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*Twenty-five Years of Codex Canonum Ecclesiarum Orientalium:
A Juridical Safeguard and Bulwark for the Oriental Catholic Family,*
Rev.mo P. MICHAEL KUCHERA, SJ
Professore presso il Pontificio Istituto Orientale

COMUNICAZIONE

SUMMARY: 1. Premise; 2. «Ecclesia sui iuris»; 3. The Respect for the Individual; 4. CCEO, a Bulwark and Safeguard for the Oriental Catholic Family; 5. Conclusion.

1. Premise

Your Eminences

Most Reverend Archbishops and Bishops

Reverend Archimandrites, Monsignors and Fathers

Ambassadors

All Brothers and Sisters in Christ,

In this brief presentation to celebrate twenty-five years of *Codex Canonum Ecclesiarum Orientalium* and to touch on the theme of the family in the upcoming synod of bishops, it is helpful to recall a few words of St. John Paul II in his presentation of the Oriental Code twenty-five years ago on 18 October 1990. He said the following in *Sacri canones*, in an ecumenical context, not only regarding the harmonization of the two Catholic Codes, but specifically the need for legislative developments confronting actual problems in light of ecumenical concerns.

With regard to the whole question of the ecumenical movement, which has been set in motion by the Holy Spirit for the realization of the perfect unity of the entire Church of Christ, the new Code is not an obstacle, but rather a great help. Indeed, this Code protects that fundamental right of the human person, namely, of professing the faith in whatever their rite, drawn frequently from their very mother's womb, which is the rule of all "ecumenism". Nor should we neglect that the

Eastern Catholic Churches, discharging the tranquillity of order desired by the Second Vatican Council, “are to flourish and fulfil their role entrusted to them with a new apostolic vigor” (Decr. *Orientalium Ecclesiarum*, n. 1). Thus it happens that the canons of the *Code of Canons of the Eastern Churches* must have the same firmness as the laws of the *Code of Canon Law* of the Latin Church, that is, that they remain in force until abrogated or changed by the supreme authority of the Church for just reasons. The most serious of those reasons is the full communion of all the Eastern Churches with the Catholic Church, in addition to being most in accord with the desire of our Savior Jesus Christ himself.¹

In this context, looking back at the last twenty-five years of the Oriental Code and pointing forward to the impending synod of bishops, it seems helpful to briefly reflect on three preeminent themes in the Eastern Code. First, the respect for the disciplinary patrimony of an “*Ecclesia sui iuris*”; second, the respect for the individual and third, how consequently the Oriental Code is a safeguard and bulwark for the Oriental Catholic family.

2. «*Ecclesia sui iuris*»

CCEO Can. 27 presents the notion of an “*Ecclesia sui iuris*”. It states: «A community of the Christian faithful, which is joined together by a hierarchy according to the norm of law and which is expressly or tacitly recognized as *sui iuris* by the supreme authority of the Church, is called in this Code a Church *sui iuris*». The term *sui iuris* already appeared in the 1952 *motu proprio Postquam Apostolicis Litteris* (Can. 303 §1. 1°) and was revisited in light of the Vatican II constitution *Lumen gentium* (23 “*Cura*”), the decree *Orientalium Ecclesiarum* (2-3) and the decree *Unitatis redintegratio* (15, “*Ditissimum*” 17). This laborious task is well documented by Ivan Žužek, principally in *Nuntia* 22 (1986). One of the main contributors in the discussion from the beginning until his most recent 2015 reflection and publication on the term *sui iuris* is George Nedungatt.²

Since Father Nedungatt, as one of the crafters of the Oriental Code, cannot be present with us today, may I take this opportunity to offer a rather lengthy quote from his mature and most recent critique of the term *sui iuris*.

The term “*Ecclesia sui iuris*” is not quite a happy choice. Terminologically it does not fit into a three-tier ecclesiological structure to refer to the intermediate ecclesial reality between *Ecclesia universalis* and *Ecclesia singularis* (diocese or eparchy). The Eastern Catholic Churches represent that intermediate ecclesial reality, for which *Ecclesia particularis* would be the proper designation. In fact it was this term which was used by the conciliar decree on the Eastern Churches (OE 2-3) and it fitted in well with ecclesiology. The newly coined term *Ecclesia sui iuris* is a purely juridical term. It was adopted by PCCICOR (*Pontificia Commissio Codici Iuris Canonici Orientalis Recognoscendo*) “*pro bono pacis*” (as a compromise) as Father Ivan Žužek stated. (*Nuntia* 22 (1986) 23). Departing from the canonical tradition of using “*Ecclesia singularis*” to signify the diocese, CIC-83 uses “*Ecclesia particularis*” 29 times. CCEO uses it only once, in the definition of *eparchia* in can. 177 §1, a canon

¹ *Code of Canons of the Eastern Churches*, Bangalore, 1995, XXII-XXIII.

