

THE EASTERN CODE ON THE APOSTOLATE OF RELIGIOUS NEEDS REVISION

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ABSTRACT: Whereas there is currently a project to revise the penal law of CIC, there is no such corresponding project regarding CCEO, in which the penal legislation has perhaps benefitted by hindsight. However, this latter code is defective in another area, viz. the legislation on the Religious. The almost complete lack of norms regarding the apostolate of religious as well as defective legislation on the formation of religious in title XII has already proved to be a source of practical problems. The present article illustrates these defects and proposes a schema for a partial revision of CCEO in these areas. Such a revision of both the codes can forestall the risk of a narrow concentration on the defects of the one code creating the wrong impression that all was well with the other code. In the light of the principle *Ecclesia semper reformanda*, it would seem proper that each of the “two lungs” of the Church were attended to on the fiftieth anniversary of the Second Vatican Council.

KEYWORDS: Reform. Penal Law. Religious Formation. Religious Apostolate. CCEO.

ABSTRACT: Prendendo spunto dalla proposta di modifica della legislazione penale del CIC che non si estende al CCEO si suggerisce l'opportunità di nuova legislazione orientale in materia di religiosi. Il titolo XII CCEO manca quasi totalmente di norme sull'apostolato dei religiosi e contiene poche indicazioni sulla loro formazione. Questo articolo cerca di mettere in evidenza le mancanze e di proporre uno schema per una revisione parziale del CCEO in queste materie. Tale revisione potrebbe evitare il rischio di concentrarsi sui difetti di un Codice e di creare l'impressione che l'altro è perfetto. Alla luce del principio *Ecclesia semper reformanda* sembra appropriato che ciascuno dei “due polmoni” della legislazione della Chiesa riceva adeguata attenzione nel cinquantenario del Concilio Vaticano II.

PAROLE CHIAVE: Riforma. Diritto penale. Formazione dei religiosi. Apostolato dei religiosi. CCEO.

SUMMARY: I. Eastern Monasticism and Apostolate. – II. Apostolate of Religious in CCEO. 1. Canons on the Apostolate of Religious. 2. Formation and Perpetual Profession of Religious. – III. Draft for the Revision of CCEO Title XII (Schema Recognitionis Tituli XII CCEO). A. Religious Profession. B. Religious Formation and Apostolate. – Conclusion.

BROADLY coinciding with the fiftieth anniversary of the Second Vatican Council there is a project to revise the penal law of the Latin Church contained in CIC Book VI, *De sanctionibus in Ecclesia*, coincided broadly with the announcement of the year of faith to mark the fiftieth anniversary of the Second Vatican Council. There is, however, no parallel project for the revision of the penal law in CCEO. Some may wonder whether this is an oversight. The fact is there is no felt need for revising the penal law of CCEO. After the promulgation of this code, the scholarly comparative assessment of the penal legislation in the two codes was on the whole in favour of the Eastern code. Though not perfect, title XXVII “De sanctionibus poenalibus in Ecclesia” of CCEO, corresponding to CIC Book VI “De sanctionibus in Ecclesia,” won general approval of the specialists. Part of the reason is that coming seven years after the promulgation of the Latin code, CCEO could benefit from critical reviews of it. But CCEO is also defective and worse in certain other areas like title XII *De monachis caeterisque religiosis... vitae consecratae*. In fact this is the weakest of all the thirty titles of CCEO. It is in need of revision especially as regards the norms on the apostolate of religious, their formation and profession.

The Eastern code has highlighted monasticism to the cost of non-monastic forms of religious life, especially their apostolate. According to the traditional terms “contemplative” and “active,” which indicate broad orientations of the lifestyle of religious, traditional Eastern monasticism is *contemplative*, whereas most modern religious institutes are *active*, that is, they engage in apostolate. Favouring monasticism, CCEO has hardly any norms on the apostolate of monks or the other religious. This is a serious defect and has already had serious negative consequences, as we shall see below.

I shall first sketch a brief historical outline of Eastern monasticism and the apostolate of other Eastern religious institutes (section I). Then I shall turn to the CCEO and show how defective it is as regards apostolate and formation of religious (section II). Finally I shall propose a schema of revision of CCEO Title XII, art. III, 5^o, “De institutione sodalium et de disciplina religiosa in ordinibus et congregationibus” (section III).

I. EASTERN MONASTICISM AND APOSTOLATE

Monasticism, which originated in the East, is marked from the beginning by its avoidance of the world (*fuga mundi*, “flight from the world”) with its distractions and seductive attractions. It is to ensure their own salvation with greater assurance and find God with greater facility that ascetics first isolated themselves and then congregated among themselves in groups and eventually in organized communities. Apostolate was no con-

cern of theirs, although out of charity they made themselves available to help those who came to them whether in their solitude or in organized *lavrae*. Hence there is no mention of the apostolate of the Covenanters in the works of Aphrahat, the first father of Syriac Christianity nor in the Rule of St. Basil.

This tradition is reflected in CCEO as well as its predecessor, the 1952 *motu proprio* of Pope Pius XII, *Postquam Apostolicis Litteris* (PAL). This preconciliar Eastern legislation had said nothing about the apostolate of religious just as the model set for it to follow, namely, the *Codex Iuris Canonici* of 1917, had no canon on this subject. In fact “apostolatus” does not even figure in this Pio-Benedictine code at all as can be checked in the extensive “Index analytico-alphabeticus” of CIC-1917. However, following the Second Vatican Council, CIC-1983 codified eleven canons on the apostolate of religious institutes (cann. 673-683). CCEO ignored them as if they concerned only the Latin Church, whereas they are norms given to the whole Church by the Second Vatican Council and postconciliar documents which have been codified for the Latin Church in CIC-1983. Formally the CIC canons 673-683 apply only to the Latin Church, but they are common norms. Again, although CIC-1983 codified sixteen canons on the societies of apostolic life (731-746), the codifiers of CCEO did not formulate any canon at all about them (see *Schema Codicis Iuris Canonici Orientalis* of 1986 published in 1987 in *Nuntia* 26-27, p. 107). However, at the last moment before the promulgation of CCEO, a single canon was introduced into it by papal intervention (can. 572).

