

DEPENDENCE AND RIGHTFUL AUTONOMY OF RELIGIOUS INSTITUTES IN THE CODE OF CANONS OF THE ORIENTAL CHURCHES

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The author presents the dependence and rightful autonomy of religious institutes in the CCEO under the following main points: 1) The Subtitle 'Dependence of Religious on Eparchial Bishop, the Patriarch and the Apostolic See,' 2) Indirect References to the Rightful Autonomy of Monasteries and other Religious Institutes in the CCEO highlighting the Genesis, Development and Final Formulation of CCEO cc. 411, 412, 413, 418 §2 and 571 with a commentary to each, 3) Pastoral Works of the Religious in CIC and CCEO, 4) Involvement of the Eparchial Bishop with Monasteries and Religious Institutes according to CCEO and Conclusion stressing the Harmony between Dependence and Autonomy.

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Introduction

The Code of Canons of the Oriental Churches (CCEO) deals with religious institutes under title XII, namely, 'Monks and Religious as well as members of Other Institutes of Consecrated Life.' The institutes of consecrated life in general, refers to a specific and organized way of leading the christian life through the public profession of the three evangelical counsels of obedience, chastity and poverty in one of the five types of institutes approved by the Church, namely, monks and other religious, societies of common life according to the manner of religious, secular institutes, other forms of consecrated life and societies of apostolic life.

Of the five types of institutes of consecrated life, this study is specifically limited to the three categories of religious institutes only, namely monasteries,¹ orders² and congregations.³ In this article we examine particularly the treatment of rightful autonomy and its limitations in the *Code of Canons of the Oriental Churches* on religious institutes. The discussion in this article is as follows: we first discuss shortly the subtitle, namely, 'dependence of religious on eparchial Bishop, the Patriarch and the Apostolic See.' Then we analyze certain specific canons of CCEO bringing out their genesis, development, their final

¹ The word *monastery* derives from a semantic ideological constellation which was matured and developed from the word *monos* meaning alone; *monasterion* properly means the cell of the one who is living in solitude. Cfr., Vallecchi, *Encyclopedia delle Religioni*, Firenze 1970, col. 576, G W H Lampe, *A Patristic Greek Lexicon* (6th ed.), Oxford 1982, 878. CCEO c. 433 §1: "is a religious house in which the members strive for evangelical perfection by the observance of the rules and traditions of monastic life."

²CCEO c. 504 §1: "An order is a society erected by a competent authority, in which the members, although they are not monks, make a profession that is equivalent to monastic profession."

³CCEO c. 504 §2: "A congregation is a society erected by a competent ecclesiastical authority, in which the members make profession with the three public vows of obedience, chastity and poverty, which, however, are not equivalent to monastic profession, but have their own force in accord with the norm of law."

formulation and their interpretation. This is followed by a discussion on the pastoral work of the religious based on CIC and CCEO, involvement of the eparchial bishop with religious institutes, restrictions on the powers of eparchial bishop and this article is concluded with a note on harmony between dependence and autonomy.

1. The Subtitle 'Dependence of Religious on Eparchial Bishop, the Patriarch and the Apostolic See'

The subtitle number 1 of chapter one, title XII of CCEO introduces a normative discourse on the relationship between religious and the hierarchy. It puts together in an organic section five long canons, i.e., cc. 412-416, in which the relations with the eparchial bishop, patriarch and the Apostolic See are treated successively. The subtitle seeks to describe "exactly the well circumscribed nature and consequent limitations of such "dependence"⁴ of religious on the hierarchy.

Indeed, there is no absolute autonomy in the Catholic Church. The religious institutes enjoy rightful autonomy, but they are externally restricted by the authority of the Apostolic See, Patriarch or the eparchial bishop. However, 'the exercise of the external power is not absolute either, since it is also limited by the lawful autonomy of each institute.'⁵ Expressing the 'charismatic' dimension of the Church in respect to religious institutes, as understood by the Second Vatican conciliar and post-conciliar doctrines, it seems that the CCEO draws out a

⁴D. M. A. Jaeger, "Observations on Religious in the Oriental Code," in J. Chiramel & K. Bharanikulangara (eds.), *The Code of Canons of the Eastern Churches: A Study and Interpretation*, Aluva 1992, 167.

⁵Caparros, Theriault and Thorn (eds.), *Code of Canon Law Annotated*, Montreal 1993, 415.

principle, i.e., “dependence” to express the relation between the religious and the hierarchy.⁶

The word *dependentia* derives from the verb *dependeo* and it has the meanings such as to hang from, to hang down, to be governed by, to be dependent on, be derived from,⁷ etc. Can this expression bring out the charismatic dimension of the religious life and convey the complex relation between religious and the hierarchy of the Oriental Churches? The analysis of the canons dealt with in the subtitle, may reveal to us that the subtitle is not to be understood simplistically. We must not also forget the explicit intentions of the working group of the Pontifical Commission for the Revision of the Code of Eastern Canon Law. The religious life is a more complex reality than can be expressed in juridical terms, because it is part of the mystical aspect of the Church. Thus, from the very beginning, the working group had observed that the very nature of Eastern Monasticism highlighted the charismatic aspect of the call of the Holy Spirit. The working group proceeded to explain that the Church’s hierarchy had the right of discerning and regulating the charism of religious life. The hierarchy had the responsibility at the same time to respect the proper nature of that charism and its various manifestations, allowing each institute to express its own “personality” within the wider communion of the Church.⁸ Therefore, these and similar considerations have led the working group to take “as directive principles in its work, that of limiting only to a necessary level, the common laws which every institute must accept, and leaving ample space to the particular law, applying here the principle of subsidiarity.”⁹

⁶Varghese Koluthara, *Rightful Autonomy of Religious Institutes: A Comparative Study based on the Code of Canons of the Oriental Churches and the Code of Canon Law*, in *Dharmaram Canonical Studies* 3, Bangalore 2005, 121.

⁷C. T. Lewis, *A Latin Dictionary*, Oxford 1991, 549.

⁸Varghese Koluthara, *Rightful Autonomy*, 121-22.

⁹A. T. Minisci, “I Canoni De Monachis,” *Nuntia* 4(1977) 3.

