIC* canon 1295 (*CCEO* c. 1042) objectively intends that, when transactions such as loans, leases and other liens involve sums that exceed those defined at law, then the canons regarding alienation will apply. It will be the competent authorities mentioned in those norms who will decide whether or not to consent to the transaction while also taking into consideration its likely impact on the overall financial condition of the juridic person concerned.²¹⁹

In this regard, a useful remark comes from Francis Morrisey who outlines three aspects to determine whether the patrimonial condition of a juridic person worsens, namely: “a) loss or diminishing of ownership; b) loss or diminishing of sponsorship; [and] c) loss or diminishing of control.”²²⁰ The responsibility of the competent authority is to determine the economic condition of the juridic person in view of the proposed transaction in light of those three elements.

3.3.4.2 – Formalities Required for Alienation

In order to safeguard ecclesiastical goods, *CCEO* specifies certain formalities for alienation. *CCEO*, c. 1035 §1, 1° states that there must be a just cause for alienation, such as urgent necessity, evident advantage, piety, charity, or other pastoral reasons. Before

²¹⁶ KENNEDY, Commentary on c. 1291, in *CLSA Comm 2*, p. 1494. In particular, See also ABBASS, “Alienation in the Eastern Catholic Churches,” p. 128.

²¹⁷ See KENNEDY, Commentary on c. 1295, in *CLSA Comm 2*, p. 1504.

²¹⁸ See ABBASS, “Alienation in the Eastern Catholic Churches,” p. 129.

²¹⁹ *Ibid.*, p. 130.

²²⁰ MORRISEY, “The Alienation of Temporal Goods in Contemporary Practice,” p. 311. The transaction which does not affect the stable patrimony will not come under the scope of alienation.

granting consent for alienation, the competent authority is to decide on whether there is just cause or not for alienation.

In accordance with *CCEO*, c. 1035 §1, 2^o, written appraisal of the goods is to be made by experts before any alienation.²²¹ Other precautions prescribed by the lawful authority are to be taken into consideration (*CCEO*, c. 1035 §2). *CCEO*, c. 1041 stipulates that, except by special permission (made with regard to the specific object and the specific person, taking into account the circumstances of the case), goods may not be sold or leased by administrators to persons related to them up to the fourth degree of consanguinity or affinity.²²²

According to *CCEO*, c. 1035 §1, 3^o (cf. *CIC/83*, c. 1291), written consent of the competent authority is required: “The alienation of ecclesiastical goods, which constitute, by legitimate designation, the stable patrimony of a juridic person, requires [...] in cases prescribed by law, written consent of the competent authority, without which the alienation is invalid.” The need for consent of the respective authorities depends upon the value of goods which will be determined by the particular law of the Church *sui iuris*.

Regarding the request for the consent, the administrator is to make sure that the formalities required for alienation are in order. He has the responsibility to reveal the detailed “economic state of the juridic person whose temporal goods are proposed for alienation and of previous alienations” (*CCEO*, c. 1038).

As mentioned earlier, the permission required from the three levels of competent authorities in the major archiepiscopal Church is decided upon the basis of the monetary

²²¹ See METZ, “The Temporal Goods of the Church,” p. 704; POSPISHIL, *Eastern Catholic Church Law*, p. 702.

²²² See METZ, “The Temporal Goods of the Church,” p. 704.

value of the asset. Consequently, for alienation of ecclesiastical goods of a major archiepiscopal Church valued between the minimum and the maximum amount, the major archbishop is to consult the permanent synod (*CCEO*, c. 1037, 1°); for alienation of goods exceeding in value the maximum sum and not double this sum, he needs the consent of the permanent synod (*CCEO*, c. 1037, 2°); and for alienation of goods exceeding by double the maximum sum,²²³ as well as for alienation of precious goods and those given by reason of a vow, the major archbishop requires the consent of the synod of bishops (*CCEO*, c. 1037, 3°). Jobe Abbass underlines that “[...] in a significant application of the principle of subsidiarity in favor of the Eastern patriarchal Churches, the required consent for these alienations within the patriarchal territories is given in all cases by the bishop or patriarch with the consent either of the permanent synod or the synod of bishops (*CCEO*, c. 1036 §§2-3).”²²⁴ On the other hand, sacred relics, icons, and images of the patriarchal Church cannot, in any manner, be validly alienated nor perpetually transferred to another Church without the consent of the Apostolic See or patriarch. The patriarch grants his consent with the consent of the permanent synod in accordance with *CCEO*, c. 1037 (*CCEO*, c. 888 §2).

Regarding alienation of ecclesiastical goods without following the canonical requirements but valid in civil law, *CCEO*, c. 1040 states that the higher authority of the

²²³ Though *CCEO*, c. 1037, 3° is mentioning the “double the sum” (*eandem summam duplo*) and not double the maximum amount, J. Abbass maintains that such an interpretation should be made. See ABBASS, “Alienation in the Eastern Catholic Churches,” p. 131, footnote 56. See also ID., *Two Codes in Comparison*, p. 187, footnote 26.

²²⁴ ABBASS, “Alienation in the Eastern Catholic Churches,” p. 131.

one who carried out the alienation is to determine which action is to be taken in order to vindicate the rights of the Church.²²⁵

3.4 – CANONICAL PROVISIONS FOR ADMINISTRATION OF JUSTICE WITH RESPECT TO FINANCIAL MALFEASANCE

The Church has been richly blessed by the donations of its people. It is the duty of administrators to take the necessary steps for the retention, administration, and alienation of ecclesiastical goods which have been received through the benevolence of the faithful. Pope Benedict XVI, in the encyclical letter *Caritas in veritate* states: “Economy and finance, as instruments, can be used badly when those at the helm are motivated by purely selfish ends.”²²⁶ The Pope called fraudulent malpractices, such as money-laundering, “criminal activities.”²²⁷ As John Renken remarks, the financial harm caused by the administrators of ecclesiastical goods can be “scandal to the faithful, hurt to donors, and damage to the public image of the Church.”²²⁸ Consequently, when financial malfeasance takes place in the administration of ecclesiastical goods, it is the duty of competent ecclesiastical authorities to restore the confidence and the trust of the faithful by taking necessary steps to redress the situation, repair harm, and demand the compensation. The respective authority also has the duty to act towards restoring the

²²⁵ The parallel norm in *CIC/83*, c. 1296, in addition “calls for a decision to be made as to whether any action should be taken and, if so, whether it should be real or personal [...]” (KENNEDY, Commentary on c. 1296, in *CLSA Comm 2*, p. 1506). *CCEO* is clearer in this regard and Kennedy accepted the canonical norm prescribed in *CCEO*, c. 1040 while interpreting *CIC/83*, c. 1296. See *ibid.* See also ABBASS, “Alienation in the Eastern Catholic Churches,” p. 133.

²²⁶ BENEDICT XVI, encyclical letter *Caritas in veritate*, 29 June 2009, no. 36, in AAS, 101 (2009), pp. 641-709, English translation *Caritas in veritate*, Ottawa, CCCB Publications Service, 2009, pp. 48-49.

²²⁷ See BENEDICT XVI, Apostolic Letter on the Charter of the Information Authority of the Financial Institution *Statuto to dell'autorità di informazione finanziaria*, 30 December 2010, art. 2 §1, in AAS, 103 (2011), pp. 7-8, especially at p. 7.

²²⁸ J. RENKEN, “Penal Law and Financial Malfeasance,” in *StC*, 42 (2008), p. 6.

stability of the juridic person affected by financial malfeasance through sound fiscal oversight and demanding accountability of the officers.²²⁹

In accordance with *PA*, c. 284, the Church in virtue of being a moral person (subject of rights and obligations), had the right to take personal action against the illegal holder of ecclesiastical goods, and against the administrator who irregularly alienated them. The corresponding Latin legislation was *CIC/17*, c. 1534.²³⁰

In the context of financial malfeasance,²³¹ the issue of delicts and restoration of justice through penal measures is to be considered in accordance with the prescriptions of *CCEO*. Several canons of *CCEO* can be applied to situations involving financial

²²⁹ Here it is relevant to have a picture of the measures to be taken by the competent authorities in accordance with common law and particular laws. Expertise in financial matters and unquestionable honesty are outlined in *CCEO*, c. 122 §1 as the qualities required for the appointment of the finance officer, and show the Church's desire to protect the ecclesiastical property from malfeasance. The internal (to a given juridic person) and external auditing systems, periodical reviews of the financial activities by the finance committee, the presentation of the financial report and of the budget of receipt and payment accounts of the past year and the forthcoming year to the synod of bishops and the permanent synod, and the required counsel or consent of the synod of bishops and of the permanent synod for the acts which go beyond the sphere of ordinary administration, are the precautionary measures applied in the Syro-Malabar Church.

²³⁰ Joseph F. Cleary has commented on the latter: "It grants the church body which has suffered the damage a real action (*actio realis*) against any holder of property irregularly alienated when the alienation is null. [...] The same church body has a personal action (*actio personalis*) against the administrators and their heirs to oblige them to repair the wrong done" (*Canonical Limitations on the Alienation of Church Property*, Washington, DC, Catholic University of America, 1936, pp. 104-105).

²³¹ *CCEO*, c. 935 obliges anyone who unlawfully caused damage upon someone by a juridic act or by any other act placed by fraud or negligence to make reparations for the damage inflicted. *CCEO*, c. 1024 states that the juridic person is not responsible for the invalid acts of the administrator. Regarding it Victor J. Pospishil states: "Civil law will not free the juridic person as a rule from obligations incurred by the person appearing as its administrator if the claim is based on good faith on the part of the claimant" (POSPISHIL, *Eastern Catholic Church Law*, p. 700). Regarding the initiation of a lawsuit, with the written permission of the hierarch, an administrator can initiate or contest the suit in a civil court (*CCEO*, c. 1032). But the question is whether this civil action will be in accord with the norm and spirit of canon law. Regarding the coercive penal authority John D. Faris states: "[T]he clear distinction at the outset permits the penal law of the Church to be structured primarily on the basis of theological considerations and not simply a counterpart or complement to civil penal law: ecclesiastical penal law has the *salus animarum* as its primary goal" (J.D. FARIS, "Penal Law in the Catholic Churches," in *Folia canonica*, 2 [1999], p. 58).

malfeasance. Among the delicts associated with financial malfeasance, one can name the following:²³²

1) The abuse of power and negligence in the exercise of authority - to be punished with an appropriate penalty (*CCEO*, c. 1464). While the corresponding norm of *CIC/83*, c. 1389 operates in the context of a deliberate violation of the law or precept, and culpable negligence, *CCEO* substitutes for the above mentioned prerequisites the notions of deliberate action, serious culpable omission of due diligence, and seriously culpable ignorance of the law or precept.²³³ In the context of *CCEO*, c. 1464, one can invoke *CCEO*, c. 935, which states that anyone who unlawfully inflicts damage upon someone by an act performed with malice or culpability is obliged to compensate for the damage inflicted.²³⁴

2) The falsification of documents - to be punished with an appropriate penalty (*CCEO*, c. 1455). The delicts covered by the canon are: a) falsification of an ecclesiastical document; b) assertion of falsehood in an ecclesiastical document; c) deliberate use of a false or altered document in an ecclesiastical matter; and d) changing, destroying, or concealing an authentic document (not necessarily ecclesiastical). The corresponding legislation in *CIC/83*, c. 1391, determines that the one who violates c. 1391 “can be punished” (*puniri potest*), while *CCEO* c. 1455 categorically demands that the offender “is to be punished” (*poena puniatur*): “Unlike the Latin code, [...] it

²³² The detailed descriptions of the delicts, and the prescribed penalties for financial malfeasance (with a useful table summary) follow the presentation by John A. Renken, “Penal Law and Financial Malfeasance,” pp. 34-35. See also FARIS, “Penal Law in the Catholic Churches,” pp. 76-91.

²³³ See G. FÜRST, “Penal Sanctions in the Church,” in NEDUNGATT (ed.), *A Guide to the Eastern Code*, p. 790.

²³⁴ “Quicumque illegitime actu iuridico immo quovis alio actu dolo vel culpa posito alii damnum infert, obligatione tenetur damnum illatum reparandi” (*CCEO*, c. 935).

envisions a preceptive, not a discretionary, penalty for various delicts involving falsifying documents.²³⁵

3) Impeding freedom of Church authorities in their disposition of ecclesiastical goods - to be punished appropriately (*CCEO*, c. 1447 §2). The corresponding legislation in *CIC/83*, c. 1375 prescribes that anyone who deliberately and successfully obstructs the use of ecclesiastical goods can be punished with a just penalty,²³⁶ while *CCEO*, c. 1447 §2 mandates an appropriate penalty.

4) The invalid alienation of ecclesiastical goods - to be punished with an appropriate penalty²³⁷ (*CCEO*, c. 1449). However, some commentators on *CIC/83* (the corresponding norm in *CIC/83* is c. 1377) stress that the competent ecclesiastical authority is to take into consideration the gravity of the situation resulting from the alienation completed without the prescribed permission and the scandal caused.²³⁸

5) Attempting to bribe and accepting a bribe - to be punished with an appropriate penalty (*CCEO*, c. 1463). In accordance with this canon, one who has for pecuniary interest induced somebody unlawfully to do or to omit something regarding the exercise of an office, a ministry or function, and the one who has committed such acts, are to be punished appropriately.²³⁹ The similar legislation in *CIC/83*, c. 1386 also prescribes that

²³⁵ T.J. GREEN, Commentary on c. 1391, in *CLSA Comm 2*, p. 1595, footnote 267.

²³⁶ According to John Renken, a mere attempt to impede the use of ecclesiastical goods is insufficient for committing a delict: the attempt must be successful. See "Penal Law and Financial Malfeasance," p. 44.

²³⁷ See FARIS, "Penal Law in the Catholic Churches," p. 81.

²³⁸ See MARTIN, Commentary on c. 1377, in *CLSGBI Comm*, p. 793. See also GREEN, Commentary on c. 1377, in *CLSA Comm 2*, p. 1585.

²³⁹ See POSPISHIL, *Eastern Catholic Church Law*, p. 755.

the penalty is to be imposed on the persons who deliberately influence the ecclesiastical authority to do or omit something illegitimately in exchange for gifts or promises.²⁴⁰

In conclusion this brief overview of the penal consequences of financial malfeasance, it is appropriate to note certain points. Penal action for financial malfeasance is extinguished after the three-year period (*CCEO*, c. 1152 §2; *CIC/83*, c. 1362 §1). The preliminary investigation begins and concludes with a decree (*CCEO*, c. 1470; *CIC/83*, c. 1719). Even though financial malfeasance is not always punished by deprivation of the office, however, due to the lack of public trustworthiness, the continued service of the offender in the same office may harm the good name of the Church. In this regard, it is interesting to note that, in accordance with the registration deed, the finance officer of the Syro-Malabar Church acts before civil law as one of the trustees of the Trust of the Major Archiepiscopal Curia of the Syro-Malabar Church.²⁴¹

Ultimately, the juridic person is not canonically liable for the invalid actions of the finance officer (administrator): “Unless and to the extent that it is to its own advantage, a juridic person is not bound to answer for acts invalidly placed by its

²⁴⁰ See GREEN, Commentary on c. 1386, in *CLSA Comm 2*, p. 1591.

²⁴¹ See The Trust Deed of the Major Archiepiscopal Curia, 2 August 1993, no. 1, p. 4. When a denunciation occurs, an investigation must be performed without endangering the good name of the accused. In accordance with *CCEO*, cc. 1468-1471 with regard to the acts of financial malfeasance of the employees of the office of the finance officer, (e.g., accountants) the finance officer has the obligation to take appropriate action. If financial malfeasance happens directly due to the negligence of the finance officer, the concerned authority is the hierarch: the major archbishop has to take the immediate steps to bring the situation under control, having first consulted with such experts as financial auditors and civil lawyers. Thus, we summarize the following measures applied by the major archbishop will likely be: 1) taking control and repossessing the books and records; 2) taking control of the bank documents and cash on hand; 3) informing the bank authorities regarding the fraud; 4) ascertaining the amount of loss; 5) appointment of a commission of enquiry; and, if necessary 6) conducting a special audit. See M. KANDASAMI, *Management of Finances in Non-Profit Organizations*, New Delhi, Caritas India, 1994, pp. 166-167. As we have mentioned already *CCEO*, c. 1024, prescribes that unless and in so far as it is to its advantage, a juridic person is not responsible for the invalid acts of the administrator (*CCEO*, c. 1024 §3).

administrators” (*CCEO*, c. 1024 §3).²⁴² This canon reflects *PA*, c. 276, which also stated that the Church is not responsible for the invalid administration of the administrators who acted without the permission of the superiors. In a major archiepiscopal Church, its particular law will determine the action against the offender.