This strikes as a rather negative stance of CCEO regarding the apostolate of religious. But, as mentioned already it is in continuity with the 1952 legislation of Eastern religious by Pope Pius XII’s *motu proprio Postquam Apostolicis litteris* following the lead of CIC-1917. Surprisingly, the apostolate of monks did not figure in a preconciliar volume on Eastern monasticism containing the papers presented at an international congress held in 1958 at the Pontifical Oriental Institute, Rome.¹ None of the twelve congress papers mentioned the apostolate of monks. The unnamed Orthodox showpiece Mount Athos seems to have been the icon and ideal of Eastern monasticism for many Catholic observers. The conclusion of the congress was summarised by the then Rector Fr. Ignazio Ortiz de Urbina, S.J., as follows: “l’anima del monachesimo ... dice immersione nella contemplazione delle cose celesti e perciò fuga dal mondo che da essa ci distrae, e purificazione dal disordine passionale avverso all’amore di Dio” (p. 363). In fact this stance of *fuga mundi* had dominated the extensive legislation on monks in the Council

¹ *Il monachesimo orientale*, *Orientalia Christiana Analecta* 153, Roma, 1958.

of Moscow held in 1917-1918, which did not even mention their apostolate, "because their vocation is to pray".²

Father Clemente Pujol, S.J., who taught "De religiosis" at the Faculty of Oriental Canon Law of the Pontifical Oriental Institute for many years, wrote a ponderous commentary in Latin on Pius XII's 1952 motu proprio *Postquam Apostolicis litteris* (PAL).³ He said nothing about apostolate proper to religious but only as a response to the request of the bishop or parish priest (PAL, can. 154). And he commented: "religious should collaborate with the apostolate of the bishop without engaging in a parallel apostolate, because in the eparchies apostolate depends on the bishop" (p. 335). This dependence of the religious on the diocesan or eparchial bishop in the matter of apostolate is indeed a traditional norm. And it was to be confirmed by the Second Vatican Council in its prescription that all apostolate in the diocese or eparchy is subject to the authority of the bishop and as coordinated by him (Christus Dominus, 3 and 17, cited both in CIC can. 394 § 1 and in CCEO can. 203 § 1).

In the matter of the apostolate of religious the Second Vatican Council went beyond CIC-1917 and PAL. In its decree on the renewal of religious life, this council expressed its appreciation of religious institutes dedicated to apostolate as gifts of ministry granted by the Holy Spirit to the Church without distinction of East or West. "Active apostolic good work pertains to the very nature of religious life in these religious institutes. It is a holy ministry and work of ecclesial charity entrusted to them by the Church, which is to be exercised in the name of the Church. Hence let the entire religious life of the members be quickened by the apostolic spirit, and the whole apostolate be charged by the religious spirit" (*Perfectae caritatis*, 8). The council asked the religious institutes to adapt their lifestyle to the demands of their apostolate. It is clear that the council did not regard the active religious institutes dedicated to apostolate as a deviation from or degradation of monasticism. The council saw monastic life primarily as "the humble and noble service of the divine majesty within the bounds of the monastery, whether leading a hidden life dedicated entirely to divine worship or undertaking some works of apostolate or Christian charity" (9). The council directed that the monastic choir and the apostolate of monks be properly integrated.

It is surprising that in spite of such clear conciliar teaching CCEO has stood by PAL without revising it according to Vatican II. CCEO has also ig-

² AEMILIUS HERMAN, ANTONIUS WUYTS, *Textus selecti iuris ecclesiastici russorum*, Fonti II, ser. II, fasc. VII, Rome, 1944, "De monachis et monasteriis", pp. 125-192; IOANNES DEZÁD, *De monachismo secundum recentiore legislationem russicam*, OCA 138, Rome 1952.

³ CLEMENS PUJOL, *De religiosis orientalibus ad normam vigentis iuris*. Rome: Pontificium Institutum Orientalium Studiorum, 1957, Pp. 590.

nored the postconciliar instructions and norms issued by the Roman Apostolic See regarding the apostolate of religious. These were codified in CIC-1983 cann. 673-683, but CCEO ignored them. Of course CIC is no juridical source for CCEO. But the sources of CIC cann. 673-683 were common to the Latin Church and to the Eastern Catholic Churches. Apparently those who drafted Title XII of CCEO failed to note this fact.

Thus it has come about that title XII of CCEO on monks and other religious is marked by a narrow vision of monasticism that is not conciliar. This can be ascertained from the pages of *Nuntia*, which reported the work done by Coetus V, *De Monachis aliisque (> ceterisque) religiosis*. This Study Group was guided by its relator Hieromonk Theodore Minisci, O.B.I., abbot of the Monastery of St. Nilus, Grottaferrata.⁴ Under his leadership Study Group V exalted monasticism as being “al servizio della lode divina e della totale consacrazione personale a Dio” allowing “altre attività collaterali di studio e di apostolato, pur nei limiti consentiti della vita monastica.”⁵ Monasticism “does not exclude study and apostolate,” wrote Abbot Minisci, but only allows them “nei limiti consentiti dalla natura della vita monastica che è e rimane al servizio della lode divina e della totale consacrazione personale a Dio.” Apostolate outside the monastery is to be allowed only as an exceptional emergency. People come to the monastery for confession, for spiritual direction and for retreats, which are the chief forms of monastic apostolate, according to Hieromonk Minisci.