² G. NEDUNGATT, *Renewal of Life and Law, An Indian Contribution*, Bengaluru, 2015, 60-64.

that corresponds to CIC can. 369, which defines the diocese using the conciliar text *Christus Dominus*. It is the legacy of LEF (*Lex Ecclesiae Fundamentalis*). In its preponderant use of “*ecclesia particularis*” for the diocese following the council CIC-83 deviated from the canonical precedent set by its predecessor CIC-17, which had used “*ecclesia singularis*.” However, “*ecclesia singularis*” had never come into general use. It remained almost a dead letter. The word “Church” was used generally for the whole Catholic Church or more narrowly for its hierarchy. After Vatican I Roman Catholic ecclesiology had become so centered on the pope and his primacy as to stifle the emergence of any ecclesiology that was not universal. According to a Vatican directive issued to the professors of the Pontifical Oriental Institute before the Second Vatican Council, the Orthodox Churches were not to be qualified as “Churches” at all. The Orthodox at best could be called “separated brethren,” but the expression “Orthodox Churches” had to be avoided. As regards the Eastern Catholic Churches, they were qualified as “rites” mostly with reference to their liturgical specifics. (George Nedungatt, “Churches *sui iuris* and Rites,” *Guide*, pp. 99-128, see pp. 102-110) The Latin Church had in effect become the Church without qualification. Such was the pre-conciliar Catholic mindset as a whole. The council effected a veritable ecclesiological revolution – a Copernican revolution! – by speaking of particular Churches. CCEO transposed the term particular Church used by the council in OE 2-3 into *Ecclesia sui iuris*, which is defined in can. 27 (above). ...

This is a purely juridical definition of a neologism *ecclesia sui iuris*, which does not fit into ecclesiology unlike the term *Ecclesia particularis*. (George Nedungatt, “La giurisdizione delle chiese particolari”, *Unitas* 31 (1976) 180-198.) Indeed I held on to “*Ecclesia particularis*” as long as I could in the *Coetus IV (de Clericis et de Magisterio Ecclesiastico)* until I was forced to surrender. My chief objection against “*Ecclesia sui iuris*” was that not being an ecclesiological term it could not be made to fit into a theology of law (*Rechtstheologie / theologie du droit*), the construction of which was entrusted to canonists by Pope Paul VI.³

Naturally, in the end it was the wisdom of Father Žužek, “*pro bono pacis*” which held sway.

In general, it is the post Vatican II canonization of the term “*Ecclesia sui iuris*” which enables the Eastern Catholic Churches to secure in a juridical way their own various disciplinary patrimony. Without any doubt it is the various disciplinary patrimony of each “*Ecclesia sui iuris*” which has at its core the respect of every person.

3. The Respect for the Individual

Here also I would like to pay tribute to another Jesuit priest who was a driving force behind *Codex Canonum Ecclesiarum Orientalium*. Father Ivan Žužek was nominated by Paul VI as Pro-Secretary of the Pontifical Commission for the Revision of the Oriental Code of Canon Law (1972-1977) and he was reconfirmed as Secretary by John Paul I and John Paul II (1978-1990). During this time he was also responsible for the publication of the thirty-one volumes of *Nuntia* (1973-1990), the official records of the meetings which produced the Oriental Code and which until today are the main means to interpret the canons of the Oriental

³ NEDUNGATT, *Renewal*, 60-62.

Code. St. John Paul II also nominated Father Žužek as Undersecretary of the Pontifical Council for the Interpretation of Legislative Texts (1991-1995). Please allow his clear and concise words, in the original Italian, from an academic discourse in 1998 to make my second point concerning the respect for the individual.

Nello studio dei Codici si tenga presente che anche il più breve canone, sia pure di tre sole parole (CCEO can. 1488: *Leges instituuntur promulgatione*), fu elaborato tenendo continuamente lo sguardo fisso alla persona umana che ha un Padre nei cieli, che è stata da Lui pensata sin dall'eternità, creata da Lui a sua immagine e somiglianza, la sola creatura in questa terra che Dio abbia voluto per se stessa (GS 24).

Da ogni articolo dei Codici si percepisce che la persona umana è rispettata in tutti i suoi diritti, in primo luogo quelli fondamentali; tra questi, il diritto di conservare la propria identità cristiana nella quale è nata e cresciuta, fino dalla prima preghiera imparata sulle ginocchia della madre.

In particolare, per quanto riguarda il CCEO, ne proviene, come nota caratteristica, il sacro rispetto per l'insondabile patrimonio rituale liturgico, teologico, spirituale e disciplinare di ogni Chiesa "sui iuris", e il rispetto per la "in unum conspirans varietas" di queste Chiese che "indivisae Ecclesiae catholicitatem luculenter demonstrat" (LG 23).