CONCLUSION

This chapter focused mainly on the functions of the administrator of ecclesiastical goods of a Church *sui iuris*. The exercise of the office of administrator of ecclesiastical goods, as prescribed in *CCEO*, is aimed at the fulfillment of the proper purposes of the Church. In order to carry out his/her functions in an adequate way, the administrator is to maintain the integrity of the office. The required diligence in fulfilling his/her functions entails fidelity and trustworthiness which are to be solemnly promised to the major archbishop or his delegate.

The norms prescribed in *CCEO* outline the obligations of the administrator of ecclesiastical goods with regard to the acquisition, administration, and alienation of ecclesiastical goods. There are certain canons with respect to acquisition of goods that are especially relevant for a major archiepiscopal Church in the cultural and social context of India. They relate to the intention of the donors, the prescription, and the collection of revenue and investments.

Since ecclesiastical goods are to be destined and financial activities are to be organized for the fulfillment of the Church’s objectives, the annual budget should reflect the concerns of the Church towards the poor, the sick, and the socially and economically

²⁴² “Nisi quando et quatenus in rem eius versum est, persona iuridica non tenetur respondere de actibus ab administratoribus invalide positis” (*CCEO*, c. 1024 §3).

disadvantaged. Similarly, workers are to be compensated justly in accordance with the social principles of the Church.

The major archiepiscopal finance officer is the steward and custodian of all ecclesiastical goods of the major archiepiscopal Church *sui iuris*. It is the responsibility of the finance officer, as an administrator of ecclesiastical goods, to employ civilly valid methods of safeguarding ownership of ecclesiastical goods and to observe all relevant civil laws to protect property. The preservation and the updating of the relevant registers require the utmost care in order to satisfy the scrutiny of the higher authorities and the successors in office.

The synod of bishops and the permanent synod, whose own responsibilities are established by *CCEO*, can facilitate the exercise of the functions of the finance officer. The permanent synod acts as an executive committee at the major archiepiscopal level. The finance officer can make use of its suggestions and interventions in his/her administration.

The finance officer also has specific responsibilities concerning alienation of ecclesiastical goods. With regard to selling and leasing, he/she must exercise prudence in soliciting or receiving consent and counsel from the appropriate levels of authority in the major archiepiscopal Church. The finance officer should be aware of the dire consequences of improperly disposing of the Church's assets.

Certain canons of *CCEO* can be applied when there is a question of justice relating to financial malfeasance. Deliberately exercising ecclesiastical functions contrary to basic ecclesial purposes is to be considered as an abuse of office. The competent authority must preclude such office holders from any activities detrimental to the well-being of the Church, and has the right to make decisions regarding the procedure to be

followed for the restoration of justice. Always, however, the administration of justice is to be accomplished in view of the salvation of the delinquent and the good of the Church.

CHAPTER FOUR

SPECIFIC ECCLESIASTICAL AND SECULAR LEGAL PARAMETERS OF THE EXERCISE OF THE OFFICE OF THE FINANCE OFFICER IN THE SYRO-MALABAR MAJOR ARCHIEPISCOPAL CHURCH

INTRODUCTION

In the apostolic constitution *Quae maiori*, Pope John Paul II stated that the territory of the Syro-Malabar Church shall be limited to the confines of the ecclesiastical provinces of Ernakulam and Changanacherry.¹ Thus, the synod of bishops of the Syro-Malabar Church enjoys legislative and judicial powers within these territorial boundaries. The synod of bishops, however, acts in an administrative capacity only in cases in which the patriarch concedes this faculty or common law reserves some acts to the synod of bishops (*CCEO*, c. 110 §4). Similarly, the major archbishop exercises executive power within the territorial boundaries. In the political realm of the Republic of India and of Kerala State, the Syro-Malabar Church also operates in a secular legal system, as does the finance officer in the Syro-Malabar Major Archiepiscopal Church. This situation calls for a presentation of the important parameters of the functioning of the finance officer in the two legal systems: ecclesiastical and secular, each with its own corresponding bodies of laws and traditions.

In order to offer a broader canonical perspective, a short comparison of the particular legislation relating to the finance officer as promulgated by the three other major archiepiscopal Churches is included at the end of the present chapter. This

¹ See JOHN PAUL II, *Quae maiori*, English translation in SSMMAC, “Translations of the Apostolic Constitutions,” p. 12.

comparative analysis of the particular laws of the major archiepiscopal Churches will help to shed additional light on the revision process of the particular legislation of the Syro-Malabar Church.

4.1 – PARTICULAR LAWS AND DECISIONS OF THE SYNOD OF BISHOPS OF THE SYRO-MALABAR CHURCH ON THE FINANCE OFFICER OF THE CHURCH

During the revision process of the Eastern law, on 11 July 1977, Cardinal Joseph Slipyj, the Major Archbishop of the Ukrainian Church, wrote to the president of the PCCICOR about the necessity to respect each Church's particular law: "I am against a Code which would be formally common to all Eastern Catholic Churches, without respect for the particular Church and for its law. With a common Code we would be denying the law of the particular Church [...]."² The fear of Cardinal Slipyj that the common Code would compromise the individuality of the Churches *sui iuris* and their particular laws was answered by PCCICOR by accepting the principle of subsidiarity as one of the guiding values for the revision of the law: "The new Code should limit itself to the codification of the discipline common to all the Oriental Churches, leaving to the competent authorities of these Churches the power to regulate by particular law all other matters not reserved to the Holy See."³ In accordance with this principle, the *CCEO* has allowed sufficient room for the provisions of particular laws.⁴

² For the letter of Cardinal Joseph Slipyj, see V. J. POSPISHIL, *Ex occidente lex from the West – the Law: The Eastern Catholic Churches under the Tutelage of the Holy See of Rome*, Carteret, NJ, St. Mary's Religious Action Fund, 1979, pp. 158-160. The relevant portion of the letter reads: "[I]o mi oppongo ad un Codice che sia formalmente comune a tutte le Chiese Orientali Cattoliche, senza riguardo per la Chiesa Particolare e per la Sua legge. Con un Codice comune si verrebbe a negare la legge della Chiesa Particolare [...]" (pp. 158-159), English translation in S. KOKKARAVAYIL, "The Particular Law of the Syro-Malabar Church: An Appraisal," in *Ephrem's Theological Journal*, 11 (2007), p. 178.

³ PCCICOR, "Guidelines for the Revision of the Code of Oriental Canon Law," p. 21.

⁴ It is relevant and helpful to take note of the concepts of the *ius particulare* and *ius magis particulare*. See NEDUNGATT, *Laity and Church Temporalities*, pp. 263-268. The English term "law" encompasses two Latin terms, "ius" and "lex." According to George Nedungatt, the word "lex" refers to

By making use of various provisions that are outlined in the canons of the *CCEO* and in response to the call of Pope John Paul II in the apostolic constitution *Sacri canones*,⁵ the synod of bishops of the Syro-Malabar Church promulgated its particular laws in the official publication of the synodal decisions called “Synodal News.”⁶ The particular laws concerning the office of the finance officer come under the title “On Major Archbishop, Metropolitan, Bishops, Exarchs and the Organs Assisting the Eparchial Bishop in the Governance of the Eparchy”⁷ and they are complementary to the *CCEO*.

The areas of particular law that are especially relevant for this study are the following: the term of office of the finance officer, the different modes of acquisition of property, the amounts determining acts of ordinary and extraordinary administration of ecclesiastical goods, the procedure for obtaining consent for the alienation of ecclesiastical goods, the institution of the finance council on the major archiepiscopal

“statutory law,” while the word “ius” has a broader meaning which includes also customs, decrees, precepts, injunctions, orders, and judicial sentences. Nedungatt continues, therefore: “The relationship between these two kinds of particular law (*ius particulare* and *ius magis particulare*) is not concurrence but subordination or hierarchical. Hence according to *CCEO*, c. 985 §2 an inferior legislator cannot validly enact a law (*lex*) that is contrary to a higher law (*ius*), and the particular law represented by the eparchial statutes has to conform, as a rule, to the higher particular law of the Church *sui iuris*” (ibid., p. 264). In other words, the broadly understood body of absolute objective rights which determine the object of justice, something that is due, that is just, is expressed in causal or normative objective rights, i.e. in the norms where the object of justice, what is due, is defined. This law (*ius*) cannot be contradicted by a written norm (*lex*). As a specific instance of this relationship, one can consider the principle that the particular laws enacted at the eparchial level which express the *ius magis particulare* must be subordinate to the law determined by the *ius particulare* at the major archiepiscopal level.

⁵ Pope John Paul II stated that as soon as possible each Church *sui iuris* should make its own particular laws, based upon each Church’s traditions and the teachings of Second Vatican Council. See JOHN PAUL II, apostolic constitution *Sacri canones*, English translation in *Code of Canons of the Eastern Churches*, p. xxiv.

⁶ For the particular laws of the Syro-Malabar Church, see SSMMAC, “Particular Laws of the Syro-Malabar Church,” in *Synodal News*, 11 (2003), pp. 5-137.

⁷ See ibid., pp. 10-12.

level of administration, and the statutes for the ordinary tribunals of the Syro-Malabar Church.

The administration of ecclesiastical goods of the major archiepiscopal Church requires close cooperation among the different bodies, such as the synod of bishops and the permanent synod. The particular laws that prescribe the formalities for the acquisition, administration, and alienation of ecclesiastical goods, together with certain administrative decisions on the synodal structures of the Church, are therefore to be considered in this particular context.

4.1.1 – Specific Means of Generating Revenue for the Syro-Malabar Church

The Syro-Malabar Church has the right to acquire temporal goods for the spiritual and pastoral needs of the Church.⁸ In fact, a variety of means to acquire goods is outlined in its particular laws. With regard to the acquisition of goods, the finance officer serves as a steward⁹ who carries out the policies determined by the synod of bishops and the permanent synod.

4.1.1.1 – Generating Revenue for the Missionary Activities of the Syro-Malabar Church

The missionary activity of the Syro-Malabar Church is based on the principle that all faithful are called to exercise the mission which God has entrusted to them to fulfill in this world.¹⁰ In accordance with *OE*, no. 3, the Eastern Catholic Churches are entitled to participate in preaching of the Gospel, even in the whole world under the guidance of the

⁸ Cf. *CCEO*, c. 1007.

⁹ While V.J. Pospishil uses the term “patriarchal steward,” J.D. Faris uses the term “patriarchal fiscal officer.” See POSPISHIL, *Eastern Catholic Church Law*, p. 174; FARIS, *The Eastern Catholic Churches*, p. 316.

¹⁰ Cf. *CCEO*, c. 7.

Roman Pontiff.¹¹ In this context, the observation of V.J. Pospishil on the missionary activity of the Syro-Malabar Church has special relevance:

The Syro-Malabar Church was forbidden to propagate the Gospel outside very narrow borders in order not to interfere in the missionary efforts of the Latin Church; only now are they permitted to approach the non Christians anywhere in their country, where they represent a religious denomination that is present for nearly two millennia and have thereby acquired the right to be regarded truly as Indian, more so than the colonial Latin Church.¹²

The growth of the Syro-Malabar Church faced several adversities due to foreign domination. Despite having enormous resources and personnel, this Church *sui iuris* is still facing many difficulties in extending its missionary activities in India. Undoubtedly, the Syro-Malabar Church reveals a desire to fulfill the proper purposes of its mission.¹³ The participation of the faithful in the missionary task of the Church¹⁴ is clearly manifested today in the particular laws on the acquisition of property.¹⁵ In this regard, art. 204 of Particular Laws on Acquisition and Administration of Temporal Goods states: “As

¹¹ See *OE*, no. 3, English translation in FLANNERY 1, p. 442. Cf. *CCEO*, c. 585 §1.

¹² POSPISHIL, *Eastern Catholic Church Law*, pp. 359-360. Pospishil calls the Syro-Malabar Church the “most active Eastern Catholic Church of this century” (*ibid.*, p. 359).

¹³ Cf. *CCEO*, c. 1007. According to F. Morrissey, the means of fulfilling the missionary responsibilities include both spiritual and financial assistance. See MORRISEY, Commentary on c. 781, p. 431.

¹⁴ The Second Vatican Council documents, particularly *LG*, no. 33, *AA*, no. 3, *AG*, nos. 35 and 36, pronounced on the obligation of the faithful to participate in the missionary activity of the Church. See, 1) *LG*, no. 33, English translation in FLANNERY 1, pp. 390-391; 2) *AA*, no. 3, English translation in FLANNERY 1, pp. 768-769; 3) *AG*, nos. 35-36, in *AAS*, 58 (1966), pp. 947-990, English translation in FLANNERY 1, pp. 849-850. The practice of observation of Mission Sunday corresponds to the teachings of the Second Vatican Council and post-conciliar teachings of the Church. Worthy of notice, however, is the fact that to the notion of obligation in *CCEO*, c. 14, has been added the notion of a right (“right and obligation”). Post-conciliar documents such as *Redemptoris missio* (1991), no. 42 stressed life witness in evangelization. See JOHN PAUL II, encyclical letter *Redemptoris missio*, 7 December 1990, in *AAS*, 83 (1991), pp. 249-340, English translation in *Origins*, 20 (1991), pp. 553-554. The Apostolic exhortation *Ecclesia in Asia* (1999), no. 32 stated that specific needs of the poor, migrants, refugees, youth and women are to be considered: “People today put more trust in witnesses than in teachers, in experience than in teaching, and in life and action than in theories” (JOHN PAUL II, apostolic exhortation *Ecclesia in Asia*, 6 November 1999, in *AAS*, 92 [2000], p. 515).

¹⁵ Cf. SSMMAC, “Particular Laws on Acquisition and Administration of Temporal Goods,” in *Synodal News*, 7 (1999), arts. 1 to 9, pp. 104-106.

the Church is missionary, a Sunday shall be set apart in order to raise funds for the missionary activities of the Syro-Malabar Major Archiepiscopal Church. The utilization of this fund may be decided by the synod of bishops.”¹⁶

Among the Eastern Catholic Churches, the Syro-Malabar Church is in the forefront of the ministry of evangelization in various countries.¹⁷ George Nedungatt remarks that many personnel (including bishops, priests, and religious of the Syro-Malabar Church) are working in almost all the Latin dioceses of India.¹⁸ At the same time, however, the mission eparchies of the Syro-Malabar Church that are erected outside the proper territory (state of Kerala) are facing the challenge of the availability of funds. Therefore, in order to offer financial support to the missionaries who are working in the mission eparchies of the Syro-Malabar Church, the mother Church (the Syro-Malabar Major Archiepiscopal Church) established the Mission Sunday collection.¹⁹

Prior to the beginning of the Syro-Malabar Mission Sunday collection, one Sunday within the year was designated, in virtue of a custom existing in the Syro-Malabar Church, as the Mission Sunday of the universal Church. The collection which was taken on that day was destined for the support of the mission works of the universal Church. This practice continues nowadays in the Syro-Malabar Church.²⁰

¹⁶ Ibid., p. 105.

¹⁷ See G. MIFSUD, “Evangelization in an Ecumenical Context,” in *Eastern Churches Journal*, 3 (1996), p. 67.

¹⁸ See G. NEDUNGATT, “Evangelization of Peoples,” in *A Guide to the Eastern Code*, p. 411.

¹⁹ See SSMMAC, “Decisions of the Synod,” in *Synodal News*, 3 (1995), p. 21.

²⁰ *Ernakulam-Angamaly athirupatha niyamasamhitha*, no. 115.4 states: “Since the universal Church observes Mission Sunday on the Sunday preceding the last Sunday of October, a special collection is to be taken in every church on that day and the collected amount is to be remitted to the archeparchial curia of Ernakulam-Angamaly” (*Ernakulam-Angamaly athirupatha niyamasamhitha*, 2009, p. 104). The translation is mine.

In accordance with the prescription of particular law, the Central Liturgical Committee of the Syro-Malabar Church has included the second Sunday of *Denaha* (the liturgical season of Epiphany) as the “Syro-Malabar Mission Sunday” in the liturgical calendar.²¹ During the Twelfth Synod of Bishops, in 2004, some members worried that the observance of the Syro-Malabar Mission Sunday does not convey the message envisioned by the synodal Fathers. According to the critics, through the observance of the Syro-Malabar Mission Sunday, the Syro-Malabar Church has to cultivate a deeper relationship with the universal Church. This discussion led the Synod to request that every year the major archbishop send a message to the faithful regarding the Mission Sunday of the Syro-Malabar Church,²² awaking mission awareness, promoting prayer for the mission, and raising resources for missionary activities.

Regarding the Mission Sunday collection of the Syro-Malabar Church, the competence of the finance officer is limited to the task of the collection of money from the respective eparchies and the disbursement of these funds to the mission eparchies, subject to the decision of the major archbishop. Since there are no particular laws with regard to the disbursement of the Mission Sunday collection, the finance officer is to be directed by the major archbishop.