“Certo non è dei monaci avere la cura pastorale dei fedeli, se non in casi veramente eccezionali e in particolari congiunture, come si verifica qualche volta anche oggi presso i fratelli ortodossi. Ma è ai monasteri che spesso si ricorre per le confessioni, per la predicazione, per la direzione delle anime e per brevi soggiorni di ritiro spirituale” (*ibid.*).

Minisci lamented the fact that “la vita monastica tradizionale è scomparsa nella maggior parte [delle] Chiese orientali cattoliche, avendo gli antichi istituti religiosi optato per un ordinamento *ad instar* degli Ordini latini.” It may be noted, however, that after the fall of communism in 1989 the situation changed and monasticism started to flourish again in countries like the Ukraine. But at the time of the codification of CCEO Eastern Catholic monasticism was represented only by two or three monasteries. Minisci minimized the role of monks in the various forms of the apostolate they had engaged in historically. And giving priority to monks over other religious he and his study group entitled CCEO Titulus XII “De monachis ceterisque religiosis et de sodalibus aliorum institutorum vitae consecratae.” This long and cumbersome title, which was chosen to emphasize the pre-eminence

⁴ *Nuntia*, 1/1975, 15.

⁵ *Nuntia* 4/1977, 4.

of monasticism in the Eastern tradition, replaced “De religiosis,” which had been used in PAL. Lamenting the disappearance of the glorious past of Eastern monasticism, represented by such luminaries as Pachomius, Basil the Great, Theodore the Studite and Athanasius the Athonite (of Mount Athos), Study Group v set out as it were on a crusade to redeem the lost monastic heredity. It is difficult to say whether this was a premonition or a methodological error. Surely it is not the task of legislation to launch crusades but to order with norms an existing reality. CCEO has instead exalted nostalgically monasticism giving it separate and prior treatment and making it a kind of “*sumum analogatum*” (or *analogatum princeps*) contrary to the very declared policy of Study Group v itself. Thus it has come about that CCEO prescribes monastic formation also to religious orders and congregations, while it has practically no norms about their proper apostolate. Although Title XII of CCEO is indexed in a detailed manner under 24 headings (*Nuntia* 31/1991, 52-56), there is no entry on the apostolate of religious.

In his commentary on CCEO Title XII Clemente Pujol speaks of several Eastern Catholic religious institutes engaged in various kinds of apostolate like education, the press and parish work as well as works of charity like dispensaries, orphanages, asylums or kindergarten.⁶ In chapter XVII entitled “La vita apostolica dei religiosi” Pujol commented on CCEO cann. 479 and 542 underscoring the apostolate of monks in the history of the Church⁷. The following is a brief summary.

“Apostolate was never extraneous to monks. The exercise of virtues, the solitude and prayer of monastic life made them apt instruments of evangelization...,” wrote Fr. Pujol (p. 339). And citing J. Leroy’s authoritative work,⁸ Pujol stated, “All East, Asia, Palestine, Mesopotamia, Syria, Armenia, Persia, Egypt witnessed the apostolic zeal of monks, of whom not a few were bishops.... The monks of Persia took the Gospel far into Central Asia, Tibet, India and China.”⁹ In Armenia, celibate clergy emerged in the V century to respond to the call of apostolate, for which St. Isaac built monasteries close to the cities, so that monks could teach in schools and colleges as well as help in the diocesan curia. They worked in hospitals, sanatoria and institutions for lepers and for the aged. And for the Byzantine tradition, quoting E. Marin,¹⁰ Pujol wrote that monks were engaged in the apostolate in hospitals, orphanages, homes for the aged and for the

⁶ CLEMENTE PUJOL, *La vita religiosa orientale : commento al Codice del diritto canonico orientale (canoni 410-572)*, Rome: Pontificio Istituto Orientale, 1994, pp. 27-39.

⁷ CLEMENTE PUJOL, *La vita religiosa orientale*, pp. 335-339; “Note storiche,” pp. 339-340.

⁸ J. LEROY, *Moines et monastères du Proche-Orient*, Paris, 1957, p. 212.

⁹ CLEMENTE PUJOL, *La vita religiosa orientale*, p. 339.

¹⁰ E. MARIN, *Les moines de Constantinople depuis la foundation de la Ville jusqu’à la mort de Photius (330-898)*, Paris, 1897.

abandoned children not only in Constantinople but also in Asia Minor, in Cappadocia and in Palestine.

Drawing mostly on *Oriente Cattolico*, the handbook issued by the Congregation for the Eastern Churches,¹¹ Pujol noted that several religious institutes which had a prior history of monastic orientation were officially declared, after the promulgation of PAL in 1952, “non monastic” precisely because of their constitutional commitment to apostolate. This happened, for example, to the Maronite Order of Lebanon founded in 1695; to the Maronite Order of the Blessed Virgin Mary (or Mariamites), which separated from the above mentioned order in 1768; and to the Maronite Order of the Monks of St. Isaiah founded in 1740. Among the Melkites the same “non monastic” clarification is noted with the Salvatorians, with the Basilian Order of St. John the Baptist (Soarites), with the Congregation of the Basilian Soarite Sisters, and with the Basilian Order of Aleppo of the Melkites. Among the Ukrainians, the Basilian Order of St. Josaphat, which had originated in the unification of ancient monasteries, was declared “non monastic” because, as Pujol notes, “it conducts an immense activity in every part of the world, in colleges, parishes, in pastoral work, with the edition of scientific and popular works.”¹²

Several other Eastern Catholic religious institutes also are constitutionally oriented to apostolate and are “non monastic.” Such are, for example, in the Chaldean Church, the Dominican Sisters of St. Catherine of Siena; and in the Syro-Malabar Church, the Carmelites of Mary Immaculate, noted specially for its manifold apostolate in schools and colleges, hospitals, apostolate of the press, parishes, missions, etc.. So, too, is its female counterpart, the Congregation of the Mother of Carmel. Remarkable for apostolate are also the Franciscan Clarist Congregation and the Holy Family Congregation, the latter having specialized in the family apostolate (both not mentioned by Pujol). Similarly in the Syro-Malankara Church there are the Order of the Imitation of Christ and the Sisters of the Imitation of Christ. Among the Ukrainians, the Order of the Religious of St Basil the Great, which originated in the unification of various monasteries under one Superior General in 1951, “is divided into several provinces and conducts great activity in its own colleges, parish schools, press, kindergarten, orphanages, etc.”¹³ Concluding the list of “active religious,” which could be prolonged, Pujol mentions the Mekhitarists of the Armenians, centred in Venice and in Vienna and engaged in apostolates such as education and the press.¹⁴

¹¹ Sacra Congregazione per le Chiese Orientali, *Oriente Cattolico: Cenni storici e statistiche*, Città del Vaticano, 4th ed., 1974.