Canon 413 tries to clarify how comprehensive the subtitle “dependence” is. It reads as follows: “Religious institutes are subject, with respect to internal rule and religious discipline unless the law provides otherwise, 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 c. 418 §2.”¹⁰ This c. 418 §2 clarifies who are not the internal superiors in a religious institute: “Under the designation of superior of monks and other religious, does not come either the local hierarch or the patriarch, without prejudice to the canons which assign power over them to the patriarch or to the local hierarch.”¹¹

Canon 413 puts a limit on “dependence” on the part of: (a) pontifical institutes, in affirming that, in all that concerns their internal governance and religious discipline, they “are not dependent” upon either patriarch or the eparchial bishop but immediately and exclusively” upon the Apostolic See; (b) institutes of patriarchal law are not dependent upon the eparchial bishop, but are instead, immediately subject to the patriarch. Moreover, the precise nature and the extent of the subjection of certain religious to the patriarch and the eparchial bishop can never be such as to constitute them as ‘internal superiors’ of the religious.¹² Their authority, therefore, on

¹⁰CCEO c. 413: “*Ad regimen internum et disciplinam religiosam quod attinet, instituta religiosa, nisi aliter iure cavetur, si sunt juris pontificii, immediate et exclusive Sedi Apostolicae subiecta sunt; si vero sunt iuris patriarchalis vel eparchialis, immediate subiecta sunt Patriarchae vel Episcopo eparchiali firmo c. 418 §2.*”

¹¹CCEO c. 418 §2: “*Nomine Superioris monachorum ceterorumque religiosorum non venit Hierarcha loci nec Patriarcha firmis canonibus, qui Patriarchae vel Hierarchae loci potestatem in ipsos tribuunt.*”

¹²The same is not, of course, true of the Roman Pontiff who is rather the supreme “internal” superior, as evidenced by PA 23 and CIC (1917) c. 499 §1. To what extent the other organs of the Holy See may share in being internal superiors may be discussed, although their being essentially “vicars” of the Roman Pontiff may well be a decisive factor in answering this question. Cf., Pujol, *De Religiosis Orientalibus: Ad Normam Vigentis Iuris*, Rome 1957, 100-103.

religious is that of a supervisory power, rather than one of ordinary administration.¹³

Canon 414 specifies the areas in which the authority is exercised by the eparchial bishop with respect to the eparchial religious institutes. It gives a detailed list of the areas of dependence of eparchial institutes on the hierarchy. They are: powers to approve the *typicon*¹⁴ of the monasteries and the statutes of congregations (c. 414 §1, n. 1), to grant dispensations that exceed the power of the superiors from the same *typicon* or statutes (c. 414 §1, n. 2), and to make visitation of monasteries or houses of congregations (c. 414 §1, n. 3). These rights pertain to the patriarch with respect to orders and congregations of patriarchal right (c. 414 §2); but changes in the statutes of eparchial congregations that have spread to other eparchies, can be effected only after consulting the respective eparchial bishops (c. 414 §4). These powers to verify and supervise the eparchial institutes are meant to preserve and safeguard the gift of the religious life proper to each institute.

The canon 415 concerns entirely the pastoral jurisdiction of bishops over the religious. It is an entirely different matter of dependence than that of religious on the local hierarch, namely, in all things that involve “public celebration of divine worship, the preaching of the word of God to the people, the religious and moral education of the Christian faithful, especially of children, catechetical and liturgical instruction and of what becomes the clerical state, as well as of various works of the apostolate” (c. 415 §1). It is the right and duty of the eparchial bishop to make a visitation of each monastery and of houses of orders and congregations in his territory in respect to the matters mentioned in §1 (c. 415 §2). The eparchial bishop can entrust apostolic work

¹³D. M. A. Jaeger, “Observations on Religious,” 168.

¹⁴The word *typikon* derives from the Greek word *typikon* to indicate the foundational statutes of a Byzantine monastery. Cf., W. Bauer & W. Arndt, *A Greek English Lexicon of the New Testament and Other Early Christian Literature*, Chicago 1979, 829-830.

or duties pertaining to the eparchy to religious only with the consent of the competent superiors (c. 415 §3). Religious who committed a delict outside their house and have not been punished by their proper superior and who have been warned by the local hierarch, can be punished by that hierarch (c. 415 §4).

To coordinate and keep up harmony in the apostolate in the patriarchate or in the eparchy, patriarchs and the local hierarchs are advised to foster meetings with the religious superiors (c. 416). It is the duty of the local hierarchs to report to the authority concerned to which an institute is immediately subjected, abuses that have crept into the religious institute, and if the religious superior has failed to act even after the warning given by the local hierarch (c. 417).

All religious are dependent on the eparchial bishop whenever they take up any sort of pastoral care. This is because it is the direct responsibility of the pastor or eparchial bishop to take care of souls. Apart from that, the role of the hierarchy in respect of religious is that of regulation and supervision. This supervision is for supporting and preserving in all its God-given genuineness and integrity of the religious institutes in the Church. Moreover, the religious institutes are the specific gifts of the Holy Spirit to the Church as repository (vessel) and depository on behalf of the Church. This givenness of religious institutes in the Church calls for its own essential laws and for its rightful autonomy in the charismatically and institutionally structured Church.¹⁵

From our brief analysis of the subtitle under discussion, it seems that the term dependence is not a comprehensive expression to describe the complex relation and the duty between religious and the hierarchy in the Oriental Churches. It sounds as if there

¹⁵ Ghirlanda, "La Iusta autonomia e L'essenzone degli Istituti Religiosi: Fondamenti ed Estensione," VC 25 (1989) 141: He summarises the ultimate foundation of the rightful autonomy of religious institutes when he qualifies it as *ius nativum* which is grounded in the very essence of the charismatically - institutionally structured - Church to which the consecrated life belongs by divine law.

is a curious omission. The omission that in the same context where the general norms applicable to all religious institutes are articulated, the Code of Canon Law of the Latin Church recognises with great care and prolonged discussion the rightful autonomy of life and especially of governance for all institutes (CIC, c. 586).¹⁶ It should be noted that in the very identical context in CCEO, the word 'autonomy and its acknowledgement have been carefully avoided.'¹⁷ However, CCEO indirectly accepts and suggests this rightful autonomy for religious institutes in c. 413 saying that the religious institutes are subjected 'with respect to internal rule and religious discipline.'¹⁸ It seems that this indirect suggestion lacks the force and the clarity of the CIC in c. 586 §1.

2. Indirect References to the Rightful Autonomy of Monasteries and Other Religious Institutes in the CCEO

We have already mentioned that there are only indirect references in the CCEO to the rightful autonomy of the religious institutes. Now we shall try to analyze certain canons from CCEO which may have direct or indirect references to this theme with their genesis, development, final formulation and their interpretation.

2.1. The Genesis, Development and Final Formulation of c. 411¹: (Promotion of Religious State)¹⁹

The study group on monks and other religious of the PCCICOR, met for four weeks in two periods, i.e., from 30 November 1981 and from 15 February 1982 and reviewed the canons of the schema, which contains altogether 143 canons as it was published in the *Nuntia* 11 (1980) 3-53. For these sessions they

¹⁶Varghese Koluthara, *Rightful Autonomy*, 125.