The synod of bishops of the Syro-Malabar Church held 6 - 10 March 1995 made a decision to adopt mission eparchies outside Kerala.²³ At the present time, there are thirteen eparchies of the Syro-Malabar Church situated outside the proper territory,²⁴

²¹ See DEPARTMENT OF LITURGY OF THE ARCHEPARCHY OF CHANGANCHERRY, *Liturgical Calendar 2010-2011*, Changancherry, Mar Thoma Vidya Nikethan, 2009, p. 3.

²² See SSMMAC, “Decisions of the Synod,” in *Synodal News*, 12 (2004), p. 41.

²³ See SSMMAC, “Report of the Fourth Synodal Assembly,” in *Synodal News*, 5 (1995), p. 5.

which are considered suffragan eparchies (dioceses) of the Latin archdioceses of the place. Among the thirteen, three eparchies, namely the Eparchy of Kalyan (1988), the suffragan eparchy of the Latin Archdiocese of Mumbai,²⁵ the Eparchy of Saint Thomas the Apostle in Chicago (2001) Illinois, immediately subjected to the Apostolic See,²⁶ and the Eparchy of Faridabad of the Syro-Malabarians (2012)²⁷, the suffragan eparchy of the Latin Archdiocese of Delhi are erected for the pastoral care of the Syro-Malabar emigrants. Ten remaining eparchies (outside the proper territory), and three eparchies of the proper territory, namely, Mandya, Ramanathapuram, and Thuckaly are considered as mission eparchies. These mission eparchies are facing certain challenges on account of the religious, cultural, political, economical, and historical complexities of India.²⁸

²⁴ Within the proper territory, there are the following eparchies: 1) the ecclesiastical province of Changanacherry includes the eparchies of Kanjirappilly, Palai, and Thuckaly; 2) the ecclesiastical province of Ernakulam-Angamaly includes the eparchies of Idukki and Kothamangalam; 3) the ecclesiastical province of Trichur includes the eparchies of Irinjalakuda, Palghat, and Ramanathapuram; 4) the ecclesiastical province of Tellicherry includes the eparchies of Mananthavady, Thamarassery, Belthangady, and Mandya; and 5) the Kottayam archeparchy which has no suffragan eparchies. Outside the proper territory, there are the following eparchies: Adilabad, Bhadravadi, Bijnor, Chanda, Gorakhpur, Jagadapur, Kalyan, Rajkot, Sagar, Satna, Ujain, St. Thomas the Apostle Eparchy in Chicago, and the Eparchy of Faridabad of the Syro-Malabarians. See http://www.Smcim.smonline.org/dioceses_overview.htm (5 February 2012).

²⁵ See JOHN PAUL II, apostolic constitution *Pro Christifidelibus*, 30 April 1988, in AAS, 80 (1988), pp. 1381-1382, English translation in PALLATH, *Important Roman Documents Concerning the Catholic Church in India*, p. 251.

²⁶ See JOHN PAUL II, apostolic constitution *Congregatio pro Ecclesiis Orientalibus*, 13 March 2001, in AAS, 93 (2001), pp. 423-424, English translation in PALLATH, *Important Roman Documents Concerning the Catholic Church in India*, p. 259.

²⁷ Pope Benedict XVI has erected a new eparchy called “the eparchy of Faridabad of the Syro-Malabarians,” on 6 March 2012. See <http://www.smmdelhi.com/file-Eng.pdf> (17 March 2012).

²⁸ See B. PUTHUR, “The Theology of the Mission According to the Teachings of Post Conciliar Documents,” in P. KANNOOKADAN (ed.), *The Mission Theology of the Syro-Malabar Church*, Kochi, Syro-Malabar Liturgical Research Centre, 2008, p. 64. Indian society is a composite of different races, religions, languages, castes, ethnic groups and tribes. Half of the population falls below the poverty line. See *ibid.* Challenges of evangelization can be summarized as follows: 1) religious fundamentalism; 2) anti-conversion acts promulgated by various state governments; 3) curtailment of educational rights by some state governments; and 4) restriction in regard to obtaining extra territorial jurisdiction for the Syro-Malabar Church. See M. KANIAMPARAMPIL, “Response to the Paper: Missionary Activities of the Syro-Malabar Church in the Present Context,” in *The Mission Theology of the Syro-Malabar Church*, p. 195.

Responding to the appeal made by the bishops of the mission eparchies, the aforementioned Synod (1995) adopted the following measures to help them: 1) for the Syro-Malabar Mission Sunday the bishops and priests from the mission eparchies will be invited to preach about their missions in the churches within the proper territory; and 2) the adoption of mission eparchies by the eparchies in Kerala will promote mutual visits of their bishops and priests.²⁹

The Third (1996) and Eighth (1999) Synods of Bishops of the Syro-Malabar Church decided that the financially troubled mission eparchies, which are located outside the proper territory of the Syro-Malabar Church, are to be “adopted” by other eparchies of Kerala.³⁰ The synod itself calls this arrangement the “twinning program.” To effectively implement the twinning program, the synod prepared the following list: the Chanda mission eparchy is sponsored by the Eparchy of Kanjirappally; the Bhadravathi mission eparchy by the Eparchy of Thamarassery; the Gorakpur mission eparchy by the Archeparchy of Ernakulam; the Jagadapur mission eparchy by the Archeparchy of Changancherry; the Ramanathapuram and Sagar mission eparchies by the Archeparchy of Trichur; the Rajkot mission eparchy by the Archeparchy of Kottayam; the Mandya mission eparchy by the Eparchy of Mananthavady; the Bijnor and Adilabad mission

On the right of obtaining pastoral care by the Syro-Malabar migrants, Archbishop Joseph Powathil states: “We are faced with severe obstacles in securing our rights. Although the Oriental Churches emphasize personal jurisdiction, the territorial principle is still dominating the scene. It is true that Eugenio Pacelli, the future Pope Pius XII, had defended the thesis that authority is essentially personal. The Council also stated that the Church is missionary (AG, no. 1), that all individual Churches have the same right and duty to evangelize the whole world (OE, no. 3) and that every Church hands on its heritage to new generations (UR, no. 14)” (J. POWATHIL, “Missionary Activities of the Syro-Malabar Church in the Present Context,” in *The Mission Theology of the Syro-Malabar Church*, p. 176).

²⁹ SSMMAC, “Report of the Fourth Synodal Assembly,” p. 5.

³⁰ This is to provide for an effective form of financial support to the mission eparchies. See SSMMAC, “Decisions of the Synod,” in *Synodal News*, 4 (1996), p. 12; ID., “Decisions of the Synod,” in *Synodal News*, 7 (1999), p. 69.

eparchies by the Archeparchy of Tellicherry; the Satna mission eparchy by the Eparchy of Kothamangalam; and the Thuckalay, and Ujain mission eparchies by the Eparchy of Palai.³¹ Apart from financial assistance, prayer, services offered by priests and religious, promotion of missionary vocations, and mutual visits, there are also other means by which the eparchies in Kerala try to enhance the growth of the mission eparchies.³² In particular, the “adoptive” eparchies are allowed to send the Syro-Malabar Mission Sunday collection directly to the respective “adopted” eparchies.³³

In this context, the pastoral letter of Major Archbishop Cardinal George Alenchery to the faithful of the Syro-Malabar Church calls them to an active and effective involvement in the works of evangelization in India and abroad:

The Syro-Malabar Eparchies in Kerala, as the Mother Church, have to help the missions with personnel and finances. Individuals, families, parishes, and institutions in our Church should come forward to adopt mission areas outside Kerala and to encourage them with prayer, sacrifices and financial contributions. It is good to conduct mission visits from parishes and institutions to regions where our missionaries work. Having a direct experience of the mission work and knowing their needs and necessities would certainly be an incentive to encourage the missionaries.³⁴

The twinning program requires proper guidance and coordination at the major archiepiscopal level. Since particular law of the Syro-Malabar Church does not prescribe

³¹ The eparches of Palghat, Idukki, Belthangady, St. Thomas the Apostle Eparchy in Chicago, Kalyan, and the Eparchy of Faridabad of the Syro-Malabarians, are exempted from the twinning program. Apart from financial support, prayer for the mission eparchies is popular in Kerala. See SSMMAC, “XIX Synod (2011), Session 3: Decisions,” in *Synodal News*, 19 (2011), p. 112. The *Chrupushpa mission league* (an organization for children) was very successful in encouraging children to know about the missions and to help the missions in their own little ways. This organization helped thousands of young people to respond positively to the call to priesthood and religious life. See POWATHIL, “Missionary Activities of the Syro-Malabar Church in the Present Context,” p. 174.

³² See SSMMAC, “Circular Letter after XIX Synod: Session 3,” in *Synodal News*, 19 (2011), p. 115.

³³ See SSMMAC, “Decisions of the Synod,” in *Synodal News*, 6 (1996), p. 16; ID., “Decisions of the Synod,” in *Synodal News*, 7 (1999), p. 69.

³⁴ SSMMAC, “Pastoral Letter: Mission Year - *Sabhadinam*,” in *Synodal News*, 19 (2011), p. 126.

any norm regarding the twinning program, it is appropriate to have specifications in the particular law regarding the program activities.

4.1.1.2 – Provisions for the Financial Support of the Major Archiepiscopal Curia

While *CCEO* prescribes general norms on meeting the expenses of the curia such as the income from the goods of the major archiepiscopal Church and the contribution of the individual eparchies, as determined by the synod of bishops,³⁵ the particular law of the Syro-Malabar Church determines the precise ways in which this objective is to be fulfilled. Since taxation from the eparchies is one of the just means of acquiring income (*CCEO*, c. 125),³⁶ the synod of bishops is competent to determine the rate of the tax in proportion to the ability of each eparchy. While taxation has a mandatory character, a collection or a donation is voluntary. As a matter of fact, voluntary contributions from various institutions of the Syro-Malabar Church (e.g., self-financing colleges), in accordance with their ability to contribute, have been requested.

In order to provide resources for satisfying the ordinary expenses of the curia, the synod of bishops of the Syro-Malabar Church held 7-23 November 1994 decided that ordinary expenses are to be covered by the annual contributions of each eparchy.³⁷ The main source of the acquisition of funds directed to this purpose is the collection taken on the feast day of Saint Thomas the Apostle (*Dukrana*³⁸ of *Mar Thoma Sleeha* - the

³⁵ See *CCEO*, c. 125.

³⁶ With regard to taxation, *CS*, c. 305 corresponds to *CCEO*, c. 125. There is no substantial change in *CCEO*, c. 125 from the norm of *CS*, c. 305. See PCCICOR, “De ecclesiis sui iuris et de ritibus,” in *Nuntia*, 22 (1984), p. 40; PCCICOR, “De ecclesiis patriarchalibus,” in *Nuntia*, 22 (1986), p. 92; ID., “De ecclesiis patriarchalibus,” in *Nuntia*, 24-25 (1987), p. 22.

³⁷ See SSMMAC, “Report of the Third Assembly of the Second Synod,” in *Synodal News*, 3 (1995), p. 15.

³⁸ *Dukrana* is a Syriac term for “remembrance.”

commemoration day of the martyrdom of Saint Thomas the Apostle, 3 July).³⁹ The collection itself is called the *Sabhadinam* (the day of the Church) collection. Although the funds acquired through this collection have increased significantly (at least recently), there is still a great need for creating even more awareness programs in order to provide necessary funds in the future.

Since the Major Archiepiscopal Tribunal is part of the curia (in accordance with *CCEO*, c. 114), regarding judicial expenses, the particular law stipulates: “The rates of fees for judicial services, determined by a decree of the Major Archbishop and renewed periodically, are as per Schedule annexed to these Statutes. This Schedule is to be made known to the party at the presentation of the *libellus* introducing a suit.”⁴⁰ This norm of the particular law responds to *CCEO*, c. 1335, 1° which prescribes that the expenses to be met by the parties are to be mentioned in the statutes of the tribunal. Moreover, the eparchies of the Syro-Malabar Church contribute towards the expenses of the Major Archiepiscopal Tribunal, especially for the remuneration of its officials, in ways determined by the synod of bishops.⁴¹ On the paying of the curial expenses the Guidelines for the Functioning of the Major Archiepiscopal Curia state: “The finance officer shall take care to get the annual contribution for the functioning of the Curia from the juridical and physical persons who are obliged to do so.”⁴² Since the Major Archiepiscopal Tribunal depends on the finance officer in that which concerns its

³⁹ See DEPARTMENT OF LITURGY OF THE ARCHEPARCHY OF CHANGANCHERRY, *Liturgical Calendar 2009-2010*, p. 10.

⁴⁰ SSMMAC, “Statutes of the Major Archiepiscopal Tribunal,” in *Synodal News*, 11 (2003), p. 127.

⁴¹ See *ibid.*

⁴² SSMMAC, “Guidelines for the Functioning of the Major Archiepiscopal Curia,” in *Synodal News*, 19 (2011), p. 164.

financial administration, it is the responsibility of the finance officer to receive the contributions and disburse the remuneration to tribunal personnel.

As for other means of generating income, the synod of bishops of the Syro-Malabar Church held 15-20 November 1999 decided to collect annual contributions from the main shrines of various eparchies.⁴³ The synod also proposed the manner of collection of these contributions. The local hierarchs of the respective shrines and parishes are to contact their pastors and *kaikarans* and to collect from each unit an annual contribution for the expenses of the major archiepiscopal curia.⁴⁴ Apart from the contributions from the eparchies of the proper territory of the Syro-Malabar Church, the synod of bishops decided that the Eparchy of Saint Thomas the Apostle in Chicago will be asked to contribute to the alleviation of curial expenses.⁴⁵ While the particular disciplinary laws affect the proper territory of the Syro-Malabar Church, and while the Eparchy of Saint Thomas the Apostle is located outside of that territory, it (the Eparchy of Saint Thomas)

⁴³ There are the following shrines: 1) Archeparchy of Ernakulam: Malayattoor, Koratty, Kanjoor, Edappally, and Saint Mary's Cathedral Basilica; 2) Eparchy of Kothamangalam: Muthalakodam; 3) Archeparchy of Changanacherry: Edathua and Athirampuzha; 4) Eparchy of Palai: Aruvithura, Kuravilangad and Cherpunkal; 5) Archeparchy of Trichur: Pavaratty, Ollur and Basilica of Our Lady of Dolores; and 6) Eparchy of Irinjalakuda: Cathedral Church. See "Discussions of the Synod of Bishops," in *Synodal News*, 7 (1999), p. 60.

⁴⁴ The annual contribution was fixed at a minimum Rs. 10,000. When the construction work on the curial building was in progress, some income generating programs were planned by the synod of bishops, including: 1) the Apostolic Administrator's personal letters addressed to prospective donors, able and willing to donate substantial amounts; 2) meetings of the finance officer, accompanied by curial officials of the eparchies, with persons able to contribute larger amounts; 3) the Apostolic Administrator's requests directed to the major superiors of the institutes of consecrated life to extend credit to the major archiepiscopal curia for interest at bank deposit rates. See SSMMAC, "Report of the Synod of Bishops," in *Synodal News*, 5 (1997), p. 19. At that time, from 1996 to 1999, the Syro-Malabar Church was under the authority of the Apostolic Administrator *sede vacante et ad nutum Sanctae Sedis*, Archbishop Varkey Vithayathil. The Second Synod of Bishops, in its third assembly, decided to collect 1% of the gross income of the parishes and a *per capita* contribution of Rs. 1/- from the Syro-Malabar faithful for the expenses of the construction work on the major archiepiscopal curial building. See SSMMAC, "Decisions of the Synod," in *Synodal News*, 3 (1995), p. 20.

⁴⁵ See SSMMAC, "The XVI Synod Report," in *Synodal News*, 16 (2008), p. 55.

is not legally bound by this norm: the voluntary contributions depend upon the decision of the eparchial bishop in Chicago.

In order to meet the expenses of the curia both local and foreign benefactors contribute to certain activities of the offices of the curia. For instance, the Report of the Commission for the Clergy and the Institutes of Consecrated Life,⁴⁶ August 2004 - December 2005 points to the subsidies received from the Catholic Near East Welfare Association (CNEWA). The report states that “CNEWA has been magnanimous to grant a special subsidy to conduct the programs” at Mount St. Thomas (the curial office of the Syro-Malabar Church).⁴⁷ The financial contribution of CNEWA helped in the establishment of a museum at the curia building of the Syro-Malabar Church.⁴⁸ Other foreign benefactors, such as Missio Aachen and Oeuvre d’Orient of Paris contributed to several training programs which are conducted at Mount St. Thomas.⁴⁹

In relation to the remittance of the expenses of the major archiepiscopal curia, the synod of bishops of the Syro-Malabar Church has prescribed a special annual contribution from the selected parishes and an appeal for voluntary contributions from selected religious institutes of consecrated life of the Syro-Malabar Church. In fact, during the Eleventh Synod of Bishops of the Syro-Malabar Church, the finance officer briefed the members about the actual financial situation of the curia and stressed the need

⁴⁶ This commission is a part of the archiepiscopal curia.