¹² CLEMENTE PUJOL, *La vita religiosa orientale*, p. 33.

¹³ CLEMENTE PUJOL, *La vita religiosa orientale*, p. 33.

¹⁴ CLEMENTE PUJOL, *La vita religiosa orientale*, pp. 38-39.

Father Pujol' reaction to the draft which became CCEO Title XII was on the whole negative, but his written vote submitted to the Eastern code commission is not yet accessible for consultation. Thomas Spidlik (later cardinal), a colleague of Pujol and professor of Eastern spirituality at the Faculty of Ecclesiastical Studies of the Pontifical Oriental Institute, has also dealt briefly with the apostolate of monks.¹⁵ Spidlik mentions the reform enacted by the Russian Tsar Peter the Great, who made it obligatory for monasteries in Russia to have a school and an orphanage attached to them. However, these impositions were resented by monks, who returned to the former tradition declaring that their proper vocation and mission were not study or work but to sing the liturgical office, attend to the salvation of their souls and do penance for the whole world. However, citing Basil the Great, Spidlik says that this father of Eastern monasticism prescribed the apostolate of educating children as a duty of the monks. If so, the Russian Tsar was right and the monks were wrong. Basil had indeed taught: "While the mind is still easy to mould and is pliable as wax, taking the form of what is impressed upon it, it should be exercised from the beginning in every good discipline."¹⁶ However, Basil was not speaking of the apostolate of education in general but of the children entrusted to the monastery by their parents. Along with them could be educated also orphans picked up by the monks out of charity. Trained early and protected from the contagion of the world, says Basil, they would prove a seedbed for vocations to monastic life. This is not quite the precursor of modern Salesian education according to the charism of St. John Bosco, which forms good Christian citizens out of street boys collected in oratories. The Basilian education had in view rather "pre-novices." Spidlik mentions nuns in Greece who conduct schools and orphanages attached to their monasteries. In the Armenian tradition, a monk with higher studies and ordination to the priesthood can be elevated to the rank of Vartaped ("Magister, master"), a title comprising an academic degree and a religious function with the faculty to preach. The monastery of Kabeliansk was a great athenaeum for the formation of Vartapedes.

From the above accounts, especially of Pujol, it is clear that the apostolate of religious is common to the Eastern Catholic Churches. As such it should have been regulated in the common code CCEO, according to the first of the ten guidelines for the revision of the Eastern code.¹⁷

¹⁵ THOMAS SPIDLİK, "Monachesimo orientale," in *Dizionario enciclopedico di spiritualità*, Rome: Città Nuova, 1975, reprint 1992, II, pp. 1648-1653: "i monaci orientali e il lavoro apostolico," p. 1652.

¹⁶ BASIL, *Regulae fusius tractatae*, quaest. 15, PG 31: 952; St. Basil, *Ascetical Works*, trans., Monica Wagner (Fathers of the Church), The Catholic University of America Press, 1950, 3rd impr. 1970, "The Long Rules," Rule 15, p. 267.

¹⁷ *Nuntia* 3/ 1976, pp. 3-18). For a commentary on these guidelines, see Sunny Kokkarava-

II. APOSTOLATE OF RELIGIOUS IN CCEO

Whereas CIC has eleven canons under the heading *De apostolatu institutorum* (cann. 673 – 683), CCEO has no parallel section and says almost nothing about the apostolate of monks and the other religious. This is not an oversight but a consequence of the idealization of monasticism as *fuga mundi*. In several Eastern Catholic Churches there are religious orders and congregations and few or no monasteries. Although there has been a revival of monasticism in some ex-communist countries like Ukraine after the fall of communism in 1989, the work of the codification of CCEO was completed by then. Study Group v drafted canons for a situation in which, as Minisci wrote, “la vita monastica tradizionale è scomparsa nella maggior parte di quelle Chiese, avendo gli antichi istituti religiosi optato per un ordinamento *ad instar* degli Ordini latini.”¹⁸ CCEO, however, gives practically no norms concerning the apostolate of these religious orders and congregations and even prescribes for them monastic formation. Since the Second Vatican Council expressed positive appreciation of the apostolate of religious both of the Western and of the Eastern Churches, the norms codified in CIC regarding their apostolate could have been received in CCEO as well without incurring the reproach of latinization. For the Churches do not differ in the matter of apostolate as they do instead in the matter of rites. Apostolate is essentially the exercise of organized charity, and charity knows no differences or boundaries between the East and the West.

With its lacuna as regards the apostolate of religious CCEO is not faithful to the council in contrast to CIC. It is important to correct this defect. In many areas it is through their apostolate that the gospel is first announced and the Church comes alive. Moreover, the lacuna can cause serious harm even elsewhere where the Church is well established as has indeed happened in a well known case of open conflict between the local bishop and the religious of a congregation noted for various kinds of apostolate.