¹⁷D. J. Andrés, "Introductio," 370.

¹⁸"*Ad regimen internum et disciplinam religiosam*," Cf., CCEO c. 413.

¹⁹The sources of the canon are the following: *MP PAL.*, c. 2; *LG.*, 44 etc.

had the help of ten experts in the field of religious life, to have a major representation of the various currents in the field. The result of these sessions is reported in the *Nuntia* 16 (1983).²⁰

The study group of the PCCICOR, gives the following details regarding the development of c. 411. It is a discussion on c. 2 of the 1980 schema as numbered c. 409 in the 1986 schema. The c. 2 of the 1980 schema reads as follows: *Vita religiosa, praesertim monastica, quae in Oriente antiquas habet traditiones, etsi locis et temporibus accomodatas, in honore habenda et summopere promovenda est.* Later, in their drafting process of PCCICOR, in accordance with the tenor of the whole Code (privileges, honours, etc.) the last clause (“*in honore...*”), is also changed reducing the canon to the following: “The religious state shall be encouraged and promoted by all.”²¹

In the 1986 schema also the text remained the same but the numbering came to be 409 in the context of the whole code.²² After all the later redactions, the text of the canon remained the same and in the CCEO it is numbered as c. 411.

Interpretation

In the Orient, we find the genesis of monasticism, and this canon reminds us of the ancient monastic tradition which was very alive in the ancient times. The Second Vatican council has emphasized the need of going to the sources and especially of the monastic traditions, for the renewal of religious life in the Church. The encyclical letters of Pope Pius XII especially *Mystici Corporis*²³ and *Sacra Virginitas*²⁴ praise the Eastern contemplative

²⁰*Nuntia* 16 (1983) 3-108.

²¹*Nuntia* 16 (1983) 10; C. 2: *Status religiosus ab omnibus fovendus et promovendus est.*”

²²Cf., *Nuntia* 24-25 (1987) 78: C. 409: “*Status religiosus ab omnibus fovendus et promovendus est.*”

²³Pius XII, “*Mystici Corporis*”: AAS 35 (1943) 194-298.

²⁴Pius XII, “*Sacra Virginitas*”: AAS 46 (1954) 161-191.

life, and in his "*Motu proprio*," *Postquam Apostolicis Litteris* it is well acknowledged: "In the beginning of the christianity the monks have sparkled like fresh blossoming flowers in the garden of the Church.... The anchorites and cenobites in prayer and in contemplation, in the corporal mortification and in other spiritual exercises, were climbing with tremendous joy, the mountain of God."²⁵

The valiant example of monasticism in the East and the West is praised by theologians in the Church. One of the striking statements of N. Berdjaev is worth mentioning: "The Church can exist without bishops and priests, while they are the human quality of the Church. But interiorly she lives and breathes by saints and the prophets, apostles and true religious, the martyrs and the ascetics."²⁶ The Second Vatican Council speaks of the merit of monasticism of the East several times and especially in decrees like *Lumen Gentium*,²⁷ *Ad Gentes*²⁸ and abundantly in *Perfectae Caritatis*.²⁹

In general, c. 411 repeats c. 2 of the *MP Postquam Apostolicis Litteris*. It should be remembered that when the *MP PAL* came into force, the option was given to the religious institutes in the Orient by the S. Congregation for the Oriental Churches to choose once for all whether they should declare themselves for the category of monks and follow all pertinent legal norms or retain their present legal condition as orders and congregations. Most institutes found it not feasible to return to Oriental monastic forms because of the necessity of radical changes in

²⁵*MP PAL*, AAS 44 (1952) 65.

²⁶N. Berdjaev, *De la destination de L'homme*, Paris 1935, 111.

²⁷*LG*, 44.

²⁸*AG*, 18.

²⁹*PC*, 9.

their activities, which would have caused serious damage to numerous apostolic undertakings.³⁰

The c. 411 transcribes the same words of c. 574 of the CIC (1983) but 'it amplifies the dynamic subject of reference mentioning all the institutes and not only the religious.'³¹ In c. 574 of the CIC (1983), it says that the religious life 'is to be fostered and promoted by every one in the Church,' and in c. 411 of the CCEO, it is said that the religious state shall be encouraged and promoted by all. Compared to c. 574 of the CIC (1983), the word "Church" is absent in the c. 411 of the CCEO. But indirectly it conveys also the duty of every member of the Oriental Catholic Churches in tune with c.1 of the CCEO, to promote the religious state in the Church. Can this canon be interpreted also as a reflection of the anxiety of the Legislator as to the unhealthy trends in discouraging the priestly religious vocations in some of the Oriental dioceses for the sake of pastoral necessities and promoting the eparchial clerical state? In general, the Legislator through this canon wants to project the esteem for the religious state and thereby hints on its rightful autonomy in the Oriental Churches and the Legislator desires that it be promoted and preserved with fervour by every one and especially by pastors and eparchial bishops of the Oriental Churches.³²

2.2. The Genesis, Development and Final Formulation of c.

412¹: (The Obedience to the Roman Pontiff and the Exemption)

Canon 412 treats of the submission of all religious to the Roman Pontiff and of exemption. It is a new version of the cc. 23 and 24

³⁰V. J. Pospishil, *Code of Oriental Canon Law: The Law on Persons*, Philadelphia 1960, 233-235.

³¹D. J. Andrés, "Introductio ad CCEO: Observaciones Introductorias," *CpR* 72 (1991) 372.

³²Varghese Koluthara, *Rightful Autonomy*, 129.

³³The sources of the canon are the following: MP PAL cc. 23-24; LG, 45; CD, 35 n. 3; MP PAL., 312 §2 n. 4, etc.

of the *MP PAL*. Although, the first part of the present canon does not appear in the 1980 schema, in the session of December 1981, the study group of the PCCICOR, accepts to indicate that each and every religious is held to obey the Supreme Pontiff in virtue of his/her vow of obedience.³⁴ Ten organs of the consultation gave the proposition, even though in different formulations but strongly requesting it to be included in the canon.