⁴⁷ SSMMAC, “Report of the Commission for the Clergy and the Institutes of the Consecrated Life August 2004-December 2005,” in *Synodal News*, 13 (2005), p. 112.

⁴⁸ Cf. SSMMAC, “Report of the Liturgical Research Centre November 2004-December 2005,” in *Synodal News*, 13 (2005), p. 134. Mural art work and iconographic panels depicting the nine seasons of the Syro-Malabar liturgical year are among the important features of this museum.

⁴⁹ Cf. SSMMAC, “Report of the Commission for the Clergy and the Institutes of the Consecrated Life August 2004-December 2005,” p. 135.

for creating effective means to reduce expenses and increase revenues.⁵⁰ To increase the contributions, the finance officer proposed that the eparchial bishops identify more parishes that could contribute and that they request from them to do so. He also asked the synod of bishops to contact selected religious institutes to obtain their voluntary contributions. The proposals made by the finance officer were accepted by the synod of bishops as a special means of acquisition, intended for the remittance of the extraordinary expenses of the curia. Regarding the acquisition of funds, in accordance with the decision of the synod of bishops of the Syro-Malabar Church, the finance officer was to collect the amount for the Church,⁵¹ while always respecting the principle of the observance of the donor's intention.

4.1.2 – Administration of Ecclesiastical Goods of the Syro-Malabar Church

CCEO determines that the administrator of ecclesiastical goods cannot go beyond the limits (object of the act) and procedures (manner of fulfilling the act) of ordinary administration. For the validity of acts beyond the scope of ordinary administration, the administrator needs written consent of the hierarch (the major archbishop).⁵² Particular law of the Syro-Malabar Church does not specify the acts which go beyond the the limits of ordinary administration, however. On the absence of such particular laws, James Thalachallor, the secretary of the Synodal Commission for the Formulation of Particular Laws states:

⁵⁰ See SSMMAC, "The XI Synod Report," in *Synodal News*, 11 (2003), pp. 26-27.

⁵¹ See SSMMAC, "The Report of the Synod of Bishops," p. 19.

⁵² See *CCEO*, c. 1024 §1.

The commission for drafting the particular law of the Syro-Malabar Church has almost completed its work of drafting laws for this Church wherever the common law explicitly so demanded or in some cases providing for the *lacuna legis* and other occasions in the form of statutes for the juridical institutions in the Church. There are a few more drafts which await final discussion in the Synod and promulgation.⁵³

Apart from the office of the finance officer,⁵⁴ the following bodies were also established in the Syro-Malabar Church: 1) Syro-Malabar Major Archiepiscopal Commission for Finance; and 2) finance council.

The Guidelines for the Syro-Malabar Major Archiepiscopal Commission for Finance specify that: “[It] is a body of the Syro-Malabar bishops constituted to assist the major archbishop in the administration of the temporal goods of the Syro-Malabar Major Archiepiscopal Church as per the provisions of common and particular law.”⁵⁵ The finance officer is the *ex officio* secretary of the commission. Besides helping in the budgeting, planning, and evaluation of the financial administration of the curia, the commission has the following responsibilities: 1) to evaluate and give its considered comments to the permanent synod and the synod of bishops on the financial report of the curia and of the synodal commissions/institutes; 2) to give its opinion, if asked for by the major archbishop, on applications for alienation of ecclesiastical goods whose nature is such that it requires his consent; 3) to consider ways and means of raising funds for the extension of the Syro-Malabar Church activities to new areas; and 4) to present a detailed annual report of its activities in the ordinary annual session of the synod of bishops. The

⁵³ J. THALACHALLOR, “Particular Law of the Syro-Malabar Church,” in ELUVATHINGAL (ed.), *Syro-Malabar Church Since the Eastern Code*, p. 115.

⁵⁴ The first finance officer in the history of the Syro-Malabar Church was Fr. Mathew Madathilkunnel of the eparchy of Palai, appointed on 24 May 1993. See SSMMAC, “The Synodal Report,” in *Synodal News*, 1 (1993), p. 41.

⁵⁵ SSMMAC, “Guidelines for the Functioning of the Syro-Malabar Major Archiepiscopal Commission for Finance,” in *Synodal News*, 19 (2011), p. 166.

term of office for members of the commission is five years.⁵⁶ Recently, in 2011, the commission consisting of four bishops, with the finance officer acting as its secretary, was elected by the synod of bishops of the Syro-Malabar Church.⁵⁷

Besides the Syro-Malabar Major Archiepiscopal Commission for Finance, the finance council of the Syro-Malabar Major Archiepiscopal Church is a unique feature. In *CCEO*, there is no provision for the institution of a finance council for the major archiepiscopal Church,⁵⁸ while, on the other hand, *CCEO* mandates the institution of a finance council at the eparchial level.⁵⁹ The Guidelines for the Syro-Malabar Major Archiepiscopal Finance Council state:

The Finance Council is a body of priests, religious and lay faithful of the Syro-Malabar Church experts in financial matters that function 'under the guidance of the Major Archiepiscopal Commission for Finance' to do financial planning and budgeting of the Syro-Malabar Major Archiepiscopal Curia and to find out the methods to raise funds for the needs of the Curia.⁶⁰

In the beginning of the Syro-Malabar Church as a major archiepiscopal Church, there was a pressing need for the establishment of its infrastructure, including the construction of the curial buildings. In order to raise funds and give directions to the finance officer, the synod of bishops, as an initial step in 1995 constituted a finance council consisting of

⁵⁶ See *ibid.*, pp. 166-168.

⁵⁷ The present members of the synodal commission for finance are the following: 1) Mar Mathew Arackal (chairman), 2) Mar Bosco Puthur, 3) Mar Raphael Thattil, and 4) Mar Gregory Karotemprel. See SSMMAC, "XIX Synod (2011), Session 3, 17-27 August 2011: Report," in *Synodal News*, 19 (2011), p. 91.

⁵⁸ During the revision process, there was a proposal to include a provision for a patriarchal administrative council which was similar to the finance council of an eparchy. However, during the discussion the proposal was not accepted by the respective study group of PCCICOR. See PCCICOR, "De ecclesiis patriarchalibus," in *Nuntia*, 22 (1986), p. 91.

⁵⁹ See *CCEO*, c. 263.

⁶⁰ SSMMAC, "Guidelines for the Functioning of the Syro-Malabar Major Archiepiscopal Commission for Finance," p. 167.

nine members.⁶¹ The first finance council was composed of the following members: 1) representatives from the synod of bishops; 2) the finance officer of the Syro-Malabar Church; 3) representatives of the eparchial finance officers; and 4) representatives of religious and lay persons. However, the first finance council was dissolved in 1998, after the completion of the construction of the curial buildings, since its purpose was achieved.⁶²

After the dissolution of the first finance council in 1998, in accordance with the decision of the synod of bishops the major archbishop constituted a new finance council in 2005, with the following members: 1) the finance officer of the Syro-Malabar Church (who is at the same time the secretary of the finance council); 2) two religious (one religious priest and one woman religious); and 3) five lay faithful.⁶³ This finance council is to function under the guidance of the Syro-Malabar Major Archiepiscopal Commission for Finance. Compared to the finance council of the eparchial level, the finance council of the Syro-Malabar major archiepiscopal level has a limited competency.⁶⁴ As we mentioned above, the guidelines of the finance council stipulate the following responsibilities: 1) financial planning and budgeting of the curia; and, 2) finding methods

⁶¹ The members of the first finance council were: Bishop Mar Joseph Kundukulam (chairman), Fr. Mathew Madathilkunnel, Fr. Mathew Muttamthotty, Fr. Gregory Paruvaparampil, Fr. Varghese Palamattam, CMI, Sr. Franco, CHF, Mr. K. Mathew Thomas Kollamakulam, Mr. M.V. George Mundackal, and Mr. Jose Alappatt. See SSMMAC, "Syro-Malabar Archiepiscopal Finance Council," in *Synodal News*, 3 (1995), p. 27.

⁶² See SSMMAC, "Report of the Synodal Assembly," in *Synodal News*, 6 (1998), pp. 33-34.

⁶³ The members of the finance council are: Fr. Mathew Pulimoottil (finance officer cum secretary), Fr. Antony Kariyil, CMI, Sr. Espirit Moolayil, SH, Mr. V.A. Joseph, Prof. Cyriac Thomas, Dr. Mohan Thomas Pakalomattom, Mr. John Antraper, and Mrs. Monamma Kakkattu. See SSMMAC, "Decree Constituting the Finance Council," in *Synodal News*, 13 (2005), pp. 67-68.

⁶⁴ For instance, on the eparchial level, the finance council is the competent body to prepare the budget for the coming year and to give approval for receipts and payments for the past year. See *CCEO*, c. 263 §5.

to raise funds for the needs of the curia. The finance officer is the *ex officio* secretary of the finance council. The curial bishops, the chancellor of the curia, and various synodal commission secretaries are also the *ex officio* members of the finance council. The other members of the finance council are selected by the chairman of the Syro-Malabar Major Archiepiscopal Commission for Finance with the prior approval of the major archbishop.⁶⁵

A notable feature of the major archiepiscopal finance council is the representative character of its composition: there are more lay persons than clerics. That situation recalls the ancient administrative system of the Syro-Malabar Church, namely the *yogam*.⁶⁶ As was pointed out in the first chapter of this study, the *yogam* had a substantial role in the decision-making processes concerning the administration of ecclesiastical goods of the Church.

In 2009, the synod of bishops of the Syro-Malabar Church decided to present the statement of accounts to the major financial contributors to the major archiepiscopal curia.⁶⁷ The synod believed that this practice would enable the benefactors to be more confident that their donations are correctly utilized by the office of the finance officer. Also, the contents of the statement of accounts were presented to the members of the

⁶⁵ The term of office of the members of the finance council is five years. Regarding the voting, the guidelines for the finance council prescribe that only the members of the finance council, and not the members of the Syro-Malabar Major Archiepiscopal Commission for Finance, shall vote. The proposals of the finance council are to be submitted to the Syro-Malabar Major Archiepiscopal Commission for Finance which will consider them and if found relevant, will present them to the major archbishop for necessary follow-up and action, in due consultation with the permanent synod or synod of bishops when necessary. See SSMMAC, Guidelines for the Functioning of the Syro-Malabar Major Archiepiscopal Commission for Finance,” pp. 167-168.

⁶⁶ See NEDUNGATT, *Laity and Church Temporalities*, p. 374.

⁶⁷ See SSMMAC, “XVII Synod (2009): 17-28 August 2009 Report,” in *Synodal News*, 17 (2009), pp. 56-57.

Assembly of the Syro-Malabar Church.⁶⁸ Indeed, *CCEO* permits particular law to determine the manner of presentation of the income and expenditure account.⁶⁹

In order to avoid undesirable financial conflicts between the major archiepiscopal Church and the archeparchy of the major archbishop (Ernakulam), and in order to facilitate a smooth functioning of the office of the finance officer with regard to the question of the competence of the major archiepiscopal curia and the curia of the archeparchy of the major archbishop⁷⁰ in matters of common interest, the synod of bishops of the Syro-Malabar Church decided that the expenses related to common functions (e.g., installation of the major archbishop) will be shared by both institutions at the discretion of the major archbishop.⁷¹

In order to have more transparency in the functioning of the finance officer, the synod of bishops decided to appoint two internal auditors (one priest and one lay person).⁷² They audit the accounts of the curia on a quarterly basis. This internal auditing is different from external auditing: the internal auditors appointed by the major

⁶⁸ The preamble of the Statutes of the Major Archiepiscopal Church gives the definition of the assembly: “The Major Archiepiscopal Assembly of the Syro-Malabar Church is the gathering together of a representative cross-section of the same Church, integrating the spirit and dynamism of the ancient ecclesial institution of the Thomas Christians called *yogam*. In it is restored and updated that organ in fidelity to the tradition of the universal Church and in obedience to the legislation given by the Roman Pontiff to the Eastern Catholic Churches (*Code of Canons of the Eastern Churches*, canons 140-145), so that it is made to correspond to the changed historical situation and the new hierarchical status of the Syro-Malabar Church” (SSMMAC, “Statutes of the Major Archiepiscopal Assembly,” in *Synodal News*, 11 [2003], p. 128). The assembly is a consultative body for dealing with matters of major importance for the Church and its mission. It is convoked normally once in five years. Its resolutions have the force of law only if they are ratified by the competent ecclesiastical authority. See *ibid.*, pp. 130-131.

⁶⁹ See *CCEO*, c. 1028 §3.

⁷⁰ As it was noted earlier, *CCEO*, c. 122 §1 stipulates that the finance officer of the major archiepiscopal Church is to be distinct from the finance officer of the major archbishop’s eparchy.

⁷¹ See SSMMAC, “Report of the Synodal Assembly,” in *Synodal News*, 11 (2002), p. 30.

⁷² The internal auditors are to be appointed by the major archbishop of the Syro-Malabar Church. See SSMMAC, “The Report of the Fifth Assembly of the Second Synod of Bishops,” in *Synodal News*, 3 (1996), p. 14.

archbishop provide mainly guidance to management,⁷³ the external auditors' report is used for filing returns in accordance with the civil legal requirements. In regard to the permanent synod, the particular law, art. 15 states: "The Permanent Synod is to audit the annual accounts and pass the annual budget submitted by the major archiepiscopal finance officer."⁷⁴ This particular law specifies the norm of *CCEO*, c. 122 §3 which obliges the finance officer to submit to the permanent synod a written report of the previous year's administration together with the income and expenditure budget for the forthcoming year. The canon does not assign the permanent synod to approve or disapprove the administration report or budget. For V.J. Pospishil, the budget is to be approved by the patriarch/major archbishop.⁷⁵ However, J.D. Faris expresses an opinion that particular law can determine in a detailed manner the responsibilities of the finance officer and his/her relationship with synodal structures.⁷⁶ With respect to the approval of the administration report and the budget, the particular law of the Syro-Malabar Church assigns the permanent synod to do so.

The finance officer has a role in the financial administration of the Liturgical Research Center, Kochi, which was erected under the authority and jurisdiction of the major archbishop of the Syro-Malabar Church on 10 April 1999. The Statutes of the Liturgical Research Center were approved in the synod of bishops of the Syro-Malabar Church which was held 15-20 November 1999. Article 9 of the Statutes refers to the

⁷³ Cf. KANDASAMI, *Management of Finances in Non-Profit Organizations*, p. 156.

⁷⁴ SSMMAC, "Statutes of the Synod of Bishops of the Syro-Malabar Major Archiepiscopal Church," in *Synodal News*, 11 (2003), p. 100.

⁷⁵ See POSPISHIL, *Eastern Catholic Church Law*, p. 175.

⁷⁶ See FARIS, *The Eastern Catholic Churches*, p. 318.

financial administration of the Center: “[...] until the Center becomes self-sufficient, the finance officer of the Major Archiepiscopal Center [Church] shall function as its finance officer.”⁷⁷ The same article (9 e) states: “There shall be a finance council for the Center consisting of the Chairman, Executive Director, Finance Officer of the Center, Finance Officer of the Major Archiepiscopal Center, one of the Board Members, and others as decided by the Board of Directors.”⁷⁸ It has to be noted that the Statutes of the Liturgical Research Center, in art. 9 use the term “Major Archiepiscopal Centre” instead of the technical term “Major Archiepiscopal Church.”

The role of the finance officer of the Syro-Malabar Church in regard to priests’ welfare merits particular attention. Through the institution of the priests’ welfare associations, the eparchial bishops are putting into practice the teaching of the Second Vatican Council. The Council reminded the bishops that “[they] should be solicitous for the welfare - spiritual, intellectual, and material - of [their] priests, so that they may live holy and pious lives, and exercise a faithful and fruitful ministry.”⁷⁹ Indeed, even before the promulgation of *CCEO* the system of welfare associations had been instituted in the eparchies of the Syro-Malabar Church.

Every eparchy in the proper territory of the Syro-Malabar Church has the system of a priest’s welfare association. The statutes of the priests’ welfare association of the Archeparchy of Changanacherry,⁸⁰ Saint Joseph Priests’ Provident Fund Association, can

⁷⁷ SSMMAC, “Statutes of the Liturgical Research Centre of the Syro-Malabar Church,” in *Synodal News*, 7 (1999), p. 87.

⁷⁸ *Ibid.*

⁷⁹ *CD*, no. 16, English translation in FLANNERY 1, p. 573.

⁸⁰ Promulgated by Archbishop Mar Antony Padiyara in 1981.

conveniently serve as a model regarding the welfare programs for priests in various eparchies of the Syro-Malabar Church. The aim of the association is to provide full financial security to the priests of the archeparchy during their illness and retirement.⁸¹ According to the statutes, all priests of the archeparchy are members of this association; religious priests and those incardinated in other dioceses/eparchies are not admitted. Members must pay the premium which is determined by the general assembly of the association.⁸²

Apart from the obligation to pay the premium, members have to fulfill certain obligations, namely: 1) to offer the bination and trination masses for the intention of the archbishop; 2) to present the account of such masses at the time of the annual retreat; and 3) to offer one mass for each deceased member of the Priests Provident Fund Association. In addition, every year the parish or the institution where the member serves must contribute to the Priests' Provident Fund Association a month's salary.⁸³ Any deficiency of funds will be provided by the archeparchy.