1. *Canons on the Apostolate of Religious*

There are eleven canons in CIC on the apostolate of the religious institutes (cann. 673-683), which have no counterpart in CCEO, except for cann, 678 § 1 and 681-683. This lacuna of CCEO cannot be justified by appealing to the principle of subsidiarity and by arguing that particular law can fill the void. Instead, the apostolate of religious is a matter that is common to all the

layil, *The Guidelines for the Revision of the Eastern Code: Their impact on CCEO*, Kanonika 15, Rome: Pontificio Istituto Orientale, 2010; on the first guideline see pp. 95-138.

¹⁸ *Nuntia*, 4/1977, 4.

Eastern Catholic Churches. Sometimes it is exercised by Eastern religious in Latin dioceses or in an interecclesial context, for which provision must be made in a common code by the supreme authority of the Church. The apostolate of religious is to be duly coordinated by the competent authorities, namely the diocesan bishop and the concerned religious superior. It is lack of clear norms in this matter in CCEO, comparable to those in CIC, that has given rise to strained mutual relations between the local bishop and a religious institute mentioned earlier.

There are also certain other flaws in the legislation of CCEO on the religious life. For example, whereas can. 658, 1^o of CIC prescribes the minimum age of twenty-one years for valid perpetual profession, CCEO has no such *clear* provision about age, although 21 years can be *calculated* putting together 517 §1; 523 §1; 526 §2. Whereas CCEO c. 527 mentions four conditions for valid perpetual profession, age is not included among them; it needs to be calculated. The parallel canon CIC 658 mentions expressly the requirement of the minimum age, while CCEO omits it as it does also in can 526 for temporary profession. The “pastoral” nature of the code would require greater clarity and demand less strain on those who are poorly gifted in mathematics.

2. Formation and Perpetual Profession of Religious

In the matter of the formation in orders and congregations CCEO can. 536 § 1 prescribes the same norm as prescribed for formation in monasteries in can. 471 § 1. Since the formation or training in the “arts and works” which monasteries may “legitimately undertake” have to be within the framework of “*fuga mundi*,” this cannot be a helpful norm for the manifold apostolate of other religious. There are no specific norms in CCEO regarding the formation of religious who are not monks. Some of these norms may be suitable for monks but not for other religious. For example, between the first (temporary) profession and the final (perpetual) profession in orders and congregations CCEO can. 526 § 2 allows a maximum time span of six years (“*numquam ad tempus quod ... sexennio longius est*”). This is all right for monks but is not suitable for religious in orders and congregations which are constitutionally oriented toward various kinds of apostolate, some of which require long periods of training. In fact there have been a high number of recourses to the Congregation for the Eastern Churches for dispensation from this six-year time limit. These recourses furnish practical proof that the provision of the Eastern Code in this matter is defective. Its basic error is to have made monasticism the “*analogatum princeps*” of religious life.

Religious institutes especially of women which undertake manifold works of charity and social service today have to form their temporarily professed

junior Sisters in various specialized areas of apostolate. These are needed for evangelization in certain regions where Christianity is not otherwise welcome and indeed is often rejected and persecuted. In this matter there is no difference between Latins and Orientals. While the Sisters often get their professional training in the same specialized institutions, the Latin Sisters are allowed enough time for their formation by the CIC can. 657 § 2 up to a maximum of nine years: “iuxta ius proprium, prorogari potest, ita tamen ut totum tempus, quo sodalis votis temporariis adstringitur, non superet novennium.” Thus the Latin religious can attend to their professional training and religious training across nine years before their final (perpetual) profession. The Orientals, however, are constrained by a six year deadline set by CCEO can. 526 § 2: “complexive numquam ad tempus, quod triennio brevis vel sexennio longius est, extendatur.” This restriction appears strange especially since no restriction is set by CCEO on the time span before perpetual profession in monasteries.

Regrettably, CCEO does not allow Oriental religious dedicated to apostolic life sufficient time to devote themselves to professional formation. The law forces them to interrupt their training or rush through it in order to make their perpetual profession within the deadline of six years of temporary profession (can 526 § 2). In order to evade this sword of Damacles the final (perpetual) profession is sometimes done in haste with little or no preparation during the vacation. Alternatively, recourse is made to the Congregation for the Oriental Churches for dispensation. The high number of these recourses is evidence that the law is badly made. At first the Oriental Congregation used to ask that recourse be made to it in each individual case for dispensation. Many recourses were made. Certain Superiors General seem to have got tired of making recourses and resorted to evasive measures. Not seldom this affected negatively the genuine religious formation of the candidates when the preparation for perpetual profession had to be rushed through. The Congregation for the Oriental Churches, too, seems to have got tired of handling these numerous recourses: in response to a recent recourse, the Congregation authorised the Superior General to grant herself the dispensation to the concerned religious. Surely, a law requiring frequent recourses or dispensations is a bad law and is in need of revision.

III. DRAFT FOR THE REVISION OF CCEO TITLE XII (SCHEMA RECOGNITIONIS TITULI XII CCEO)

For a partial revision of CCEO Titulus XII *De monachis ceterisque religiosis et de sodalibus aliorum institutorum vitae consecratae*, I am submitting the following tentative schema taking care not to disturb the present number and order of the canons of CCEO. Since the schema has borrowed canons from CIC,

a preliminary word of explanation may be necessary lest my proposal seem to be blatant latinization.

Indeed, CCEO itself has borrowed much from CIC without, however, citing it as a source. An example is CIC can. 394 § 1 on the authority of the bishop to regulate and coordinate all apostolate in his diocese. This norm has been taken over with minimal redactional changes in CCEO can. 203 § 1 but without mentioning CIC. This is, however, not occult latinization nor unfair borrowing or plagiarism since the two canons are based on a common source, namely, Vatican II, *Christus Dominus*, 17. The canons, however, are not textual citations of the conciliar text but have been formulated in juridical language with some redactional changes. For most of these changes, too, CCEO is indebted to CIC as a close look at the two texts will bear out. *Christus Dominus* 17 placed all apostolate in the diocese under the “moderamen” (direction, hence authority) of the bishop (first step). The Latin code formulated this conciliar norm as can. 394 § 1 (second step), Later CCEO can. 203 § 1 borrowed this CIC text with minor redactional variations (third step). It is easy to see that the third step was reached by passing through the second step. The same methodology is followed in the revision of the canons proposed below on the apostolate and the formation of religious in CCEO title XII.