After a profound discussion and rechecking the work of the precedent “Coetus de Monachis,” the study group by 8-1-1 votes reintroduced *ad letteram*, c. 23 of the *Mp PAL* entirely substituting the text of c. 3 of the schema, it being the opinion of the majority (with two consulters dissenting). Even though it is an indirect style, it was decided to affirm that not only each and every member but at the same time every religious institute is subject in a ‘peculiar way’ to the Roman Pontiff.³⁵

At the session of 25 February 1982, it was included to the c. 3, as its second paragraph, c. 591 of the new *CIC*, which was already well-known to the study group. It was brought into effect after the revision of the schema of the norms concerning *Exemption* and their elimination from the schema, while §2 of this canon, at present, follows the number 45 of the *Lumen Gentium* of the Second Vatican Council.³⁶

Canon 412 §2, more or less, is the exact reproduction of n. 45 of the *Lumen Gentium*. The difference is that while *Lumen Gentium* speaks of Papal and Patriarchal exemptions, in c. 412, §2, exemption is referred to as Papal and of other ecclesiastical authorities. Therefore, the canon takes note of the Papal, Patriarchal and Major archiepiscopal exemptions for the religious institutes. Noteworthy is a comment made by D. J. Andrés on the development of this canon: “it calls powerfully our attention to the appearance at the last hour of the c. 412 in the

³⁴“*etiam ratione sacri vinculi oboedientiae.*” Cf., *Nuntia* 16 (1983) 11.

³⁵*Nuntia* 16 (1983) 11.

³⁶*Nuntia* 16 (1983) 11.

CCEO, that was not even present in the Schema of 1980, . . . sometimes it has been said that it was a final solution not very agreeable to some Orientals; somehow, this argumentation has no basis, because, if there is Primacy, it should be applicable for all; and exemption is a good that comes from Primacy, those who are exempted remain so in regard to patriarchs and bishops.³⁷

Interpretation

C. Pujol, in commenting on *exemption* in the *MP PAL* lists the following degrees of dependence of institutes on the local hierarchy:

(1) Exempt religious institutes of men (exempt monastery, order of men, clerical congregation): They are as such subject either to the patriarch or the Holy See, and since their superiors, with the exception of a lay order, have also jurisdiction in both forums, their subjection to the local hierarchy is of minor degree, because they are in general not his subjects, and in addition only in the cases expressly mentioned in law.

(2) Exempt lay order of men: Although the exemption is upheld, the dependence of such an institute from the local hierarchy, is greater because the internal superiors' lack jurisdiction.

(3) Non-Exempt institutes: in these institutes the principle of the general dependence on the local hierarchy holds true, and non-subjection is rather to be proved than to be assumed. However, among these institutes there are degrees of subjection, as is stated by various canons and required by the juridical condition of each individual institute, and by different participation of their superiors in the power of jurisdiction. Therefore, (a) independent monasteries of men, even those of eparchial right, as well as clerical congregations both of papal as well as patriarchal right, are subject to the local hierarchy, who is for them the immediate external superior, with the exception of those cases in which the jurisdiction shared by internal superiors is sufficient; and with

³⁷D. J. Andrés, "Introductio," 368.

regard to religious life, it is very limited, as it appears, e.g., from cc. 167-168. (b) Lay congregations of men, both of papal and patriarchal right: Since they are not exempt, and the superiors lack the power of jurisdiction, their dependence upon the local hierarch is greater, not only in their quality as faithful and clerics, but also as religious (cc. 44 §1,2; 167 §2).

(4) Orders of women not subject to a superior of male religious, and monasteries of nuns: They are subject to a wider extent to the local hierarch (c. 163 §1). The same is true of a congregation of women of eparchial right. Orders of women subject to a superior of male religious: They are subject to the local Hierarch only in cases expressly enumerated in law, and also as faithful, their dependence will be regulated by the degree of jurisdiction possessed by the religious superior.³⁸

The CCEO's understanding of exemption based on *LG 45*, does not specify any institute to be exempt by law - in virtue of c. 5, those who are already exempt remain so, of course -, but establishes the possibility of the Roman Pontiff granting this exemption to religious institutes when it is required for the common good. We have already clarified the question of exemption in our discussion on the same in our study of the CIC in the second Article. This holds also true for the CCEO's concept on exemption. Therefore, with reference to religious strictly speaking, *CD 35, 3-4* (which was later developed by *ES I, 23-24*) defined the nature of this exemption, by which religious are subject to the authority of local eparchs. According to these texts, exemption refers primarily to the internal order of the institutes, while broad areas of public activity are always subject to the governance of the local eparch. To this effect, it would be correct to say that the concept and the content of exemption have undergone a considerable change compared to the MP *PAL*. Formerly it was the centrepiece of canon law on religious. In current legislation, exemption is mainly restricted to the area of internal governance.

³⁸C. Pujol, *De Religiosis*, 113-114.

2.0.3. The Genesis, Development and the Final Formulation of C. 413¹: (Religious Institutes are subject with Respect to Internal Rule and Discipline)³⁹

Differing from c. 4 (*PAL* 312 §2 nn.1-3) of the 1980 schema, in 1986 schema c. 411 gets a new formulation and in the present code the canon is numbered 413. In the session of February, 1982, the study group and the consultants of the PCCICOR agreed on the following points:

(1) On the question of the “internal government and discipline (*regimen internum et disciplinam*)” all religious institutes are fundamentally equal and neither the local hierarchs nor patriarchs can consider themselves Religious Superiors (1980 Schema c. 9 §2).

(2) Regarding the external activity of the religious, the power of the hierarch and the patriarch was stated in the following canon applicable to all religious in an equally extensive mode according to the decree *CD* 35 nn. 3 & 4 of the Vatican Council Second. Consequently, the study group amends the scheme in the following:

(1) Canon 3 adds §2, adapting the related text of c. 591 of the new *CIC*, as reported above.

(2) Canon 4 §2, with regard to the religious institutes of pontifical right (*iuris pontifici*), adds the detail that they are subject to the Apostolic See “directly, except in the law where the local hierarchs or patriarchs have power over these institutes (*immediate, salvo canonibus qui Hierarchae loci vel Patriarchae in haec etiam Instituta potestatem tribuunt*),” as referred to in the same canon.⁴⁰ On the discussion of the question of exemption, in the session of December, 1981, the study group, had also decided to add to c. 4 (1980 Schema) the clause taken from the scheme of

³⁹The sources of the canon are the following: *MP PAL* cc. 312, §2 nn. 1-3; 313 §2, n. 2; *LG*, 45; *CD*, 35 nn. 3-4 etc.

⁴⁰*Nuntia* 16 (1983) 15.

CIC, specifying that “Institutes of pontifical rights are immediately and exclusively subject to the Apostolic See in internal governance and discipline” (*Instituta iuris pontifici quoad regimen internum et disciplinam immediate et exclusive potestati Sedis Apostolicae subiciuntur* [cf. CIC c. 593]), and also to adapt for the CICO c. 591 of the new CIC, which affirms the right of the Roman Pontiff to grant exemption. In their discussion it was decided that mention may not be made again about this topic in the code.⁴¹

After all the later redactions the text of the canon remained the same, but numbering of the canon became 413 and reference to the canon mentioned in the same canon as 418 §2 in the CCEO.