Vasto e vario è il patrimonio disciplinare delle Chiese orientali, cattoliche e ortodosse, non meno degno di essere oggetto di appassionata ricerca e studio di quello della Chiesa latina. Questo stupendo e immenso patrimonio, grazie a un concilio ecumenico e alla tenace volontà dei sommi pontefici, ha oggi la sua massima espressione nel "Codex Canonum Ecclesiarum Orientalium". Con la sua promulgazione, finalmente, fu pienamente attuata dal concilio Vaticano II la auspicata "aequalitas Ecclesiarum" in seno alla Chiesa cattolica universale.⁴

4. CCEO, a Bulwark and Safeguard for the Oriental Catholic Family

Benedict XV in his apostolic constitution *Providentissima Mater Ecclesia* (27 May 1917)⁵ noted at the onset that the Church in promulgating laws fulfills "the task of guiding and safeguarding the discipline of the clergy and the faithful". Likewise, St. John Paul II in his apostolic constitution *Sacrae Disciplinae Leges* (25 January 1983)⁶ noted that in promulgating the 1983 Code «its purpose is (rather) to create such an order in the ecclesial society that, while assigning the primacy to love, grace and charisms, it at the same time renders their organic development easier in the life of both the ecclesial society and the individual persons who belong to it». To create «an order in ecclesial society», in a word, safeguard. So

⁴ I. ŽUŽEK, "L'Intervento del Decano della Facoltà di Diritto Canonico Orientale", 15 ottobre 1998, not published.

⁵ AAS IX² (1917) 5-8.

⁶ AAS 75 Codex (1983) VII-XIV.

too, John Paul II in his apostolic constitution *Sacri canones* (18 October 1990)⁷ referring to *Lumen gentium* 13 stated in the context of collegiality and the role of the Roman Pontiff: «the successor of Saint Peter, who, presiding over the whole assembly of charity, safeguards legitimate diversity and, at the same time, keeps watch that individuality serves unity rather than harming it».

It is true and often lamented that Vatican II did not produce a single document on the family. However, Vatican II did often treat of the family in various documents and in a specific way, with respect to the responsibility of canon law and the family, it did this in its decree on the apostolate of the laity in *Apostolicam actuositatem* 2. The document on the laity echoes *Pacem in Terris* 15 which declared that human beings have the right to found a family and that “The family, founded upon marriage freely contracted, one and indissoluble, must be regarded as the natural, primary cell of human society” (16). Vatican II’s document on the laity states that what is contained in this document “should be regarded as norms in the revision of canon law as it pertains to the lay apostolate” (1), in turn it goes on to formulate this in the context of both the single and married states of life.

In the production of the Oriental Code this mandate of the council was carried out in its legislating, in its safeguarding, the Oriental Catholic family. Of the numerous canons which may be cited the most important ones are namely two: first concerning parents and the second, concerning ascription to a Church *sui iuris* which implicitly involves the rights of the individual. CCEO Can. 783 §1. n. 1 legislates that the Christian faithful are to be “instructed concerning the meaning of Christian marriage, the mutual obligations of parents to care, according to their abilities, for the physical, religious, moral social and cultural education of their children”. The second most important and well known canon concerning the family is CCEO Can. 29 §1. and §2. nn. 2° and 3°: (§1.) «A son or daughter who has not yet completed fourteen years of age is ascribed by virtue of baptism to the Church *sui iuris* to which his or her Catholic father is ascribed; or if only the mother is Catholic, or if both parents are of the same mind in requesting it, to the Church *sui iuris* of the mother, without prejudice to particular law enacted by the Apostolic See. (§2.) If, however, a person who has not yet completed fourteen years of age: (2°) is born of unknown parents, he or she is ascribed to the Church *sui iuris* to which belong those to whose care he or she has been legitimately entrusted; if, however, it is a case of an adoptive father and mother, §1 should be applied; (3°) is born of non-baptized parents, he or she is ascribed to the Church *sui iuris* to which belongs the one who has undertaken his or her education in the Catholic faith».

Can. 783 is in reality a canonization of *Gaudium et spes* (47 and 52) which states that «the well being of the person and of human and Christian society is intimately connected with the healthy state of the community of marriage and the family. ...» and that «The family is a school for a richer humanity. For it to find fulfillment in its life and mission, it needs openness and collaboration on the part of husband and wife and their committed

⁷ AAS 82 III (1990) 1033-1044.

cooperation in raising their children. ...». Can. 29 is a true bulwark to assure that every baptized person is ascribed to their appropriate Church *sui iuris* so as not to create a gradual depletion in favor of the Latin Church, which did not let parents choose an Eastern Church *sui iuris* for their children (CIC Can. 111 §1.). Naturally, with the insertion of a new §2. in CIC Can. 111, the “bulwark” is being reinforced. (§2. Si vero unus tantum ex parentibus est catholicus, Ecclesiae ad catholicus pertinet adscribitur).

5. Conclusion

Commemorating twenty-five years of *Codex Canonum Ecclesiarum Orientalium* it is possible to say that through this juridical instrument the patrimony of each Church *sui iuris* is assured, the respect for the individual is strengthened and the Oriental Catholic family finds a firm bulwark and safeguard. The Oriental Code is thus a juridical means to direct Catholics in their daily lives to be with God in all eternity. This was the desire and prayer of Father Žužek from the very beginning of his work in 1973: «Nel Codice infatti si deve trovare principalmente un complesso di leggi per dirigere i cattolici nella pratica della loro vita cristiana allo scopo di raggiungere il fine della stessa vita cristiana, cioè la vita soprannaturale e quindi la vita eterna».⁸

⁸ Nuntia I (1973) 26.