All the members benefit from the following: 1) all medical treatment and prescription bills paid by the members are reimbursed; 2) the needs of members of the association who stay at priests' retirement homes are paid for by the association; and 3) retired members staying elsewhere are paid 50% of the monthly allowance and their expenses for medicine and medical treatments are reimbursed.⁸⁴ Regarding the loss of membership, the statutes determine the circumstances: 1) when a member joins another

⁸¹ See *Archeparchy of Changanacherry Priests Welfare Scheme Rules and Regulations*, p. 1.

⁸² See *ibid.*

⁸³ See *ibid.*, p. 2.

⁸⁴ See *ibid.*, p. 5.

diocese/eparchy; 2) when he joins another religious society; and 3) when he leaves the priesthood.⁸⁵ The collection of the bination and trination stipends and of the contributions from the parishes and other institutions is usually done by the eparchial finance officer.

Although efforts are made to raise, at the major archiepiscopal level, a common fund for the maintenance of retired priests, such attempts have not brought results up to this time. Regarding a common fund at the major archiepiscopal level, the synod of bishops of the Syro-Malabar Church which was held 5-17 September 2001 decided to refer this project to CNEWA.⁸⁶

With regard to the authority of the finance officer towards the other institutions which come under the authority of the major archbishop, art. 9 makes it clear that the finance officer has no direct authority over them unless particular law prescribes otherwise. For example, the Syro-Malabar Church has three major seminaries which are immediately subject to the authority and control of the Syro-Malabar major archbishop and to the synod of bishops. A synodal commission composed of three bishops elected by the synod is responsible for the government of each seminary. Each seminary has its own finance officer appointed by the chairman of the synodal commission. The finance officer of the seminary is in charge of the property of the seminary. He is to maintain proper audited accounts, to prepare the annual budget, and to present the accounts and the budget to the finance council of each seminary.⁸⁷ The finance officer of the Syro-Malabar Church does not have any authority over the seminaries since their statutes do not provide

⁸⁵ See *ibid.*, p. 6.

⁸⁶ See SSMMAC, "Report of the IX Synod (2001)," in *Synodal News*, 9 (2001), pp. 33-34.

⁸⁷ For an example of the statutes of the seminary, see SSMMAC, "Revised Statutes of St. Thomas Apostolic Seminary," in *Synodal News*, 3 (1995), pp. 53-85.

for that. Therefore, the major archiepiscopal finance officer is not the administrator of all the goods of the major archiepiscopal Church.

4.1.3 – Alienation of Ecclesiastical Goods of the Syro-Malabar Church

With regard to alienation of ecclesiastical goods of the major archiepiscopal Church, the particular law on the permanent synod, art. 16 states: “The Permanent Synod is to be consulted in the following cases [...] to alienate the temporal goods of the Major Archiepiscopal Church, whose value is between the minimum and the maximum amount fixed by the synod of bishops.”⁸⁸ The particular law on temporal property, art. 208, rules on the amounts for alienation: “Alienation of property exceeding an amount of rupees ten lakhs/one million up to one crore/ten million is to be done only with the consent of the finance council and the eparchial consultors. An amount exceeding rupees one crore/10 million up to two crores/20 million, needs the consent of the Major Archbishop with the Permanent Synod.”⁸⁹ The particular norm concerning the minimum and maximum amounts for alienation of property was, however, not harmonized with the regulation given in *CCEO*. Indeed, *CCEO*, c. 1037 assigns three levels for alienation of ecclesiastical goods of a patriarchal/major archiepiscopal Church: 1) ecclesiastical goods valued between the minimum amount and the maximum amount; 2) ecclesiastical goods valued between the maximum amount and double the maximum; and 3) ecclesiastical goods exceeding double the maximum amount. The synod of bishops of the Syro-Malabar Church, held from 17 to 28 August 2009, after having noticed the inadequacy of the proposed amount for alienation decided to change the tariff. It made the following

⁸⁸ SSMMAC, “Statutes of the Permanent Synod,” in *Synodal News*, 11 (2003), p. 101. This particular law corresponds to *CCEO*, c. 1037, 1°.

⁸⁹ SSMMAC, “Acquisition and Administration of Temporal Goods,” in *Synodal News*, 11 (2003), pp. 50-51.

proposal: 1) the value of the property exceeding the amount of rupees ten lakhs (1 million) up to ten crores (100 million) requires the counsel of the permanent synod; 2) the value of property exceeding the amount of rupees ten crores (100 million) up to fifty crores (500 million) requires the consent of the permanent synod, and 3) an amount exceeding fifty crores (500 million), requires the consent of the synod of bishops.⁹⁰ The proposal of the synod is now under study by the synodal committee for canonical questions.

4.2 – THE INDIAN STATE LAW AND THE FINANCIAL ADMINISTRATION OF THE SYRO-MALABAR CHURCH

The laws enacted by the synod of bishops and promulgated by the major archbishop regarding liturgical matters have the force of law in the respective Church everywhere in the world, while disciplinary laws and other decisions of the synod of bishops generally have the force of law within the territorial limits of the Church *sui iuris* (CCEO, c. 150 §2).⁹¹ In this context, as far as the Syro-Malabar Church is concerned, the particular laws on financial administration directly affect the proper territory of the Church. As we have already mentioned, in accordance with the apostolic constitution *Quae maiori* (16 December 1992), the proper territory of the Syro-Malabar Church is limited to the ecclesiastical provinces of Ernakulam and Changanacherry.⁹² The Indian

⁹⁰ See SSMMAC “The Report of the XVII Synod,” in *Synodal News*, 17 (2009), pp. 47-48.

⁹¹ See POSPISHIL, *Eastern Catholic Church Law*, p. 189; FARIS, *The Eastern Catholic Churches*, pp. 362-363.

⁹² See footnote 1 of this chapter. Regarding the confines of the territory of the Syro-Malabar Church, Msgr. George Mifsud, in an intervention in the Synod of Bishops of the Syro-Malabar Church, held in the Vatican from 8 to 16 January 1996, stated: “It is obvious that the territory proper to the Syro-Malabar Major Archiepiscopal Church is still to be considered as largely, though not exclusively, missionary. The state of Kerala has a population of some thirty million, of whom 30% are Christian; and in this area the Syro-Malabarians have never ceased to be mission-conscious. In spite of prohibitions, they undertook missionary activity around them as a matter of course” (G. MIFSUD, “Missionary Activity in the Syro-Malabar Church,” in *Acts of the Synod of Bishops of the Syro-Malabar Church*, p. 216).

civil laws which address acquisition, administration, and alienation of property are generally “territorial” in nature. The finance officer, therefore, as the administrator of ecclesiastical goods, is to follow various civil regulations related to the territorial boundaries of the Syro-Malabar Church. Accordingly, it is necessary to consider civil requirements concerning financial administration in order to fully ascertain the effects that civil law has in the canonical system. Since the particular territory of the Syro-Malabar Church is limited to the state of Kerala, the laws on the administration of property and the rules of the Kerala state government are relevant in this regard.

4.2.1 – Civil Incorporation of Ecclesiastical Juridic Persons

The Second Vatican Council in *GS*, no. 76 spoke about the autonomy of the Church within the political organization of secular society: “The political community and the Church are autonomous and independent of each other in their own fields.”⁹³ The autonomy of the political community and of the Church calls for mutual respect. The Second Vatican Council also expressed its desire that in order to promote justice and peace, the civil authority should safeguard religious freedom.⁹⁴

To address the issue of civil incorporation, it is beneficial to understand the basic governmental structure of India. The central government of India comprises of three branches, namely legislative, executive, and judiciary. The legislative body, the parliament, consists of *Lok sabha* (the House of the People/Lower House), and *Rajya sabha* (the Council of States/Upper House). The executive body is headed by the president and his/her powers are exercised by a council of ministers. The prime minister

⁹³ *GS*, no. 76, English translation in FLANNERY 1, p. 984.

⁹⁴ See *DH*, no. 6, in *AAS*, 58 (1966), pp. 929-946, English translation in FLANNERY 1, p. 804.

is the head of the council of ministers. The judicial power belongs to the Supreme Court, high courts, district, and sessions courts. Apart from central government, each state has its own legislative, executive, and judicial setup.⁹⁵

The laws of India were based mainly on the constitutional order of the United Kingdom. After the emancipation (1947), the Indian Republic (1956) established its own Constitution which guaranteed religious freedom and the right to own property (articles 25 and 26).⁹⁶

Apart from the Constitution there are three registration acts binding on all non-profit organizations, namely: the Societies Registration Act (1860), the Public Charitable Trusts Act (1882), and the Companies Act (1956).⁹⁷

Black's law dictionary provides the following definition (this definition of Black's law dictionary is "authoritative also in India"⁹⁸) of the Church:

In its most general sense, the religious society [is] founded and established by Jesus Christ, to receive, preserve and propagate His doctrines and ordinances. It may also mean a body of communicants gathered into church order; [a] body or community of Christians, united under one form of government by the profession of the same faith and the observance of the same ritual and ceremonies; place where persons regularly assemble for worship; congregation; organization for religious purposes; religious society or body; the clergy or officialdom of a religious body [...].⁹⁹

⁹⁵ See G.T. KURIAN, *Encyclopedia of the Third World Revised Edition*, vol. 2, New York, Facts on File Inc., 1982, pp. 783-786.

⁹⁶ George Nedungatt provides a review of various Indian civil codes and acts. See NEDUNGATT, *Laity and Church Temporalities Appraisal of Tradition*, pp. 429-438.

⁹⁷ The societies Registration Act is an all India act by which a society can be registered either under the central act or respective state act. By Public Charitable Trusts Act, a trust can be registered within the sub-registrar of the registration department of the respective state department. The companies Act 1956 is an all India act and the state governments have no authority to change or modify this act. See KANDASAMI, *Management of Finances in Non-Profit Organizations*, p. 8.

⁹⁸ NEDUNGATT, *Laity and Church Temporalities Appraisal of Tradition*, p. 431.

⁹⁹ *Black's Law Dictionary Definitions of the Terms and Phrases of American and England Jurisprudence, Ancient and Modern*, St. Paul, MN, West Publishing Co., 1979, p. 219. See also NEDUNGATT, *Laity and Church Temporalities Appraisal of Tradition*, p. 431.

In this regard *CCEO*, c. 7 §2 states: “This Church, constituted and organized in this world as a society, subsists in the Catholic Church, governed by the successor of Peter and the bishops in communion with him.” *CCEO*, c. 921 §2 acknowledges that the Church *sui iuris* is endowed with a juridic personality so that it has its own purposes and means to fulfill those purposes. However, the juridic persons recognized in canon law are not automatically recognized in Indian civil law. Civil incorporation of ecclesiastical juridic persons is, therefore, necessary in India because many benefits are available only for legally incorporated bodies.¹⁰⁰ Thus in India, incorporation enables a canonical juridic person to receive legal personality before the civil law.

In the Indian context, the actions of a given organization concerning temporal goods, like purchasing of lands, receiving of property (including money), obtaining subsidies from various agencies, construction of buildings, and obtaining tax exemptions require the possession of the appropriate civil legal status. By civil incorporation, the Syro-Malabar major archiepiscopal curia obtains the status of a legal entity before civil law and, in virtue of that status, receives the legal rights to accomplish those functions.¹⁰¹

4.2.2 – Civil Law Trust

Since the curia of the Syro-Malabar Church was incorporated as a trust, the civil laws governing trusts must be observed by the trustees. The finance officer of the Church has become one of the trustees of the trust.

¹⁰⁰ See KANDASAMI, *Management of Finances in Non-Profit Organizations*, p. 7. On the formation of non-profit organizations Kandasami states: “The body that is incorporated becomes a legal person just like an individual, but with no physical existence. As such, it can acquire and hold property and can sue and be sued. Thus, an incorporated body has a separate existence, distinct from that of its members. An unincorporated body may exist in fact, but is not considered to exist in law” (ibid).

¹⁰¹ According to Kandasami, although the civil law might not require incorporation in certain cases, there is a practical necessity for it, since many benefits are available only for legally incorporated bodies. See *ibid*.

There are certain mandatory provisions in the Indian civil law system which requires the incorporation of voluntary or charitable organizations as legal bodies.¹⁰² Generally there are three forms of registration available in India for the incorporation of voluntary charitable bodies such as the Church: public trust, society, and non-profit company.

The term “trust” is defined in the Indian Trusts Act, section 3 as follows: “[Trust] is an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.”¹⁰³ According to Om Prakash Agarwala, a trust is a gift of a property, or an interest in property, to a person or institution by or through the intervention of a trustee. A trust presupposes great confidence in the trustee.¹⁰⁴

The terms “trustee,” “beneficiary,” “trust-property,” “beneficial interest,” and “the instrument of the trust” are used commonly in the Trusts Act. Article 3 of the Indian Trusts Act provides the following clarifications:

The person who accepts the confidence is called the “trustee”: the person for whose benefit the confidence is accepted is called the “beneficiary”: the subject-matter of the trust is called “trust-property” or “trust-money”: the “beneficial interest” or “interest” of the beneficiary is his right against the trustee as owner of the trust-property; and the instrument, if any, by which the trust is declared is called the “instrument of trust.”¹⁰⁵

By the civil incorporation of a trust, the trust obtains a legal status before civil law. As a legal entity, the incorporated legal body must achieve its proper objectives.

¹⁰² For a detailed reading on the accounting, taxation, auditing and submission of the annual returns of a civil incorporated body, see SINGHANIA and SINGHANIA, *Tax Mann’s Direct Taxes; Taxmann’s Guide to Foreign Contribution (Regulation) Act 2010*.

¹⁰³ The Indian Trusts Act, 1882, art. 3, pp. 1-2, in <http://indianchristians.in/news/images/resources/pdf/indian-trust-act-1882.pdf/> (28 March 2011).

¹⁰⁴ See O.P. AGARWALA, *The Indian Trusts Act, 1882*, Delhi, Metropolitan Book Co (Private) Ltd., 1970, p. 88.

¹⁰⁵ The Indian Trusts Act, 1882, art. 3, p. 3.

However, as a consequence of the incorporation, a charitable trust is not allowed to carry out any activity for profit. The Income Tax Act (1961), section 2 (15) denies tax exemption on such profit-making activity carried on by a trust: “Charitable purpose includes relief to the poor, education, medical relief and the advancement of any other object of general public utility not involving the carrying on of any activity for profit.”¹⁰⁶

With regard to the agents who carry out the functions of the trust, they exercise the functions in accordance with the bylaws of the trust. Article 11 of the Indian Trusts Act (1882) determines that the trustee is the one who executes the trust: “The trustee is bound to fulfill the purpose of the trust, and to obey the directions of the author of the trust given at the time of its creation, except as modified by the consent of all the beneficiaries being competent to contract.”¹⁰⁷ The general responsibilities of the trustee outlined in the Indian Trusts Act (1882) can be summarized as follows: the trustee is 1) to obtain the necessary permission to transfer the property, to invest money, to recover the debt and property of the trust (art. 12); 2) to maintain the title of the trust by making use of filing suits in civil courts (art. 13); 3) not to set up a title that would be detrimental to the beneficiary (art. 14); 4) to deal with trust property with prudence (art. 15); 5) to convert the perishable property into a permanent and immediately profitable property (art. 16); 6) to prevent the destruction of the property (arts. 17-18); 7) to maintain the accounts and information as prescribed by the state government rules (art. 19); and 8) to invest the money as imposed by the government rules regarding the trust (art. 20).

¹⁰⁶ The Income-Tax Act, 1961, section 2 (15), quoted after K.N. CHADTURVEDI, “Business Activity and Tax Exemption on Charitable Trusts in Income Tax Law,” in *Journal of the Indian Law Institute*, 21 (1979), p. 553.

¹⁰⁷ The Indian Trusts Act, 1882, art. 11, p. 5.

With regard to the rights and powers of the trustee, the Indian Trusts Act (1882) determines that: 1) the trustee is entitled to have the right to the title of the property (art. 31); he also has 2) the right of reimbursement of expenses (art. 32); 3) the right of indemnity from the person who breaches the contract (art. 33); 4) the right to seek a court opinion in the management of trust property (art. 34); 5) the right to settle accounts after the completion of the duties as a trustee (art. 35); 6) the power to sell the property by public auction and contract (art. 37); and 7) the power to issue a receipt for transactions (art. 42). The statutory provisions outlined in the Trusts Act can be considered as the general norms of the trust. On the basis of the laws of the Indian Trusts Act (1882) each trust has to form and constitute its bylaws.