Interpretation

The canon specifies pontifical, patriarchal and eparchial institutes. Regarding the internal governance and discipline all religious institutes are made equal. Therefore, it grants rightful autonomy to all religious institutes whether of pontifical, patriarchal or eparchial rights. In this sense the canon is an innovation compared to the *MP Postquam Apostolicis Litteris*.

In the case of institutes of pontifical right, the immediate and exclusive external authority devolves upon the Apostolic See, which it exercises through its different dicasteries and, in particular, through the Congregation for the Oriental Churches.⁴² This competence of the Apostolic See concerns also the internal governance and discipline proper to the institute.

⁴¹*Nuntia* 16 (1983)15.

⁴²M. Brogi, “La Congregazione per le Chiese Orientali: La Curia Romana nella Cost. Ap. “Pastor Bonus,” *Studi Giuridici* 21(Citta del Vaticano 1990) 254; 267. M.Brogi in this article clarifies the competence and the function of the Congregation for the Oriental Churches in the context of the new rules of the Roman Curia through the Apostolic Constitution the *Pastor Bonus*.

There are patriarchal right religious institutes such as Stauropegial⁴³ monastery, order and congregations. The patriarch can for a grave reason, having consulted the eparchial bishop and with the consent of the permanent synod, concede the status of a Stauropegial monastery in the very act of foundation of a monastery *sui iuris*. The Stauropegial monastery is directly subject to the patriarch in such a way that he alone enjoys the rights and obligations of an eparchial bishop toward the monastery, the members assigned to it, as well as the persons who day and night dwell in the monastery. Other persons, however, connected with the monastery are subject directly and exclusively to the patriarch only in those aspects which concern their duties and offices.⁴⁴ An order is of patriarchal right, if it has not obtained the decree of recognition from the Apostolic See. A congregation is of patriarchal right if, erected by the patriarch or recognized as such by his decree, it has not obtained a decree of recognition from the Apostolic See.⁴⁵ Those religious institutes of patriarchal right are not dependent upon or subject to the eparchial bishop but they are immediately subject to the patriarch with respect to internal rule and discipline. It is not exclusive in the sense that the general principles demanding the subjection of all to the Roman Pontiff are also binding on them.⁴⁶

Religious institutes of eparchial right are those, which are erected by the eparchial bishop, and if they have not obtained a decree of recognition from the Apostolic See or from the patriarch.⁴⁷ The

⁴³A detailed and comprehensive treatment regarding the origin and development of the privilege *Stauropegium*, the difference of opinions about the varied uses of the term among the commentators like Balsamon, Goar, Blasteres, etc., and the stauropegial institute in Byzantine, Alexandrian, Antiochean, Armenian and Chaldean traditions are found in Karolevskij, *Studio di Diritto Comparato L'Odierna Legislazione "De Patriarchis, Terza Parte dello Studio "De Patriarchis"*, Citta del Vaticano 1936, 351-371.

⁴⁴CCEO c. 486.

⁴⁵CCEO c. 505 §1-2.

⁴⁶CCEO cc. 43-45.

⁴⁷CCEO cc. 434; 505 §2, n. 3.

eparchial bishop has special competence regarding institutes of eparchial right, not only as public juridical persons situated in the eparchy, but also in their capacity as institutes of consecrated life. This power is external, however, and must not be confused with the internal power of the superiors of the institutes or with the internal power of governance.

Moreover, the concluding provision of the same canon, namely the reference to c. 418, §2 as controlling the interpretations of its own provisions regarding subjection to the Patriarch and to the eparchial bishop on the part of these institutes is limitative.⁴⁸ They are never the internal superiors of these institutes. Their authority on these institutes is external, a supervisory power, rather than of ordinary administration.

2.0.4. The Genesis, Development and Final Formulation of c.

418 §2¹: (The Patriarch and the Local Hierarchy do not come under the Designation of Superior of Monks and Other Religious)⁴⁹

The study group of the PCCICOR in its session of February, 1982, discussed c. 9 of the 1980 schema (*PAL* 312 §5 n. 2^o). C. 9 §2 of the 1980 schema ran as follows: "Under the designation of superior of monks and other religious do not come either the local hierarchy, or the patriarch, without prejudice to the canons which assign power over them to the patriarch or to the local hierarchy."⁵⁰ "Three organs of consultation demanded the suppression of §2, because (1) it is superfluous; (2) the legislative techniques would require that nothing which is not intended in the law be expressed; (3) or they wish to affirm the contrary, namely "the true superiors of the religious are the local Bishops." The study group did not accept these requests, because the §2

⁴⁸D. M. A. Jaeger, "Observations on Religious," 167.

⁴⁹The source of the canon is MP *PAL* c. 312 §5 n. 1^o.

⁵⁰"*Nomine Superioris monachorum ceterorumque religiosorum non venit nec Hierarcha loci nec Patriarcha, firmis canonibus qui cum Patriarchae tum Hierarchae loci potestatem in ipsos tribuunt*". *Nuntia* 16 (1983) 18.

pertains to the law in force (PAL 312 §5, n.2) and it seems more convenient to avoid the concession (similar to the last, indicated above), which could be very counterproductive in so far as it affects the necessary autonomy of the oriental religious in their proper internal discipline.”⁵¹ C. 9 §2 was approved by the PCCICOR, was received into the 1986 schema as c. 416 §2 and after all the later redactions, the text remained the same as it appears in the CCEO c. 418 §2.

Commentary

It is to be noted that the study group explicitly expresses for the first time as reported above, in its discussion, the necessary autonomy for the oriental religious in their proper internal discipline. It suggests that the principle of rightful autonomy to the oriental religious institutes is a principle that is already taken for granted in the discussion of the study group of the PCCICOR.

The counsel of living under obedience means that religious obey their internal superiors (*religious obedience*). In addition, as in the case with all other members of the Church, as individual members and their institutes they owe obedience also to the hierarchy of the Church (*canonical obedience*), which is defined and limited by the canons. As to external or hierarchical superiors, all religious have to obey the Roman Pontiff, as their supreme superior, in virtue of the vow of obedience. Then, the patriarch (major archbishop) has authority over all institutes of patriarchal (major archiepiscopal) right, and they have to obey him as their external superior. Lastly, the eparchial bishop or exarch has power over all eparchial institutes, such as monasteries and congregations and they have to obey him as their external superior but not as their internal superior.⁵²

⁵¹*Nuntia* 16 (1983) 18.

⁵²Cf., J. Pospishil, *Eastern Catholic Church Law*, 239-240.