I shall first give the text needing revision (*textus vigens*), then propose a revised text (*textus emendatus*) and give eventual explanation (*annotation*). Since the scope of this work is practical, namely, the revision of the canons of CCEO title XII, I shall use Latin for the sake of brevity both in citing the texts and proposing amendments. Those who want translations of the canons can readily find them in their language of preference, English, Italian, French, etc.

A. Religious Profession

1. *Textus vigens*

Can 526 § 2. Haec professio ad normam statutorum pluries renovari potest, ita tamen, ut complexive numquam ad tempus, quod triennio brevis vel sexennio longius est, extendatur

Textus emendatus

Can 526 § 2. Haec professio ad normam statutorum pluries renovari potest, ita tamen, ut complexive numquam ad tempus, quod triennio brevis vel **novennio** longius est, extendatur.

Annotation

According to the desire of several Superiors General, it is proposed that in CCEO can 526 § 2 the maximum span of six-year-period between the temporary profession and the perpetual profession be replaced by a nine-year period, as in CIC can. 655 for the reasons expounded above.

2. Textus vigens

Can 529 § 6. Emissa professione temporaria, ipso iure vacant quaelibet professi officia.

Textus emendatus

This norm of can 529 § 6 seems to be too peremptory, totalitarian and unnecessary. There is no need, for example, that a novice who has care of the garden or of the sacristy should be deprived of that office *ipso iure* on making temporary profession. The corresponding CIC can. 660 § 2 is more reasonable and satisfactory; hence it is proposed as a substitute in can. 536 § 2 (see below).

3. Textus vigens

Can 532 – Ad validitatem professionis perpetuae praeter requisita, de quibus in can. 464, requiritur, ut praecesserit professio temporaria ad normam can. 526.

Textus emendatus

Can 532 – Ad validitatem professionis perpetuae praeter requisita, de quibus in can. 464, requiritur, ut praecesserit professio temporaria ad normam can. 526 **et candidatus vigesimum primum aetatis annum compleverit.**

Annotation

CCEO prescribes no minimum age for profession, whether temporary or perpetual, whether for monks or for other religious, nor does it require that a minimum age be prescribed in the typicon or the statutes. This is a lacuna that can lead to abuse or problems, as pointed out earlier. The *textus emendatus* fills this lacuna by borrowing CIC can. 658, 1, which prescribes the minimum age of twenty-one years for perpetual profession. Perhaps CIC can. 656, 1°, which prescribes the minimum age of eighteen for temporary profession, can also be borrowed and inserted in CCEO can. 527 in the first place: qui eam emissurus est, decimum saltem octavum aetatis annum compleverit

B. Religious Formation and Apostolate

Since Titulus XII of CCEO lacks adequate norms corresponding to “De apostolatu institutorum” in CIC, I am proposing to borrow CIC cann. 673-683 with necessary adaptations. They can be inserted in can. 542, which is oriented to apostolate (“ad consulendum necessitatibus christifidelium”) and can. 543, which speaks of a religious priest who is involved in apostolate as “parochus.”

Textus vigens

5° De institutione sodalium et de disciplina religiosa
in ordinibus et congregationibus

Textus emendatus

5° De institutione sodalium, **de apostolatu,**
et de disciplina religiosa in ordinibus et congregationibus

1. *Textus vigens*

Can. 536 § 1. Modus institutionis sodalium servato can. 471, § 1 determinatur in statutis.

Textus emendatus

Can. 536 § 1. Modus institutionis sodalium determinatur in statutis, **firmis normis quae sequuntur.**

Annotation

For the formation of religious who are members of orders and congregations CCEO can. 536 § 1 prescribes the same formation legislated for monks in can. 471 § 1. This is strange, indeed! It looks like an attempt to turn all religious into monks, which is misplaced legislative zeal. The specific form of religious life, which differentiated itself in the West in the second millennium from the earlier monastic life, which was both common to the East and the West, was no aberration but a charismatic response to the needs and signs of the times, approved and promoted by the supreme authority of the Church, as in the case of the Society of Jesus, and by bishops in the case of religious congregations which adopted the new form. Its later reception in the Catholic East is not to be condemned as a Western imposition or illegitimate latinization. In any case both the forms have been approved by the Second Vatican Council (LG 46, PC 9). CCEO can. 536 § 1 can be read as

a subtle attempt to turn all religious into monks. The time has come for a corrective legislation.

I propose that the present can. 536 § 1 be modified as suggested in the revised text and be completed with the norms given in CIC cann. 659-661 for the formation of non-monastic religious, which are indicated below with slight modifications or appropriate adaptations.

2. *Textus vigens*

(Nil)

Textus propositus

(Can 536) § 2. Perdurante tempore institutionis sodalibus officia vel opera ne committantur, quae eam impediunt.

§ 3. Post professionem **temporariam** sodalium institutio perficiatur ad vitam instituti propriam plenius ducendam et ad eius missionem aptius prosequendam secundum rationem in statutis definitam, attentis quidem Ecclesiae **doctrina et normis necnon** necessitatibus atque hominum temporumque condicionibus ac **culturae indole**, prout ipsius instituti fine et indole exigitur.

§ 4. Institutio sit systematica, captui sodalium accommodata, spiritualis et apostolica, doctrinalis simul ac practica, tandem apta etiam ad titulos congruentes, tam ecclesiasticos quam civiles pro opportunitate **obtinendos**.