Nine articles in Chapter Five of the Indian Trusts Act (1882) stipulate policies regarding the restrictions on the power of the trustees. Generally, a trustee is not free to renounce the trust unless he has received permission from the principal civil court of the original jurisdiction, or if the beneficiary is competent to contract, with his consent, or by the special power in the trust deed (art. 46). A trustee cannot delegate his office unless the trust has provision to do so, or the delegation becomes a regular course of business, or the beneficiary consents to the delegation, or the delegation becomes necessary (art. 47). When there are several trustees, one trustee cannot act singlehandedly (art. 48). The trustee is not allowed to receive remuneration if there is any uncertainty arising from a trust execution on the part of the trustee (art. 50). Also the trustee is not permitted to use the trust property for his own profit (art. 51). The trustee or his agent, directly or indirectly, is not allowed to buy or sell the property (art. 52). To implement the laws controlling the activities and procedures of the trust, the government intervenes in the

activities of the trust through its different agencies, for instance, the income tax department.

The religious and charitable trusts receive income tax exemption in accordance with various provisions of the Income Tax Act of 1918, 1922 and 1961.¹⁰⁸ Privileges such as income tax exemption impose certain obligations on the trust: for example, strict observation of the submission of annual returns to the government. The Income Tax Act (1961) took special measures to prevent the misuse of the trust funds: articles 11, 12, and 12 (A) stipulate that failure in the maintenance of accounts, auditing, investment and utilization of the trust funds in accordance with the income tax rules will cause the cancellation of the registration of the charitable trust and of the benefits of the tax exemptions.¹⁰⁹

The books of accounts are to be maintained on a daily basis with financial records such as cash bills, invoices, performa invoices and vouchers.¹¹⁰ Section 11 (5) of the Income Tax Act (1961)¹¹¹ states that investments can be made in savings certificates or any other securities issued by the central government. Deposits can be made in any

¹⁰⁸ Since the Income Tax Act of 1922 and of 1961 are amendments to the Income Tax Act of 1918, all three income tax acts are in force.

¹⁰⁹ A commentary on articles 11, 12, and 12 (A) is provided by K.N. Chadurvedi. See CHADTURVEDI, "Business Activity and Tax Exemption on Charitable Trusts in Income Tax Law," pp. 550-551.

¹¹⁰ A cash bill is a simple bill given by the recipient to the trust in acknowledgment of the receipt of money. An invoice is a credit bill, that is, a bill for goods or services provided where the payment is yet to be made. A performa is a quotation giving the estimated cost of the goods or services. A performa invoice must always be supported by the invoice and receipt. A voucher is the basic document used to support the authenticity of a transaction entered in the books of accounts. The maintenance of the accounts include maintenance of files (voucher files for cash book, journal register, bank file, receipt file, fixed asset file, receipt file, file for asset and fixed deposit, management reports, financial audited statements, audited accounts, budget file, income tax file, and foreign contribution file). For more details, see KANDASAMI, *Management of Finances in Non-Profit Organizations*, pp. 81-85.

¹¹¹ See *ibid.*, pp. 149-150.

account pertaining to the post office, scheduled banks, co-operative societies engaged in banking, unit trusts of India, securities of the government, debentures issued by the government-recognized companies and corporations, public sector companies, financial corporations in the government sector, public companies that are specified for the promotion of housing programs, investments in immovable property, investments in the Industrial Development Bank of India, and in mutual funds. These prescriptions concerning the manner of administration of the trust are derived from the general implementations of the laws of the parliament and the state assembly.

The religious and charitable trusts are regulated by the provision for proper audit as prescribed by the income tax rules. Section 19 of the Foreign Contribution Regulation Act (= FCRA) (2010) prescribes that the accounts and records have to be audited¹¹² by an officer authorized by the central government.¹¹³ The external audit is different from the internal audit: “The external auditor is an independent person or firm specially appointed to audit the accounts of the organization. [...] The internal auditor is normally appointed by the management basically to provide guidance to the management.”¹¹⁴ As every registered trust is to submit annual returns to the government, every trust registered under FCRA Regulation Act must also furnish the returns to the government of India.

¹¹² “An audit is a systematic review of the financial transactions of an organization” (ibid., p. 155).

¹¹³ See FCRA (2010), sections 19 and 23, quoted after *Taxmann’s Guide to Foreign Contribution (Regulation) Act 2010*, p. 28.

¹¹⁴ KANDASAMI, *Management of Finances in Non-Profit Organizations*, p. 156.

4.2.3 – Civil Incorporation of the Major Archiepiscopal Curia

Jerald A. Doyle provides an explanation of the act of incorporation: “The act of incorporation is, canonically speaking, an act of administration and as such it is an act of the juridical person. That is, an act placed by the physical agents who are the incorporators, relative to the purposes and goods of the juridical person.”¹¹⁵ The secular understanding of incorporation points, however, to the act of individuals: “Thus, the civil law regards incorporation as the act of individuals and the resulting corporation as a subject of rights and obligations [...]”¹¹⁶ The civil incorporation of the Church is an accepted way of protecting the rights of the Church in the civil law of India as in many other countries.¹¹⁷

The Second Vatican Council described the Church “as a society in the world,”¹¹⁸ the expression found in *CCEO*, c. 7 §2. Members of the Church are subject to ecclesiastical laws and, as members of the civic society, also to civil laws. Moreover, according to *CCEO*, c. 1504, civil laws, to which canon law defers must be observed in canon law with the same effects, in so far as the civil law is not contrary to divine law and unless it is provided otherwise in canon law.

The civil law of India recognizes personal law, such as the law regarding marriage and divorce in Hindu, Muslim, Christian and Parsi religions. In accordance with the

¹¹⁵ J.A. DOYLE, “Civil Incorporation of Ecclesiastical Institutions: A Canonical Perspective,” JCD diss., Ottawa, Saint Paul University, 1989, p. 189.

¹¹⁶ DOYLE, “Civil Incorporation of Ecclesiastical Institutions,” p. 192.

¹¹⁷ The legal status of the Church has been clarified by one of the judgments of the high court of Kerala in 1962 (Justice T.C Raghavan). See *James Chinnamma v. Joseph Abraham*, in *Kerala Law Times*, 240 (1962), pp. 240-242. The judgment declared that: 1) the Church has the right to hold the title “person” in law; 2) the authorities of the Church have the right to hold property; and 3) the Church as a legal entity (“juristic” person) is capable to hold property.

¹¹⁸ *LG*, no. 8, English translation in *FLANNERY 1*, p. 357.

Indian legal system, however, personal law is applicable only in so far as the civil law does not have any corresponding provisions.¹¹⁹ Therefore, although the civil law does not accept indiscriminately the provisions of canon law, it has accepted canon law where there is no corresponding provision of civil law: a judgment of the Kerala high court established that in the absence of statutory laws, canon law governs the members of the Syrian Catholic Church.¹²⁰

Regarding the civil incorporation, civil law requirements may not, at times, correspond to the stipulations of canon law. As was mentioned earlier, the administrator must make sure that, through the observance of the civil law, the ecclesiastical property is protected from harm (*CCEO*, c. 1028 §2, 2^o), especially with regard to contracts and payments in which case canon law mandates that the regulations as determined by the civil law of the territory are to be observed in canon law with the same effects.¹²¹

In accordance with the Charitable and Religious Act, the curia of the Syro-Malabar Major Archiepiscopal Church was registered with the sub-registrar of the registration department, on 2 August 1993.¹²² By its incorporation as a charitable trust, the curia obtains the legal capacity to hold the property in accordance with the civil law of India and attains flexibility in terms of provisions for the management of ecclesiastical goods, as any type of structure of management can be provided in the trust deed.¹²³ In

¹¹⁹ See JAYASEELAN, "Civil Law Confronts Canon Law," in *Vidyajyothi Journal of Theological Reflection*, 64 (2000), pp. 685.

¹²⁰ See *All India Reporter* (1993), p. 57, quoted after JAYASEELAN, "Civil Law Confronts Canon Law," p. 685. *All India Reporter* is a law journal which reports the decisions of the Supreme Court and the high courts of India.

¹²¹ See DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, p. 187. Cf. *CCEO*, cc. 1034, and 1540.

¹²² See The Trust Deed of the Major Archiepiscopal Curia, 2 August, 1993, p. 1.

particular, the incorporation enables the Church to have the rights of benefits, such as exemption from the tax laws of the country, the right to obtain the registration number in accordance with the FCRA (1976),¹²⁴ and the right to the income tax exemption in accordance with the Income Tax Registration Act.

These advantages have been actualized in the Syro-Malabar Church through the exercise of the trust incorporation. Correspondingly, there are certain general obligations to be fulfilled by the Church, namely:¹²⁵ 1) to exercise its function within the limits of ecclesiastical laws; 2) to inform the government about changes of the members of the trust at regular intervals; 3) to implement the decisions of the trusts' meetings in the minute book; and 4) to maintain and audit the regular accounts of the trust.

By its incorporation as a religious and charitable trust, the curia of the Syro-Malabar Church acquired the status of a non-profit organization. The registered trust received the name "Major Archiepiscopal Curia of the Syro-Malabar Church."¹²⁶ The objects of the trust are described in no. 5 of the deed which reads: "The sole object of the Trust shall be to carry out the temporal aspects of the public religious activities of the synod of bishops of the Syro Malabar Church [...]."¹²⁷ In accordance with no. 5 (a) of the trust deed, the finance officer of the Syro-Malabar Church is one of the trustees of the trust. At the same time, no. 5 (b) stipulates that the major archbishop is the president of

¹²³ See KANDASAMI, *Management of Finances in Non-Profit Organizations*, p. 10.

¹²⁴ The Syro-Malabar Church was registered under the FCRA (Regulation) Act (1976). In 2010, amendments have been introduced into FCRA (Regulation) Act (1976). For a comparative analysis of the FCRA (Regulation) Act (1976) and FCRA (Regulation) Act (2010), see *Taxmann's Guide to Foreign Contribution (Regulation) Act 2010*, pp. 11- 17.

¹²⁵ The general obligations of non-profit organizations are discussed by M. Kandasamy. See KANDASAMI, *Management of Finances in Non-Profit Organizations*, p. 9.

¹²⁶ The Trust Deed of the Major Archiepiscopal Curia, no. 1, p. 4.

¹²⁷ *Ibid.*, no. 4, p. 4.

the trust and that he appoints the other members of the board of trustees,¹²⁸ while no. 5 (d) mandates that every financial year (ending with 31 March), a meeting of the board of trustees is to be held to approve the audited statements of accounts. The remuneration of the trust members is outlined in no. 5 (d) of the deed. The trustees who are bishops are not eligible to receive remuneration for their services, although the trust has the authority to reimburse all the expenses incurred by them in service for the trust. The remuneration of the other members of the trust is determined by its president.

Specific powers and duties of the trustees are provided in no. 6 of the trust deed. The trust can acquire funds by donations, grants and subsidies.¹²⁹ The trust has the right to make modifications in management regulations of property and to appoint suitable persons for the day-to-day management of the trust. It also has the power to alienate the property of the trust.

According to no. 7 (h) of the trust deed, the chief trustee (the major archbishop) has the power to delegate his duties and functions to any other trustee: “The Chief Trustee shall have the power to delegate his duties and functions reserved under the Deed of Trust to any other member of the Board of Trustees with the knowledge of the Board.”¹³⁰ In conformity with this clause, the finance officer, the holder of the delegated

¹²⁸ Number 5 (b) reads: “Within two months of registration of the deed of trust, the President of the Synod shall form a board of trustees for the trust, with himself as the president of the trust, and the chief trustee with other members, namely: the Major Archbishop of Ernakulam and Angamaly Archiepiscopal Church, if he is not the President of the Synod, the bishops of the permanent synod, the financial officer, and the chancellor as the members of the Major Archiepiscopal curia (all of them ex-officio). If found necessary from time to time, the President of the Synod shall nominate to the board of trustees the chairman of any, or all, the commissions of the Synod, also as members” (The Trust Deed of the Major Archiepiscopal Curia, no. 5, p. 6). As at the time of incorporation the major archiepiscopal curia did not have all of its present offices, the Pontifical delegate, Archbishop Abraham Kattumana, became the settler of the trust deed.

¹²⁹ The acquisition rights include the goods received from the faithful or other individuals, or from the Apostolic See *ibid.*, no. 6 (1), p. 7.

power from the point of view of secular law, has the following prerogatives: a) to exercise the management of the property of the trust; b) to enter into contracts or agreements on behalf of the trust; c) to represent the trust in the course of civil law proceedings; d) to appoint and remove civil advocates to represent the trust in the courts; e) to execute the decisions of the board of trustees with regard to the lease, promissory notes and bonds; f) to take necessary steps for the efficient management of the trust; and g) to file suits for the trust. Regarding bank accounts, no. 8 prescribes that they are to be operated jointly by the finance officer and the chief trustee or the nominee of the chief trustee. Other than for charitable purposes, the income of the trust should not be used for any other purposes (no. 9). The amendments of the trust deed have to be approved by the commissioner of income tax (no. 11).

Among the powers of the finance officer, the foremost is his right of acquisition. The civilly recognized methods, such as donations, grants and subsidies, do not correspond to the canonical understanding of the manner of acquisition of ecclesiastical goods which is described in *CCEO*, cc. 1010-1021 and in the particular laws on the acquisition of temporal goods of the Syro-Malabar Church. Administrators are, therefore, responsible for safeguarding the effects of the canonically recognized manner of acquisition of the property as in the civil law.

The sole purpose of the acquisition of goods mentioned in the object of the trust deed is to carry out the temporal aspects of the public religious activities of the trust.¹³¹ Separation of temporal aspects of the activity of the Church from its religious activities is one of the notable features of the civil law. However, as far as the Church is concerned, it

¹³⁰ Ibid., no. 7 (h), p. 10.

¹³¹ See *ibid.*, no. 4, p. 5.

is composed of a human and of a divine element, as described in *LG* no. 8, “it is impossible to make a sharp separation between the two, the spiritual and the material.”¹³²

The civil law trust deed of the Syro-Malabar Church fosters other religious and charitable activities through its various stipulations which are not outlined in the articles of the Indian Trusts Act (1882) and stipulates that such activities must be in agreement with the norms of *CCEO*.¹³³ In particular, by civil incorporation, the finance officer is not exempted from obtaining consent or counsel from the canonical organisms of the Church. The canonical relationship between the ecclesiastical authorities and ecclesiastical goods, therefore, is respected by the civil law.¹³⁴

Indeed, with regard to the acquisition, administration, and alienation of ecclesiastical goods, the administrator of ecclesiastical goods has the duty to ensure that both the canonical and civil formalities are followed in the management of ecclesiastical goods. Meticulous observance of the canonical formalities is essential in order to protect the patrimonial condition of the Church (*CCEO*, c. 1042). The particular law of the Syro-Malabar Church on alienation of ecclesiastical goods imposes, therefore, various levels of monetary amounts which provide the criteria for distinguishing between the ordinary and the extraordinary acts of administration of ecclesiastical goods.¹³⁵ Moreover, as there is no particular law in the Syro-Malabar Church on contracts, consequently, the Church has

¹³² METZ, “Temporal Goods of the Church,” p. 690.

¹³³ See The Trust Deed of the Major Archiepiscopal Curia, no. 4 (i), p. 5.

¹³⁴ Jerald A. Doyle describes the concepts of canonical ownership and civil incorporation. His study is based on the American civil law system. See DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, p. 185.

¹³⁵ See SSMMAC, “Acquisition and Administration of Temporal Goods,” p. 50.

to follow the prescriptions of the civil law with the same effects in canon law (cf. *CCEO*, c. 1034).

4.2.4 – Canonical Implications of Incorporation of the Curia of the Major Archiepiscopal Church

According to Cardinal Adam J. Maida and Nicholas P. Cafardi, a civil incorporation of an ecclesiastical juridic person does not create a parallel, separate canonical entity.¹³⁶ The administrators (incorporators) “incorporate in order to give a legal civil form to one or more of the activities of the juridical person.”¹³⁷

In the present context, it is a question of total incorporation, that is, inclusive of the activities of the incorporated entity. A negative consequence of the incorporation is that civil authorities may implement amendments or enact new laws which could adversely affect the civil legal status of the Church in administering its ecclesiastical goods.

Regarding the future amendments of the registered deed, the deed itself recognizes the authority of the Church to enact laws: “Any provisions in this deed [...] [can be] annulled or substituted by the SBSMC [the synod of bishops of the Syro-Malabar Church] at any time, provided that the effect of such amendments is in the spirit of the Code of Canons [of] the Eastern Churches as made from time to time.”¹³⁸ The authority to make amendments rests, therefore, with the synod of bishops and corresponds with the canonical understanding of the responsibility of the synod of bishops in making of the laws of the Church. The particular law on the synod of bishops

¹³⁶ See MAIDA and CAFARDI, *Church Property, Church Finances, and Church-Related Corporations*, pp. 148-149.

¹³⁷ DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, p. 190.