2.5. The Genesis, Development and Final Formulation of c.

571¹: (The Promotion of New Forms of Consecrated Life)⁵³

The *Nuntia* 16 (1983) reports the study group's discussion on canon 143 (1980 Schema). It is a new canon. We have no parallel canon in the MP *PAL*.

About the genesis and the development of the canon the *Nuntia* gives details: "Article IV, consisting of this single canon, formulated on the model of c. 605 of the new *CIC*, is added *ex officio* by the study group as a necessary complement to the entire schema, intended as a future pontifical law, common to all the oriental Churches, determining the diverse forms of consecrated life."⁵⁴

"In this, if, on the one hand, the approbation of the new forms of consecrated life emerging from those determined by the common law, the approbation being reserved to the Holy See, on the other hand, patriarchs and the bishops are exhorted that they be diligent to scrutinize well, and to recognize the diverse charisms of the Holy Spirit, protecting those gifted, also by special statutes of particular laws."⁵⁵ Canon 143 of the 1980 schema undergoes a slight change in the wording and it appears in the 1986 schema as c. 568, and the same text of the 1986 schema remains in the *CCEO* as c. 571.

Commentary

The canon may be a translation of the thinking of the Second Vatican Council fathers expressed in the decree *Perfectae Caritatis* n. 19 inviting 'particular attention be paid, in areas where the church has recently been established, to the promotion and cultivation of forms of religious life which take into account the character and way of life of the inhabitants, and the local

⁵³The sources of the canon are the following: *LG*, 45; *PC*, nn. 1; 19; *AG*, 18 etc.

⁵⁴*Nuntia* 16 (1983) 108.

⁵⁵*Nuntia* 16 (1983) 108.

customs and conditions.⁵⁶ Canon 571 affirms that in the Church the Holy Spirit continually breathes, and patriarchs and the eparchial bishops are charged to discern, to promote and regularise the new charisms of consecrated life. It does not refer to the approval of new institutes of the present typologies of religious life but to possible distinct new forms.

In c. 571, the Legislator recommends that the patriarchs and the eparchial bishops help the promoters of these new forms in order that they better manifest their purpose, concretize their prospects and, in the best possible way, protect their realization with statutes adapted to their purpose. But it is reserved to the Apostolic See to approve the new forms of consecrated life.

CCEO makes Reference to Rightful Autonomy Indirectly

It seems from our analysis of cc. 411, 412, 413, 418 §2 and 571, that the CCEO does accept in principle and acknowledge the necessary autonomy of the oriental religious institutes in their proper internal discipline. It is true that there are no direct references to this acknowledgement in the above mentioned canons. But at the same time they do not deny it. Moreover, the CCEO takes it for granted that all these religious institutes have an innate right for preserving their own character and specific purpose through an internal discipline and administration. None of the above cited canons deny this. The Legislator with great admiration for the institutes of the oriental religious state charges the patriarchs and the bishops to promote and safeguard these institutes and reminds them that they are not their internal superiors. The Legislator also exhorts all the Orientals to encourage and promote the religious state in the oriental Churches. Therefore, we find an implicit reference in the CCEO of the acknowledgment of the necessary autonomy of the religious institutes. Now we shall discuss the explicit and implicit references to this acknowledgement in the *typicon* of the monasteries and the statutes of the orders and congregations.

⁵⁶PC, n. 19.

3. Pastoral Works of the Religious in CIC and CCEO

The pastoral accent of the CCEO is one of its outstanding qualities. In the same way, the CIC addresses the same issue with great importance. CIC c. 678 and CCEO c. 415 are important canons clarifying the delicate issues involved in the relationship between diocesan bishops and the religious. Both these canons have multiple sources and they are to be taken into account for their interpretation. Both the codes emphasize that first of all, religious must recognize the dignity of the bishop in his diocese/eparchy. They always owe him devout respect and obedience. Interpreting CIC c. 678, Velasio De Paolis, says that the religious are subject to three areas of submission to the diocesan bishop: the care of the souls, the public exercise of divine worship and other apostolate works....the first two have a rather technical and precise terminology (the care of the souls and public exercise of divine worship), while the third is residual and includes everything not covered in the first two.⁵⁷ CCEO c. 415 §1 gives more vividness to the pastoral dimension: "It is important to note that the eparchial bishop enjoys jurisdiction over religious in matters concerning the care of souls, the public exercise of divine worship, the preaching of the word of God to the people, the religious and moral education of the christian faithful, especially of children, catechetical and liturgical instruction and what becomes the clerical state, as well as to various works of the apostolate (CCEO c. 415 §1).... The eparchial bishop is endowed with great responsibilities in this regard. All religious institutes, including the pontifical and patriarchal institutes have to submit to the power of the governance of the eparchial bishop in the field of pastoral care."⁵⁸ But this subjection "does not mean that religious can be compelled to assume tasks that are contrary to their ends or to

⁵⁷Velasio De Paolis, cs, "Commentary on CIC c. 678," in Angel Marzoa, Jorge Miras and Rafael Rodrigues-Ocana(eds.), *Exegetical Commentary on the Code of Canon Law*, vol.II/2, Montreal& Chicago, 2004, 1815.

⁵⁸Varghese Koluthara, *Rightful Autonomy*, 185.

carry them out in a manner that contradicts said ends. In effect, the Church's steadfast principle is firm that each institute converse its proper patrimony and remain faithful to it."⁵⁹

Moreover, there is no church or oratory in his eparchy to which the faithful have habitual access, there is no school other than those open only to the members, and there are no works of religion and charity entrusted to religious, whether these works be spiritual or temporal, which the eparchial/diocesan bishop does not have a right to visit, either personally or through a delegate (CCEO cc. 415 §2; 638 §§1-2; 205 §1; CIC cc. 683 §1; 683 §§1-2; 806 §1; 396 §1).⁶⁰

The eparchial/diocesan bishop appoints the confessors, having consulted the interested community, to the non-clerical - monastery *sui iuris*, pontifical order or congregation (CCEO cc. 475 §1; 539 §2 CIC c 630 §§2-3). It is solely the right of the eparchial bishop to name pastors from a religious institute; but the major superior is to propose a suitable priest of his institute to the eparchial bishop for the appointment with due regard for agreements entered into with the eparchial/diocesan bishop (CCEO c. 284 §2; CIC c. 682 §1). But he can be removed either at the discretion of the eparchial bishop after having notified the major superior or by the major superior who also has to notify the eparchial bishop without the need of each other's consent (CCEO c. 1391 §2; CIC cc. 538 §2; 682 §2; 1742 §2).