§ 5. Per totam vitam religiosi formationem suam **continuum** sedulo prosequantur; Superiores autem eis adiumentum et tempus ad hoc procurent.

§ 6. Institutio sodalium, qui ad ordines sacros destinantur... [*uti stat in CCEO can 536 § 2*].

Annotations

1. In § 2 the text given is CCEO can. 529 § 6 amended following CIC can. 660 § 2, which is less peremptory and avoids unnecessary severity.

2. In § 3 are combined CIC can. 659 §§ 1 and 2, which avoid unnecessary repetitions but make slight adaptations (e.g., instead of “post primam professionem” we use “post professionem temporariam”). The addition of **doctrina et normis necnon** draws attention to the post-conciliar documents of the Church regarding the renewal of religious life, while the addition of “et mundi” is a stress suggested by *Gaudium et spes* of the Vatican Council. Moreover, the need for inculturation in formation is stressed in keeping with the spirit of CCEO, which has to be attentive to ecclesial and cultural pluralism.

In § 4 it is laid down that the formation should aim at the highest standards, but law need not prescribe prior obtaining of ecclesiastical or civil degrees, as in CIC can 660 § 1 (“obtentis”).

In § 5 it is stated that what is meant is permanent or continuous formation, for which it is not necessary to require “the doctrinal and practical formation” to the bitter end, “per totam vitam” (CIC can. 660 § 2), a wording which would affect even retired and aged religious past eighty or ninety years until the moment of death! Law should refrain from imposing the impossible. While omitting “doctrinalem et practicam,” we still retain “per totam vitam” inasmuch as one must learn even the way to spend one’s last days and face one’s death.

Textus vigens

Can. 542 – Curent Superiores, ut sodales a se designati, ... praestent.

Textus emendatus

Can. 542 § 1. Omnium religiosorum apostolatus primum in eorum vitae consecratae testimonio consistit, quod oratione et paenitentia fovere tenentur.

Annotation

CIC can. 673 is a doctrinal canon with normative implications. It is properly a leading canon and is logically placed at the head of the canons on the apostolate of religious in CCEO, in which the present canon 542 will find its logical place below. There is no change in the text of CIC can. 673, but it needs to be inserted in CCEO can. 542 as § 1, followed in due course by the remaining canons on the apostolate in CIC as well as by the present CCEO can. 542.

§ 2. Instituta, quae integre ad contemplationem ordinantur, in Corpore Christi mystico praeclaram semper partem obtinent: Deo enim eximum laudis sacrificium offerunt, populum Dei uberrimis santitatis fructibus colustrant eumque exemplo movent necnon arcana fecunditate apostolica dilatant. Qua de causa, quantumvis actuosa apostolatus urgeat necessitas, sodales horum institutorum advocari nequeunt ut in variis ministeriis pastoralibus operam adiutricem praestent. [uti stat in CIC can. 674]

§ 3. Curent Superiores, ut sodales a se designati praesertim in eparchia, in qua degunt, si ab Hierarcha loci vel parrocho eorum auxilium requiritur ad consulendum necessitatibus christifidelium, illud intra et extra proprias ecclesias, salvis instituti indole et disciplina religiosa ad normam § 2, libenter praestent.

Annotation

The text of this § 3 is the same as CCEO can. 542, but it is inserted here in the proper context with a reference “ad normam § 2,” thus drawing attention to the preceding clause “salvis instituti indole et disciplina religiosa,” and mak-

ing its meaning clearer as a safeguard of the contemplative religious, whose lifestyle is sometimes invaded by needy or overzealous parish priests who may not be attentive to the specific charism of the contemplative religious.

Textus vigens

Nil

Textus emendatus

Can. 543 § 1. In institutis operibus apostolatus deditis:

1° apostolica actio ad ipsum eorundem naturam pertinent. Proinde, tota vita sodalium spiritu apostolico imbuatur, tota vero actio apostolica spiritu religioso informetur.

2° Actio apostolica ex intima cum Deo unione semper procedat eandemque confirmet et foveat.

3° Actio apostolica, nomine et mandato Ecclesiae exercenda, in eius comunione peragatur.

Annotation

The text is the same as CIC can. 675. Its three paragraphs are inserted here as three numbers of § 1, whereas the present CCEO can. 543 will be placed below in the proper context.

§ 2. Instituta, quae non sunt clericalia, per **caritatis et** misericordiae opera spiritualia et corporalia munus pastorale Ecclesiae participant hominibusque diversissima praestant servitia; quare in suae vocationis gratia fideliter permaneant.

Annotation

The text is the same as CIC can. 676, but the qualification “laicalia” is avoided in order to be consistent with the vocabulary of CCEO, which in keeping with threefold division of persons in the Eastern canonical tradition does not regard non-clerical religious as laypeople. Further, charity, the supreme virtue of apostolate, is expressly mentioned, paying an implicit tribute to the inestimable service rendered by so many Congregations of Charity, like the Missionaries of Charity founded by Bl. Mother Teresa, which has several counterparts and even precedents in the Oriental Churches.

§ 3. - 1° Superiores et sodales missionem et opera instituti propria fideliter retineant; ea tamen, attentis temporum et locorum necessitatibus, prudenter accommodent, novis etiam et opportunis mediis adhibitis.

2.° Instituta autem, si quas habeant associationes christifidelium sibi coniunctas, speciali cura adiuvent, ut genuino spiritu suae familiae imbuantur.

Annotation

This is can. 677 of CIC, taken over textually, changing only the two paragraphs as two numbers of § 3.

§ 4. –1° Religiosi subsunt potestati Episcoporum, quos devoto obsequio ac reverentia proseguunt tenentur, in iis quae curam animarum, exercitium publicum cultus divini et alia apostolatus opera respiciunt.

2° In apostolatu externo religiosi propriis quoque Superioribus subsunt et disciplinae instituti fideles permanere debent; quam obligationem ipsi Episcopi, si casus ferat, urgere ne omittant.