¹³⁸ The Trust Deed of the Major Archiepiscopal Curia, no. 11 (a), p. 11.

of the Syro-Malabar Church, article 8.1 prescribes: “With due regard for the provisions of common law, the synod of bishops of the SMMAC [Syro-Malabar Major Archiepiscopal Church] is exclusively competent to make laws for the entire SMMAC which obtain force according to the norms of canon 150 §§2, 3 (c. 110 §1).”¹³⁹ The particular norms concerning the financial administration of the Syro-Malabar Church correspond to the stipulations of the trust as well. Both systems provide the provisions for the finance officer to administer ecclesiastical goods. In short, when the finance officer acts as a trustee based on the trust deed of the Syro-Malabar Church, he is in compliance with the secular law and with canonical norms of the Church.

The administrator (finance officer) of ecclesiastical goods has the responsibility “to ensure the validity of acts” (concerning financial administration) of the juridic person and of the trust.¹⁴⁰ Also, the trust deed accepts the canon law prescriptions regarding acquiring, administering and alienating the ecclesiastical property.¹⁴¹

As to the act itself - of incorporation of the ecclesiastical entity - it can be classified as an act of administration. The trust deed itself answers the question on what ground the settler and the trustee acquire the power to incorporate the Church:

[T]he Holy See, [...] in recognition of the tremendous growth and service rendered to the humanity by the Syro-Malabar Church in India, made it as a Major Archiepiscopal Church, under [canons] 27 and 151 of the Code of Canons [of] the Eastern Churches, herein after referred as Permanent Synod, in view of giving it more freedom and flexibility to carry its activities to further heights.¹⁴²

¹³⁹ SSMAC, “Statutes of the Synod of Bishops of the Syro-Malabar Major Archiepiscopal Church,” p. 89.

¹⁴⁰ See DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, p. 184.

¹⁴¹ See The Trust Deed of the Major Archiepiscopal Curia, no. 4, p. 5.

¹⁴² *Ibid.*, p. 2.

The incorporation falls into the category of acts of extraordinary administration in accordance with the common and particular laws of the Church. Jerald A. Doyle states in this regard:

The act of incorporation is, canonically speaking, an act of administration and as such it is an act of the juridical person. That is, an act placed by the physical agents who are the incorporators, relative to the purposes and goods of the juridical person. Because of its nature as a one-time action and in view of the long-term consequences relative to civil law responsibilities, it must be considered an act of extraordinary administration and governed by the universal and particular law governing such acts. It is, then, an act which produces juridical effects since it will bind the juridical person to the observance of civil law requirements.¹⁴³

In accordance with *CCEO*, c. 1024 §1 the administrator must have written consent of the competent authority for the acts which exceed the scope of ordinary administration. However, the trust deed was registered on 2 August 1993, and before that time no particular laws concerning the new status of the major archiepiscopal level of the Syro-Malabar Church were promulgated. On the other hand, the Congregation for the Eastern Churches, in its decree of appointment of the Papal delegate, on 16 December 1992, stated: “The Papal delegate shall exercise, for the duration of his mandate, the functions of pastoral governance proper to Archbishops Major in the manner, and within the limits, defined by Canon Law (cf. *CCEO*, cc. 152; 78-111).”¹⁴⁴

The first assembly of the synod of bishops of the Syro-Malabar Church took place 20 - 25 May 1993. There was, however, no mention of civil incorporation in the decisions of the synod.¹⁴⁵ Moreover, no synodal decision has been made on the issue of incorporation as of this date. However, it can be argued that since the major archbishop

¹⁴³ DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, p. 189.

¹⁴⁴ CONGREGATION FOR THE ORIENTAL CHURCHES, decree of the appointment of the papal delegate, 16 December 1992, no. 11/93, in *Synodal News*, 1 (1993), p. 8.

¹⁴⁵ For the decisions of the synod of bishops, see SMMAC, “Decisions of the First Bishop’s Synod,” in *Synodal News*, 1 (1993), pp. 39-40.

has the responsibility to exercise vigilance over the proper administration of ecclesiastical goods (*CCEO*, c. 97), even if there was a lack of consent from the appropriate bodies, his act of civil incorporation of the property of the Church would be justified in view of the authorization of the Apostolic See.

The act of incorporation is accomplished by physical persons (incorporators) on behalf of a juridic person. Up to 1992, the Syro-Malabar Church was in a canonically anomalous situation of having two metropolitans instead of a common head. In instituting the Church as a major archiepiscopal Church, a new structural ordering, including regularizing its civil legal status was necessitated.

The incorporated curia of the Syro-Malabar Church is to observe certain conditions and formalities for the acts of extraordinary administration. *CCEO*, c. 1024 §1 stipulates that written consent of the competent authority is required for the acts which go beyond the limits and manner of ordinary administration. From the canonical perspective, the finance officer acts under the authority of the major archbishop, who, in order to accomplish/authorize certain acts of extraordinary administration, needs the consent or counsel of the competent juridical bodies such as the synod of bishops and the permanent synod, as determined by law in particular cases. However, the curia of the Church, the civilly incorporated trust, remains also under control of the board of trustees, with the major archbishop as the chief trustee. In accordance with the Indian Trusts Act, a meeting of the trustees must be convened at least once a year. The decisions concerning the acts of extraordinary administration of the trust have to be made, therefore, with the approval of the board of trustees.

The incorporation of the trust called “Major Archiepiscopal Curia of the Syro-Malabar Church” includes various commissions and also the tribunals of the curia.¹⁴⁶ Canonically, since all offices, tribunals, and commissions are attached to the curia of the Syro-Malabar Church in accordance with its particular law, the civil incorporation can be considered as a total civil incorporation of the curia of the Syro-Malabar Major Archiepiscopal Church.

4.3 – PARTICULAR LEGISLATIONS OF OTHER MAJOR ARCHIEPISCOPAL CHURCHES CONCERNING THE OFFICE OF THE FINANCE OFFICER

A comparative analysis of the particular laws of other major archiepiscopal Churches *sui iuris* will be useful for proper understanding of the particular laws concerning the finance officer of the Syro-Malabar Church. Other than the Syro-Malabar Church, there are three major archiepiscopal Churches in the Catholic Church, namely, the Ukrainian, Syro-Malankara and Romanian Churches.¹⁴⁷ The comparative study of their respective legislation, its extent, analogies, and differences are relevant for the present discussion. Obviously, the manner of exercising the task of administration of temporal goods varies from one Church to the other, based on the traditions and customs of each of them. These differences are reflected in the corresponding particular law. The comparative study that follows is based on the particular law of the Syro-Malabar, Syro-Malankara, and Ukrainian major archiepiscopal Churches.¹⁴⁸

¹⁴⁶ See SSMMAC, “The Statutes of the Liturgical Research Centre of the Syro-Malabar Church,” pp. 86-87; SSMMAC, “The Statutes of the Major Archiepiscopal Tribunal, p. 127.

¹⁴⁷ The Romanian Catholic Church was elevated to the status of a major archiepiscopal level on 18 December 2005.

¹⁴⁸ For the Ukrainian and Syro-Malankara Churches particular laws, see respectively http://www.Archeprarchy.ca/documents/particular_laws_canons/ (26 January 2011) (= Particular Laws of the Ukrainian Church) and SYNOD OF BISHOPS OF THE SYRO-MALANKARA MAJOR ARCHIEPISCOPAL CHURCH, *Particular Laws of the Syro-Malankara Catholic Church*, Thiruvananthapuram, Major Archiepiscopal Curia, 2011 (= *Particular Laws of the Malankara Church*). We are indebted to Major Archbishop Baselios Cleemis

Along with the Syro-Malabar Church, the other two Churches have set five years as the term of office of the finance officer.¹⁴⁹ The particular laws of the Syro-Malabar Church and Syro-Malankara Church are identical in prescribing that the term of office of the finance officer can be extended for one more term. Article 6 of the particular law of the Syro-Malabar Church states: “The term of office of the major archiepiscopal finance officer shall be five (5) years. The same person shall not be appointed for more than two terms consecutively (c. 122 §2).”¹⁵⁰ Canon 16 of the particular law of the Ukrainian Church does not address the issue of repetition of the term of office of the finance officer.¹⁵¹

Regarding the removal of the finance officer, the particular law of the Syro-Malankara Church prescribes that “[...] he or she cannot be removed from office by the Major Archbishop-Catholicos without the written consent of the Holy Episcopal Synod, or if there is the danger of delay, of the Permanent Synod.”¹⁵² Even though the major

Catholicos for providing the particular law of Syro-Malankara Church and Bishop David Motiuk of the Ukrainian Church for giving time for consultation on the particular law of Ukrainian Church. Despite efforts, it was impossible to collect the particular laws of Romanian Catholic Church. They are not available in any of the libraries in India or Ottawa or on the web site of the Romanian Catholic Church.

¹⁴⁹ See Particular Laws of the Ukrainian Church, c. 16, p. 2 and *Particular Laws of the Malankara Church*, c. 53, p. 12. It is to be noted that particular laws of the Ukrainian and Syro-Malankara Churches contain “canon” to denote each norm. But the particular law of the Syro-Malabar Church contains “article.”

¹⁵⁰ SSMMAC, “Particular Laws of the Syro-Malabar Church,” p. 11.

¹⁵¹ “The patriarchal finance officer is appointed for a term of five years; during the tenure he cannot be removed by the patriarch/major archbishop without the consent of the Synod of Bishops of the patriarchal/major archiepiscopal Church or, if there is danger in delay, that of the Permanent Synod” (Particular Laws of the Ukrainian Church, c. 16, p. 2).

¹⁵² *Particular Laws of the Malankara Church*, c. 53, p. 12. CS, cc. 340-342 referred to *Synodus electionum* and *Synodus patriarchalis* which were to be eliminated as suggested by the study group of PCCICOR: it wanted to have only one synod in the patriarchate. See PCCICOR, “De patriarchis et archiepiscopis maioribus,” in *Nuntia*, 2 (1976), p. 50; ID., “Canones de synodo Ecclesiae patriarchalis et de conventu patriarchali,” in *Nuntia*, 7 (1978), p. 21. See also PALLATH, *The Synod of Bishops of Catholic Oriental Churches*, p. 128; B.J. KANNAMUNDAYIL, “The Synod of Bishops of the Patriarchal and Major Archiepiscopal Churches,” in *Christan Orient*, 31 (2010), p. 213, footnote 33. One of the proposed names

archbishop of the Syro-Malankara Church is considered, in accordance with the patrimonial tradition and the prescriptions of the particular law of the Syro-Malankara Church, the “Primate of the East,”¹⁵³ he is, nevertheless, not entitled to remove the finance officer from office without first asking for the consent of the synod of bishops. While *CCEO*, c. 122 §2 demands the consent of the synod of bishops, the particular law of the Syro-Malankara Church requires “written consent.”¹⁵⁴

The particular laws of the Syro-Malabar Church do not provide any specific norms on the removal of the finance officer, while c. 16 of the particular law of the Ukrainian Church is a repetition of *CCEO*, c. 122 §2 in this regard. The finance officer enjoys a certain stability in office, therefore it would be altogether helpful to establish particular norms regulating the process of his/her removal from office, as there are, moreover, some differences of opinion among the authors, regarding for instance the acceptance of the resignation of the finance officer.¹⁵⁵

To remit the expenses of the curia of the major archiepiscopal Churches, *CCEO*, c. 125 stipulates two means to acquire the necessary resources: either from the property

was *Sancta synodus* which was used among the Orthodox churches. The study group rejected the suggestion because it desired to have the word *episcoporum* in the title. The draft of c. 102 §1 in the 1986 Schema and *CCEO*, c. 102 §1, use the term *Synodus Episcoporum Ecclesiae patriarchalis*. See PCCICOR, “Schema codicis iuris canonici orientalis,” in *Nuntia*, 24-25 (1987), p. 18, English translation in PCCICOR, *Revised Code of Eastern Catholic Canon Law 1986 Draft: Rough, Unedited English Translation (Text as of May 26-27, 1987) for the use of Eastern Catholic Bishops Only*, Brooklyn, NY, United States Eastern Catholic Bishops Consultation, 1987, p. 18. Despite that, the particular law of the Syro-Malankara Church uses the term “sancta synodus,” though this usage is not in conformity with the prescriptions of the canons on the synod of bishops.

¹⁵³ See SMITH (ed.), *A Compendious Syriac Dictionary Founded upon the Thesaurus Syriacus of R. Payne Smith, D.D.*, p. 523.

¹⁵⁴ *Particular Laws of the Malankara Church*, c. 53, p. 12.

¹⁵⁵ Specific references are also required from a particular law of a major archiepiscopal Church regarding the procedure for restitution due to the abandonment of the office.

of the Church or from the tax imposed on the eparchies. In this regard, the Syro-Malankara Church states in c. 584:

The Major Archbishop-Catholicos, with the approval of the Holy Episcopal Synod can require each eparchy and institute of religious life to remit to the finance office of the Major Archiepiscopal curia an amount proportionate to their income towards the common expenses of the Syro-Malankara Catholic Church. Regarding the contribution from institutes of religious life, the Major Archbishop-Catholicos may fix the amount in consultation with the major superior concerned.¹⁵⁶

In accordance with this particular norm, in the Syro-Malankara Church, the office of the finance officer is the competent authority which acquires the funds for the Church.¹⁵⁷ Moreover, the norm provides for acquiring funds from religious institutes. In accordance with *CCEO*, c. 413,¹⁵⁸ the major archbishop has authority over all religious institutes of major archiepiscopal right, founded as such or later elevated to this state.¹⁵⁹

¹⁵⁶ *Ibid.*, c. 584, p. 100.

¹⁵⁷ The Synod of bishops can impose a tax only on eparchies that are within the proper territory of the Church *sui iuris* (*CCEO*, c. 150 §2). Regarding the imposition of a tax on the eparchies, J.D. Faris wrote: "A certain anomaly exists in this situation: the synod of bishops of the patriarchal Church could decide that it wants to establish a certain commission, but when the time arrives to fund the commission, it has the authority only to tax the eparchies inside the territorial boundaries of the patriarchal Church (c. 150, §2), unless the extra territorial bishops decide to share in the burden. Such an anomaly can be also corrected by restricting the active vote to those bishops who accept the imposition of a tax on their eparchy (c. 150, §3). In such financial matters, there are advantages to restricting the deliberative vote to eparchial bishops to the exclusion of the titular bishops" (FARIS, *The Eastern Catholic Churches*, p. 323). On the voluntary contribution of the eparchies outside the proper territory of the Church *sui iuris*, V.J. Pospishil states: "In practice, the parts of the Church outside the patriarchate readily make voluntary contributions" (POSPISHIL, *Eastern Catholic Church Law*, p. 176). During the Eleventh Synod of Bishops of the Syro-Malabar Church, held from 3 to 15 November 2003, the eparchial bishop of the eparchy of St. Thomas the Apostle in Chicago (which is outside of the proper territory of the Syro-Malabar Church) expressed his readiness to make contributions for the remittance of expenses of the major archiepiscopal curia. See SSMMAC, "Report of the XI Synod of Bishops (2003) of the Syro-Malabar Church," p. 27.

¹⁵⁸ "Unless the law provides otherwise, religious institutes are subject with respect to internal governance and religious discipline directly and exclusively to the Apostolic See if they are of Pontifical right; if they are of patriarchal or eparchial right, they are directly subject to the patriarch or eparchial bishop, with due regard for can. 418, §2" (*CCEO*, c. 413).

¹⁵⁹ See POSPISHIL, *Eastern Catholic Church Law*, p. 315. "The particular duties of religious toward the Church - in virtue of necessary union - will be expressed in submission to hierarchical authority (c. 590) and in spirit of filial reverence and love toward their shepherds who govern the universal Church and local churches" (V. KOLUTHARA, *Rightful Autonomy of Religious Institutes in the Code of Canons of the Oriental Churches [CCEO] and in the Code of Canon Law [CIC]*, Rome, Pontifical Institute of Oriental Studies, 1994, p. 720).

Nevertheless, the rightful autonomy of the religious institutes is to be respected and protected in a Church *sui iuris*. Since religious institutes are integral part of the Church and they are obliged to respond to the needs of the Church, the mutual consultation between the major archbishop and the major superior will foster a good relationship between the hierarchy and the religious institute.

The Ukrainian Church does not provide any particular norms on the remittance of the expenses of the curia. The proposal of annual contributions from each eparchy towards the ordinary expenses of the curia was approved by the Third Assembly of the Second Synod of Bishops of the Syro-Malabar Church, but regarding the remittance of the expenses of the curia, no particular law has been enacted.¹⁶⁰ As mentioned earlier, the Syro-Malabar Church decided to collect the funds on Saint Thomas day (3 July). Similarly, the particular law of the Syro-Malankara Church fixed a Sunday to acquire funds for the remittance of the expenses of the curia.¹⁶¹ In accordance with this provision, the Sunday nearest to 10 February is celebrated as Catholicos' Day: the offerings collected during the Masses and other special donations are to be remitted for the expenses of the major archiepiscopal curia. While the Syro-Malabar Church mandates only one collection to remit the expenses of the curia, the Syro-Malankara Church prescribed three other collections apart from that on Catholicos' Day. Among them, one is destined for the youth ministry at the major archiepiscopal level, as the commission for the youth apostolate is considered part of the curia in accordance with the particular law (c. 57). According to c. 605, the nearest Sunday after or before 4 October (the feast of Saint Francis Assisi, the patron saint of the Malankara Catholic youth movement) is to be

¹⁶⁰ See SSMMAC, "Report of the Third Assembly of the Second Synod," p. 15.