It is the eparchial/diocesan bishop alone, but not the administrator of an eparchy/diocese, after consulting the presbyteral council, and with the consent of the major superior of a religious institute, who can erect a parish in the church of the same institute with the permission of the patriarch within the territorial boundaries over which he presides, or in other cases, of the Apostolic See (CCEO cc. 282 §1; 480; CIC cc. 520 §1; 681 §2). This erection must be done by means of a written agreement

⁵⁹Velasio De Paolis, "Commentary on CIC c. 678," 1816.

⁶⁰Varghese Koluthara, *Rightful Autonomy*, 183.

made between the eparchial bishop and the major superior of the religious institute. This agreement is to state precisely what parochial ministry is to be fulfilled, the persons to be attached to the parish, the financial arrangements, and the rights and obligations of the members of the same institute in that church and those of the pastor (CCEO c. 282 §2; CIC 520 § 2).⁶¹

Where the eparchial bishop has found abuses in their churches, or in the houses of religious institutes of patriarchal or pontifical right, and the superior, warned by the same hierarch, has failed to take care of it, the same local hierarch is obliged to defer the matter without delay to the attention of the authority to which the institute is immediately subject (CCEO c. 417; no parallel canon in CIC). A religious, who committed a delict outside their house and has not been punished by his proper superior, and the hierarch has warned the proper superior in vain, can be punished by that hierarch even if he has lawfully left and has returned to the house (CCEO c. 415 §4; CIC cc. 683 §2; 1320). When the documents previous to the 1990 Code stress that the bishop can claim all the religious as members of his diocesan family,⁶² the CCEO simply urges the eparchial bishop only to attend to presbyters with special concern and listen to them as assistants and advisers (CCEO c. 192 §4).⁶³

The eparchial/diocesan bishop can even make some demands upon religious, as part of his responsibility of services for the needs of the faithful according to each one's condition and ability (CCEO c. 203 §2; CIC c. 394 §2). However, cooperation by all concerned is required.⁶⁴ Commenting on CIC c. 678, according to Velasio De Paolis, "the first two areas, namely, the care of the souls and public exercise of divine worship, also fit under apostolate works; moreover, they are apostolic activities in the

⁶¹Varghese Koluthara, *Rightful Autonomy*, 184.

⁶²*CD*, 34; *MR.*, 18.

⁶³Varghese Koluthara, *Rightful Autonomy*, 184-5.

⁶⁴*CD*, 35, n. 5; *AG*, 30, n. 2.

strict sense... The expression used to delimit the third area, therefore, understood to be “the remaining works of apostolate, that is to say, everything not covered in the first two categories. Nevertheless, it ought to still concern works of apostolate.”⁶⁵

Both Codes emphasise that the eparchial/diocesan bishop should insist on the obligation for religious who are engaged in the apostolate to remain faithful to their vows and the obligations of their profession as well as the statutes in so far as this observance of the statutes is compatible with the obligations of their office (CCEO c. 543; CIC c. 681 § 1). It is under the eparchial/diocesan bishop’s direction that various forms of apostolate in the eparchy are fostered and he has to see to it that all the works of the apostolate in the eparchy or in particular districts are coordinated (CCEO c. 203 §1; CIC c. 394 §1).⁶⁶

4. Involvement of the Eparchial Bishop with Monasteries and Religious Institutes according to CCEO

We may try here to specify the involvement of the eparchial bishop with Monasteries and Religious Institutes of Orders and Congregations with two separate charts.⁶⁷ *The chart below shows the involvement of the eparchial bishops based on CCEO with the monasteries.* The parenthesis (X) denotes the instances where the eparchial bishop proceeds with or when his consent is required for the action. The parenthesis (Y) indicates the instances where the eparchial bishop is consulted or is asked for his confirmation. In the case of stauropegial monasteries which are directly subject to the patriarch, only he himself enjoys the rights and obligations of an eparchial bishop (CCEO c. 486 §2).

⁶⁵Velasio De Paolis, “Commentary on CIC c. 678,” 1815.

⁶⁶Varghese Koluthara, *Rightful Autonomy*, 185.

⁶⁷Varghese Koluthara, *Rightful Autonomy*, 186-189.

Involvement of Eparchial Bishop with Monks and Monasteries	Pont.Right	Stauropegial	Epar.Right
Establishing a Monastery sui iuris: c. 435 §1			X
Approving Typicon: c. 414, §1			X
Establishing dependent Monastery: cc. 436 §1-2; 437 §1;	X		X
Altering Apostolate and Conversion of a Monastery: c. 437 §§2-3	X		X
Suppressing a Monastery or a Filial one: c. 438 §1			Y
Presiding at Election of a Monastery sui iuris: c. 443 §2			X
Visitation of Monasteries: c. 414 §1, n. 3			X
Pastoral Visit: c. 415 §2	X		X
Confessors for (non-clerical) Monasteries: c. 475 §§1-2	X		X

Finances of Monasteries: cc. 1022; 1035 §1, n.3; 1036 §1; 1042			X
Admission of Clerics: cc. 452 §1	Y		X
Pastoral Work: c. 415 §1; 427	X		X
Coordination of Apostolate: cc. 416	X		X
Penalties applied to Religious: c. 415 §4	X		X
Indult of Exclaustation: c. 489 §§1-2			X
Indult of Departure: cc. 496 §2; 494 §§1-2;	X		X
Dismissal of a Monk: cc. 497 §2; 498 §§2-3; 499; 500, §4; 501 §4			Y

For practical purposes, if we divide the categories of religious institutes into pontifical, patriarchal and eparchial, *the involvement of the eparchial bishop based on CCEO with respect to religious institutes of Orders and Congregations*, it appears more specifically according to the chart below: the parenthesis (X) denotes that the instances where the Eparchial Bishop proceeds with or when his consent is required for the action. The parenthesis (Y) shows the instances where the Eparchial Bishop is consulted or is asked for his confirmation. The parenthesis (Z) indicates the instances where *de jure* the eparchial bishop is not

involved but *de facto*, by giving his opinion the eparchial bishop may be involved.