3° In operibus apostolatus religiosorum ordinandis Episcopi eparchiales et Superiores religiosi collatis consiliis procedant oportet.

4° Sodalitas ordinis vel congregationis, qui parochus est, manet votis ligatus atque ceteris suae professionis obligationibus necnon statutis adhuc tenetur, quatenus horum observantia cum sui officii obligationibus consistere potest; ad disciplinam religiosam quod attinet, subest Superiori, in eis vero, quae ad officium parochi spectant, eadem iura et obligationes habet ac ceteri parochi eodemque modo Episcopo eparchiali subset.

Annotation

The text of § 4, 1°-3° is the same as can. 678 of CIC, taken over textually, changing only “Episcopi dioecesani” into “Episcopi eparchiales” and the three paragraphs (§§ 1-3) into three numbers (1°-3°) of § 4. CCEO can. 543 has been inserted here as 4°, where it seems to fit well logically.

§ 5. **Episcopus eparchialis**, urgente gravissima causa, sodali instituti religiosi prohibere potest quominus in dioecesi commoretur, si eius Superior maior monitus prospicere neglexerit, re tamen ad **auctoritatem sibi immediate superiorem** statim delata.

Annotation

The text of this § 5 is the same as that of CIC can. 679, except for two changes. The first is merely terminological adaptation of “episcopus dioecesanus” as “episcopus eparchialis.” The second modification is based on the fact that, whereas in the Latin Church the Holy See is the immediate superior authority of diocesan bishops, in the East eparchial bishops of Patriarchal and Major Archiepiscopal Churches have the Patriarch and the Major Archbishop as their immediate superior respectively, while these in turn have the Roman Apostolic See as their immediate superior authority.

§ 6. Inter varia instituta, et etiam inter eadem et clerum saecularem, ordinata foveatur cooperatio necnon, sub moderamine Episcopi dioecesani,

omnium operum et actionum apostolicarum coordinatio, salvis indole, fine singulorum institutorum et legibus foundationis.

§ 7 - 1° Opera quae ab Episcopo eparchiali committuntur religiosis, eiusdem Episcopi auctoritati et directioni subsunt, firmo iure Superiorum religiosorum ad normam § 4 - 2° et 3°.

2° In his casibus ineatur conventio scripta inter Episcopum eparchialem et competentem instituti Superiorem, qua, inter alia, expresse et accurate definiantur quae ad opus explendum, ad sodales eidem addicendos et ad res oeconomicas spectent.

§ 8 - 1° Si de officio ecclesiastico in eparchia alicui sodali religioso conferendo agatur, ab Episcopo eparchiali religiosus nominatur, praesentante vel saltem assentiente competenti Superiore.

2° Religiosus ab officio commisso amoveri potest ad nutum sive auctoritatis committentis, monito Superiore religioso, sive Superioris, monito committente, non requisito alterius consensu.

§ 9 - 1° Ecclesias et oratoria, quibus christifideles habitualiter accedunt, scholas aliaque opera religionis vel caritatis sive spiritualis sive temporalis religionis commissa, Episcopus eparchialis visitare potest, sive per se sive per alium, tempore visitationis pastoralis et etiam in casu necessitatis; non vero scholas, quae exclusive pateant propriis instituti alumnis.

2° Quod si forte abusus deprehenderit, frustra Superiore religioso monito, propria auctoritate ipse per se providere potest.

Annotation

Can. 543 §§ 6-9 is the same as CIC cann. 681-683 with “episcopus dioecesanus” changed into “episcopus eparchialis.” These norms dealing with ecclesiastical offices and works of apostolate are ampler than CCEO cann. 542 and 543, which deal only with parish ministry making the religious depend for their apostolate on the initiative of the local hierarch or parish priest. But modern forms of apostolate are ampler and multifarious, like the press, mass media, social work, prison ministry, counselling, etc., which are often undertaken by the initiative of the religious themselves, whereas the secular clergy is employed chiefly in parish work. The lacuna in CCEO cannot be justified by saying that the matter is already regulated by documents like *Mutuae relationes* and *Perfectae caritatis*, which are sources common to CIC and CCEO.

CONCLUSION

The Second Vatican Council recalls, “from the beginning the Churches of the East have had a treasury from which the Western Church has drawn extensively—in liturgical matters, in spiritual tradition, and in canon law” (UR 14). Ecclesial reception belongs with the *communio sanctorum* (commu-

nion of saints/of holy things). Historically, both the East and the West have shared many good things in ecclesial communion. The Western sharing, however, was at times forced upon the East on the supposition that what was Roman or Western was superior, standard or normative; and this forcible imposition came to be called latinization in a pejorative sense. It would be an equally unfair Eastern retort to exalt the Eastern tradition of monasticism at the expense of Eastern religious orders and congregations of Western origin or inspiration.

Corresponding to “the two lungs of the Church,” the Eastern and the Western, the Catholic Church has two postconciliar common codes of canon law: the *Codex Iuris Canonici* (CIC), the code of the Latin Church, and the *Codex Canonum Ecclesiarum Orientalium* (CCEO), the common law of the twenty-two Eastern Catholic Churches. These codes, too, come under the purview of *communio sanctorum*. Just as the Latin code has been found to be in need of revision in penal law, so also the Eastern code needs revision in the law on religious. And in this process of revision they may draw on each other. Pope John Paul II, with his known poetic flurry, liked to call these two codes the two concluding documents of the Second Vatican Council. It is appropriate then that a revision of penal law in CIC Book VI is accompanied by a parallel revision of the law on religious in CCEO title XII. This can help deflect media attention all too prone to focus on the penalties foreseen for clerical sexual scandal. Such a revision of both the codes can be a fitting way of celebrating the fiftieth anniversary of the Second Vatican Council, true to the axiom *Ecclesia semper reformanda*.