¹⁶¹ See *Particular Laws of the Malankara Church*, c. 596, p. 102.

observed as Youth Sunday. Half of the offering collected on that day in a given eparchy is to be destined for the activities of the youth ministry at the major archiepiscopal level; the other half of the offering remains for the purposes of funding the youth ministry in the eparchy. Another collection prescribed in the Syro-Malankara Church (taken on the first Sunday after Easter) is intended for payment of the expenses of the “Malankara Major Seminary.”¹⁶² Lastly, the Syro-Malankara Church has fixed the first Sunday of May to be observed as the Day for the Laity, and the offering received at the Masses is used for the welfare of the laity involved at the major archiepiscopal level.¹⁶³ The office of the finance officer is entitled to collect and utilize the funds in accordance with the decisions of the major archbishop. Compared with the particular legislation of other major archiepiscopal Churches, its (Syro-Malankara Church) particular law provides specific and clear directives, for instance, on curial expenses, on means for generating income, and on the role of the finance officer in the remission of the collection.

Regarding the administration of ecclesiastical goods, the particular laws of the Syro-Malabar Church did not provide any specific norm on the documentation of the financial administration. However, the Syro-Malankara Church determines that: “The documents of the temporal goods common to the Syro-Malankara Catholic Church shall be kept under the safe custody of the finance office of the Major Archiepiscopal Curia.”¹⁶⁴ This norm of the particular law specifies *CCEO*, cc. 1025, 2° and 1028 §2, 8° which oblige the finance officer to establish an accurate inventory and to keep the documents related to ecclesiastical goods in a proper manner. With regard to the

¹⁶² *Ibid.*, c. 600, pp. 102-103.

¹⁶³ See *ibid.*, c. 601, p. 103.

¹⁶⁴ *Ibid.*, c. 582, p. 100.

obligations of administrators of ecclesiastical goods, the particular law of the Ukrainian Church gives general directions to the hierarchs (including the major archbishop) by specifying that they have the right “[...] to see that the entire administration of ecclesiastical goods be suitably organized according to the prescriptions of *CCEO* c. 1028.”¹⁶⁵ The particular laws of the Syro-Malabar Church and Ukrainian Church still have to provide specific and clear directives regarding the administration of ecclesiastical goods especially in accordance with *CCEO*, c. 1028.

Only the Syro-Malabar Church has given due place in its particular legislation to the support of the missionary works of the Church. The Syro-Malabar Church assigned a date for the observance of the “Syro-Malabar Mission Sunday” and the collection which is received on this day is destined for the support of the mission territories.¹⁶⁶

With regard to alienation of ecclesiastical goods, the particular law of the Ukrainian Church states that, in the absence of the metropolitan structure, the eparchial bishop, with the consent of the major archbishop, can establish the particular norms for the alienation of ecclesiastical goods whose value exceeds the maximum sum fixed by the synod of bishops.¹⁶⁷ Regarding the determination of the exact amounts for the alienation, Bishop David Motiuk expressed the opinion that, as the Ukrainian Church is a “worldwide Church,” each bishop is to decide on the matter: except for the liturgical

¹⁶⁵ Particular Laws of the Ukrainian Church, c. 128, p. 17. Regarding the ecclesiastical authority which supervises the administration of temporal goods, Vincent Chittilappilly comments: “there are goods belonging to juridical persons common to the whole Church whose administration is supervised by the Major Archbishop; goods belonging to juridical persons of the eparchies the administration of which is overseen by the eparchial Bishops and the goods belonging to the institutes of consecrated life whose administration is supervised by the respective major Superiors” (CHITTILAPILLY, “Particular Laws in Temporal Administration,” pp. 234-235).

¹⁶⁶ See SSMMAC, “Major Archbishop, Metropolitan, Bishops, Exarchs and the Organs Assisting the Eparchial Bishop in the Governance of the Eparchy,” in *Synodal News*, 11 (2003), p. 50.

¹⁶⁷ See Particular Laws of the Ukrainian Church, c. 130, p. 17.

laws, all other laws and decisions of the synod of bishops do not have force of law outside the proper territory of the Ukrainian Church.¹⁶⁸

CONCLUSION

In the present chapter, the particular laws of the Syro-Malabar Church concerning the finance officer of the Syro-Malabar Church were presented and reviewed. In particular, the synodal decision with regard to the adoption of the mission eparchies that are outside of the proper territory of the Church *sui iuris* can be considered as an expression of charity and of concern towards the needy. Also, the provision for the finance council as a new canonical body at the major archiepiscopal level of the Syro-Malabar Church, brought about by the decision of the synod of bishops, seems to be especially useful and beneficial for the proper functioning of the finance administrative system of the Church. Numerous synodal decisions reflect the attempt of the synod of bishops to remit the debts of the curia by implementing various methods of acquiring the necessary funds.

The situation of the management of ecclesiastical goods in the reality of the secular order, namely the civil law of India, by the finance officer was analyzed as well. In order to safeguard ecclesiastical goods as required by the *CCEO*, the curia of the Syro-Malabar Church has been incorporated as a trust in accordance with the Indian Trusts Act. The intention of the papal delegate, the settler of the trust, was not in any way to replace the canonical juridic person of the Church with the civil construct of the trust, but to guarantee the proper status of the Church in civil law and the unobstructed functioning

¹⁶⁸ See D. MOTIUK, *The Particular Law of the Ukrainian Catholic Church in Canada*, JCD diss., [Rome], Pontifical Oriental Institute, 2001, p. 117. Victor J. Pospishil states: “if the laws enacted by the synod receive the approval of the Apostolic See, they oblige everywhere” (POSPISHIL, *Eastern Catholic Church Law*, p. 189). There is a possibility of the attribution of law outside the territory of the patriarchal Church in accordance with *CCEO*, c. 150 §3. See FARIS, *The Eastern Catholic Churches*, p. 363.

of the Church within the civil society. In particular, the act of incorporation enabled the Church to acquire property, especially at the beginning stage of the institution of the Church on the major archiepiscopal level. One of the important advantages of the incorporation is that the curia of the Syro-Malabar Church has benefitted from exemptions from various financial taxes of the country. The mandatory provision of the Indian civil law that non-profit organizations are to be incorporated as legal entities creates the need to accept the fact that the canonical and civil requirements have to be reconciled, at times creatively indeed, with regard to the administration of ecclesiastical goods for the benefit of the ecclesial community.

The review of the particular laws of the three major archiepiscopal Churches shows that there is very little if any legislation concerning the finance officer. In fact, the Syro-Malabar Church has promulgated only a few norms in this regard. Therefore, there is a pressing need for the inclusion in the particular legislation of the specific norms regarding not only the finance officer, but also other aspects of financial administration of the Church, especially prescriptions with regard to the acquisition, administration, and alienation of temporal goods.

GENERAL CONCLUSION

This study proves that the finance officer of the Syro-Malabar Major Archiepiscopal Church is not just an administrator of the temporal goods of the Church but one who is vitally involved in the mission and ministry of the major archbishop. The task of governing the Church *sui iuris* includes the exercise of the shared ministry of various holders of ecclesiastical offices. As far as a major archiepiscopal Church is concerned, this shared ministry is implemented by the establishment of the major archiepiscopal curia. Although the major archbishop represents the major archiepiscopal Church in all its juridic matters, the finance officer is responsible for the administration of the goods of the major archiepiscopal Church under the authority of the major archbishop. The finance officer as the immediate administrator of ecclesiastical goods and as a member of the major archiepiscopal curia shares, therefore, in the responsibility of the major archbishop. The task of the finance officer is to be accomplished in union with the major archbishop and in obedience to him.

The primary purpose of this thesis is to present the canonical parameters of the office of finance officer of the Syro-Malabar Church. The focal point of this study concerns the role of the finance officer in the administration of ecclesiastical goods of the Syro-Malabar Church. The other main aspects of the study present the role of the major archbishop, the synod of bishops, and the permanent synod in relation to the office of the finance officer.

A careful analysis of various canons related to the finance officer led to a conclusion that the organization of finance administration on the major archiepiscopal level is quite different from that of the eparchial level.

The office of the eparchial finance officer and that of the major archiepiscopal finance officer differ on issues such as: the institution of the office, the procedure of appointment, the functions of office, and the loss of office. The revision process of the Eastern legislation clarified that juridic persons such as the major archiepiscopal Church and the eparchy are two distinct levels of organization. While each eparchy has its own curia and its finance officer is considered part of the curia, the major archiepiscopal Church has a separate curia. Both the eparchy and the major archiepiscopal Church have their own decision making bodies and canonical procedures for the administration of ecclesiastical goods.

With regard to the role of the finance officer of the major archiepiscopal Church towards other ecclesiastical institutions, *CCEO* is silent regarding his/her competency. As far as the Syro-Malabar Church is concerned, the finance officer of the major archiepiscopal Church normally has no authority over an institution that directly comes under the authority of the major archbishop. The administration of the property of such institutions is exercised by their own finance officers unless their particular laws provide that the administration of their ecclesiastical goods belongs to the major archiepiscopal finance officer. While at the eparchial level, the finance officer supervises the administration of temporal goods of juridic persons subject to the eparchial bishop, however, *CCEO* does not provide such a provision at the major archiepiscopal level.

With regard to the financial administration of the Church, the canonical norms stress that the finance officer of the major archiepiscopal Church is to strive for transparency of actions and to maintain a high standard of accountability. To ensure the smooth functioning of the financial administration of the Church, procedures and systems

such as internal controls, professional accounting systems, reporting and monitoring systems need to be in place.

In order to protect the goods of the Church, in accordance with the Indian Trusts Acts, the Syro-Malabar Church established a trust and, by that act of incorporation, the Church acquired certain privileges before the civil law. All the day-to-day transactions of the incorporated trust of the Syro-Malabar Church are accomplished through its finance officer. The incorporation obliges the finance officer to function within the objectives and bylaws of the trust. As the major archiepiscopal finance officer shares in the responsibility of the administration of the Church, collective planning, with the advice of experts in financial matters such as auditors and civil lawyers, is essential for the fulfillment of the proper purposes of the incorporated body. Although short-term planning is essential to carry out the activities which help to fulfill the long-term objectives of the trust, long-term planning is to provide security for the continuity of the mission of the Church. This type of planning demonstrates a sense of foresight and wisdom, which naturally requires expert opinions. Therefore it is a healthy practice to make a long-term plan for at least five to ten years. Long-term planning can be reflected in the making of the budget because budgeting can be a successful tool for effective planning.

The inquiry into the principal questions which were raised at the beginning of this study offers some valuable insights and allows proposing some suggestions for the future revision of the particular laws of the Syro-Malabar Church concerning the office of the finance officer.

First, in the history of the Syro-Malabar Church, the office of the bishop was concerned primarily with *munus sanctificandi* and the administration of the Church was carried out by the archdeacon and the *yogam* of the Church. Through these structures the

Saint Thomas Christians participated directly in the life, mission, and governance of the Church. Until the Syro-Malabar Church came into existence as a major archiepiscopal Church in 1992, it did not have a common head and no finance officer common to the Church. In that period, the eparchies had their own administrative systems and the finance officers of the eparchies were exercising their prerogatives regarding eparchial goods. The *motu propria PA* and *CS*, the statutes of eparchies, and the statutes of the bishops' conferences were the canonical norms for the administration of ecclesiastical goods. For the first time in the history of the Syro-Malabar Church, a codified form of particular laws came into effect only in 2003.

Second, the required qualities such as expertise in financial matters and a reputation for honesty as prescribed in *CCEO*, c. 122 §1 for the appointment of the finance officer imply that financial administration, especially in the 21st century requires personnel trained in basic accounting and financial management. With regard to the competency of the finance officer, he/she functions within the scope of the budget examined by the permanent synod and administers ecclesiastical goods under the authority of the major archbishop.

Third, the organizational structure of the financial administration is very closely related to the synodal functions in the Syro-Malabar Church. The major archbishop requires the consent or counsel of the synodal structures for certain executive acts. As prescribed in *CCEO*, c. 948, the lawful convocation of the synodal structures is essential for the validity of the acts of the major archbishop.

Fourth, at the eparchial level, the finance council is the body which prepares the budget and examines the report of administration by the finance officer (*CCEO*, c. 263). It acts as an executive body in the eparchy and participates in the eparchial bishop's tasks

as the administrator of ecclesiastical goods of the eparchy. Similarly, at the major archiepiscopal level of administration, the permanent synod functions as an executive committee. On the other hand, while the eparchial finance officer, by virtue of his/her office is a member of the eparchial finance council, as far as the major archiepiscopal Church is concerned, common law does not authorize participation of the finance officer in the permanent synod during the discussions of financial affairs. Although non-episcopal participation is excluded in common law, the submission of the report of the administration, and submission of the budget of projected income and expenditures of the forthcoming financial year require in fact participation, limited as it is, of the finance officer in the permanent synod. The particular law of the Syro-Malabar Church can determine conditions regarding the admittance of the finance officer on the occasions of the discussion on the financial reports and budget.

Fifth, the term of office of the finance officer is determined by the particular law. In accordance with the particular law of the Syro-Malabar Church, the term of office is five years and can be renewed for another five-year term by the major archbishop. As the appointment of the finance officer is for a fixed term, other than for a grave reason he/she cannot be removed from office. On the other hand, after the completion of the term of office, a lay person may face the practical problems of loss of office and corresponding income. The Church needs to enter into agreements with lay persons before their appointment. Accordingly, a lay person can function as a finance officer only on a contract basis.

Sixth, similar to the system of the eparchial finance council, at the major archiepiscopal level in the Syro-Malabar Church there is also a finance council. The institution of the finance council can be considered as an innovation proper to the Syro-

Malabar Church as common law does not provide any directives for the institution of the finance council in the major archiepiscopal Church.

Seventh, there are mandatory provisions in civil law, especially Indian civil law which require that juridic persons must be incorporated as legal bodies. The practical necessity of the incorporation of ecclesiastical structures is dictated by the fact that many prerogatives, such as acquiring, holding, and alienating property are available only for legally incorporated bodies. Although there were no synodal decisions on the incorporation, the act of incorporation was fully justified because its purpose was to protect the patrimony of the Church. It is a vital duty of the ecclesiastical authorities to issue appropriate norms regarding incorporation, as in the absence of relevant directions the incorporation may prove detrimental to ecclesiastical property.

Eighth, the incorporation of the trust of the Syro-Malabar Church requires a particular legislation for a separate incorporation of such ecclesiastical institutions as seminaries, which come directly under the authority of the major archbishop. The statutes of the trust of the Syro-Malabar Church do not include holding the title to the goods of other juridic persons that come directly under the authority of the major archbishop.

Ninth, the particular law of the Syro-Malabar Church promulgated in 2003 serves as complementary norms to *CCEO*. In the particular law, however, one can notice a number of *lacunae* regarding several issues; for instance, there is no direct reference to acquisition, administration, and alienation of temporal goods. On the other hand, the particular legislation of the Syro-Malankara Church provides separate norms for the acquisition, administration, and alienation of ecclesiastical goods on the major archiepiscopal level of administration. Opportunities for improvement are, therefore, still

available in the revision of the particular legislation on the administration of the property of the Syro-Malabar Church.

Tenth, before beginning the functions of the finance officer, as a diligent house holder he/she must sign an accurate inventory. Proper laws of the Syro-Malabar Church need to be specified with regard to the submission of the inventory along with the annual financial report to the permanent synod. It would also be desirable to include the provision concerning a place for safe custody of financial documents.

These conclusions lead to the consideration of two possible areas for future study. First, in the juridic system of the Syro-Malabar Church, no canonical procedure has been put in place to safeguard the possibility of the restitution for the financial damages to the Church. Based on *CCEO* and particular law of the Syro-Malabar Church, a study of the administration of justice would be beneficial to outline the different aspects of a procedure for financial restitution. As the injured party, the Church *sui iuris* has the right to bring an action against the offender.

The second area for future considerations refers to the incorporation of the property of the Church in accordance with Indian civil laws. Specifically, the canonical requirements and the effects of the incorporation have to be more clearly determined. As the particular law of the Syro-Malabar Church is silent with regard to this issue, a detailed study on civil incorporation in the context of Indian civil law would be helpful in safeguarding ecclesiastical goods.

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BIOGRAPHICAL NOTE

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