Involvement of Eparchial Bishop with Religious	Pont.Right	Patr.Right	Epar.Right
Establishing an Institute: c. 506 §1			X
Approving Statutes: c. 414 §1			X
Establishing Houses: c. 509 §§1-2	X	X	X
Altering Apostolate of a House and Conversion : cc. 437 §§2-3; 509 §2	X	X	X
Suppressing a House: c. 510	Y	Y	Y
Visitation of Institutes: cc. 414 §1, n. 3; 420 §3			X
Visitation of Apostolate: cc. 415 §2; 638 §§1-2; 205 §3	X	X	X
Confessors for (non-clerical) Institute: c. 539 §2	X	X	X
Finances of Institutes: cc. 1022; 1014; 1035 §1, n. 3; 1036 §1, nn. 1-3; 1042	Z	Z	X

Admission of Clerics: cc. 452 §1; 517 §1	Y	Y	X
Pastoral Work: c. 415 §1;	X	X	X
Coordination of Apostolate: cc. 416	X	X	X
Works/Contracts/E cc. Office: c. 543	X	X	X
Penalties applied to Religious: c. 415 §4	X	X	X
Indult of Exclaustration: cc. 489 §2; 491; 548 §§1-2			X
Indult of Departure: cc. 546 §2; 492 §2; 549 §1, 2º; 494 §1; 549 §3			X
Dismissal of Religious: cc. 500 §4; 501, §4; 553;			X

Conclusion: Harmony between Dependence and Autonomy

In this article on the dependence and the rightful autonomy of monasteries and other religious institutes based on the Code of Canons of the Oriental Churches, we have discussed the following topics: subtitle, 'dependence of religious on eparchial Bishop, the Patriarch, and the Apostolic See,' indirect references on the rightful autonomy in the CCEO through an analysis of the genesis, development, the final formulation and interpretations of cc. 411, 412, 413, 418 §2 and 571, pastoral activities of the religious and involvement of eparchial bishops with religious

institutes. From this study we come to the conclusion that though the CCEO uses the term 'autonomy' sparingly,⁶⁸ it acknowledges the principle of autonomy. Taking great care to safeguard the rights of the religious institutes in their internal governance and discipline, all other norms pertaining to the religious life are legislated. The Legislator seriously and genuinely presents the monastic tradition of the Orient as the ideal for the religious life, 'even though at present the number of monasteries of the ancient tradition is very small, hardly extant in some Eastern Catholic Churches.'⁶⁹ While treating of orders and congregations, they are urged to refer back to this ideal form of religious life by having repeated recourse to the canons on monastic life.

The CCEO conceives the religious state as separate from the lay state (CCEO c. 399). The very articulation of the religious state as distinct from the lay state is an example how the Legislator takes care to preserve the distinct state of religious life from the lay state. Then, the Legislator asks all Orientals to honour and promote this state of life (CCEO c. 411). The eparchial bishop is asked specifically as one of his obligations to foster monastic vocations, and vocations to institutes of consecrated life (CCEO c. 195). The religious institutes are then asked to order their apostolate according to each one's character under the coordination of the eparchial bishops (CCEO c. 203 §1). The rightful autonomy of religious institutes in their internal rule and discipline should also inspire them to make efforts to be the heralds of harmony and communion in their ecclesial commitment to the eparchial, patriarchal and universal Churches. It is not always easy to distinguish precisely between the competence of the bishop and that of the religious

⁶⁸The CCEO makes use of the term autonomy as a noun only once in the code. Cf., Nedungatt, *The Spirit of the Eastern Code*, Rome & Bangalore 1993, 246. That too, not in reference to the internal rule and discipline of the religious institutes themselves, but referring to their "autonomy in managing their own schools" in c. 638, §1.

⁶⁹J. Pospishil, *Eastern Catholic Church Law*, 242.

superiors. Therefore, it is necessary that a profound understanding between the bishops and superiors always exist: the bishops should be ecclesiastically sensitive to the nature of the religious life and its discipline, and the religious superiors should try to see the apostolate as necessary to the religious life and pertinent to the very nature of the institute. The religious superiors ought to be conscious of the responsibility they have in this sector, and approach the diocesan bishop through dialogue with him⁷⁰ Fundamentally, acknowledgement of rightful autonomy of the religious institutes by the Legislator is that, observing the intention and determinations of the founder, the members are to tend to perfection (CCEO c. 426), and the religious institutes are to grow and flourish in the Church, safeguarding their own character and specific purpose (CCEO c. 415 §3), for which they were initially instituted; and in the course of time what they have added to this specific patrimony, by availing themselves for the service of the Church. For once having sought and been granted official recognition and approval, the religious institute becomes an ecclesial institute and is linked to the hierarchy in a special manner (CCEO cc. 410; 426; 435 §1; 506 §1). In each case the acknowledged autonomy in the canons dealing with typicon and statutes does not imply an independence from the authority of the Church nor is it an exclusion of law for the intervention on the part of the Apostolic See, Patriarch and Eparchial bishops. Autonomy does not limit the special dependence of all the religious institutes, as individuals and collective community, to the supreme superior of the Church, while he is the immediate and internal superior of every institute in virtue of the vow of obedience (CCEO c. 412 §1) which binds them to the service of the Church. The religious institutes' autonomy in internal rule and discipline 'diminishes nothing of the authority and the responsibility of the heads of the Church and their collaborators, but it is requested from them to insist that the religious are also involved in the life, in the

⁷⁰Velasio De Paolis, "Commentary on CIC c. 678," 1818.

activities and in the mission of the Church.⁷¹ CCEO tells that the eparchial bishops and patriarchs are not internal superiors of the religious institutes, and the internal superiors of the religious institutes have to be constantly watchful lest this autonomy be eroded by various encroachments. For this, mutual consultation and dialogue have to be promoted between the religious superiors and the eparchial bishops and patriarchs. On this aspect CCEO provides very few canons, such as c. 416 and that is an unsatisfactory note on the CCEO.⁷²

If we compare the CCEO with the MP *PAL*, it becomes apparent that the internal systematic order is the same in both, namely, general or preliminary canons that are common to all the forms, followed by local and personal structures of governance, admission, profession, formation, obligations and finally the different ways of separation, exit and expulsion. But here also we find a big difference between the CCEO and the MP *PAL*, i.e.: while the MP *PAL* has ruled with some imprecision on monks and other religious, the CCEO has separated perfectly these two blocks, justifying the Oriental tradition. The fifteen canons on confessors and chaplains in the MP *PAL* are stylistically reduced in the CCEO to four (cc. 473 §2, n. 2 and 574 for the monks and cc. 538 §3 and 539 for orders and congregations). The privileges of the fifteen canons in the MP *PAL* are almost changed in nature in the CCEO (cc. 430-432). The process of dismissal, which had twenty seven complicated canons in the MP *PAL*, was reduced to cc. 497-503 and 551-553 in the CCEO and these are more extraordinarily precise and linear.⁷³ Thus, the CCEO integrates faithfully the new trends of the Second Vatican Council with the Oriental tradition, by eliminating or reducing some of the corroded norms of the MP *PAL*. The harmonious blend of the old with the new is a new dimension of the CCEO and it is, indeed, a progressive step.

⁷¹J. Beyer, sj, *Il Diritto della Vita Consecrata*, Milano 1989, 51.

⁷²Varghese Koluthara, *Rightful Autonomy*, 192.

⁷³Cf., D. J. Andrés, "Introductio," 368-369.