

INTRODUCTION

The only Christian law we have is the law of love – love of God and love of neighbour. Jesus said, “I give you a new commandment that you love one another” (Jn.13, 34). All other laws are supposed to be specifications of the law of love. They are meant to help us to love God and our neighbour better in specific situations. The 1546 canons of the *Code of Canons of the Oriental Churches* (CCEO) are meant to promote this law of love. It is also noteworthy that the new code of canons gives great importance to pastoral exigencies.

In confronting the Pharisees Jesus said, “The Sabbath was made for humankind, not humankind for the Sabbath” (Mk.2, 27). Here Jesus teaches that laws should be framed for the good of man. They are not meant to enslave people. It further implies that every law must be discussed in order to be more fully understood. Some laws are time-bound and culturally conditioned. If they are obsolete they should be changed and replaced with more useful laws. I remember my friend Fr. Augustine Joseph telling me about a recent movie called, *Provoked*. It is a true story about a Punjabi girl who marries a Punjabi boy settled in London. As their marriage progresses the girl suffers great violence from her husband. Unable to stand it any longer she one day sets her husband on fire as he sleeps. She is arrested by the police and convicted for the crime. A human rights organization in London takes up her case and appeals for a retrial. They prove to the judge that the girl had been so “provoked” for so long that she was no longer in control of her faculties when she committed the crime. The case called for a redefinition of the British law.

While speaking about laws, India presents an interesting challenge. India has all types of laws and a legal system as good as that of any other civilized nation in the world. Kautilya’s *Arthashastra* (4th century BC) is a world classic in the field of governmental laws and statecraft.

Holy Father Pope Benedict XVI has said, “Mankind is not ‘law less’. All the same, there is an urgent need to preserve and to

Salvific Law

encourage the legislation of individual states to converge towards a recognition of fundamental human rights. The growth of a global juridic culture depends, for that matter, on a constant commitment to strengthen the profound human content of ‘International norms.’”¹ In this context it is worth recalling the words of Jesus, “Do not think that I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfill them” (Mt.5, 17).

In a country like India it is a difficult task to explain the profundity and usefulness of laws. Observing laws help us to live peaceful and meaningful lives. Observing Church laws help us to walk in the path of salvation. This work is an attempt to examine the concept of law from a salvific viewpoint on the basis of the *Code of Canons of the Oriental Churches* (CCEO). When we consider this I would like to disagree to the view of Coriden, a famous canonist who said, “Canon law is not salvific; it is not a cause of grace; it is not a measure of Christian life or of good conscience; compliance with it is not specially pleasing to the Lord. We are saved by faith and love. Salvation is not gained nor the Lord’s favor won by obeying the law either civil or canon.”² Here Coriden opines that law as such does not impart any grace. However it is good to quote Prof. Salachas who said, “The Canon Law is law of grace, the firm and certain guide which leads and directs the faithful towards grace.”³ None can deny the salvific instrumentality of the laws of the Church. Since the Church is the sacrament of salvation its laws can be nothing else except true indicators to the mystery of salvation. Nowadays the law is often thought of as a rigid code designed to limit human freedom or at least human behaviour, however, this is not a proper understanding of law. According to the original Christian view, law has a more human and equitable meaning.

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1. BENEDICT XVI, “Message for the World Peace day 2008”
 2. CORIDEN, “Law in Service to the People of God”, 5.
 3. SALACHAS, *Il Regno*, 51

Chapter 1

THE SALVIFIC CHARACTER OF LAW: AN HISTORICAL OVERVIEW

1.0 Introduction

The Christian idea of God is that of infinite goodness and holiness. He is conceived as the Creator of all reality other than Himself. The origin of each and every existence is understood as by an act of creation by God. St. Ephraem of Nisibis wrote in one of his hymns, “It is You, who fashioned the dust at the beginning in Your mercy, and it is You who have conferred upon it Your gift in love. It is You, O Good One, who have created Adam, even though You knew that he would be ungrateful and go astray: You fashioned him nevertheless, so that You might make him victorious.”¹ God conceived all existence to have an intrinsic meaningfulness to be worthy of His love. The Christian concept of human existence, however, is that of a certain finite nature. Karl Rahner wrote, “Moreover there is in man, and consequently in the world, the mystery of sin and guilt, and consequently of evil and the absurd.”² Therefore, there is a certain incompatibility between the concept of the ultimate goodness of God the creator and the limitations of man, the crown of His creation. It leads us to a genuine concept of the salvific will of God. God, therefore, gave humanity the commandments so that it would go forward to its eternal destiny, salvation.

The first chapter attempts to examine the concept of law from a salvific point of view, first we consider the nature of salvation as propounded by the Catholic Church, and then analyse the

1. ST.EPHRAEM, *Nisibene Hymns*, 69, 1-2

2. RAHNER, “Salvation”, 405

Salvific Law

historical evolution of the concept of law and its salvific significance.

1.1 Salvation: Reality and Realisation

The idea of salvation according to Catholic theology is examined here. We will analyse the different terms used in the Bible and other contemporary sources to signify the concept of salvation. Then we take in to consideration the different theological significances of the idea of salvation. And finally we try to look at the realisation of salvation in human history.

1.1.1 The Concept of Salvation: A Terminological Analysis

The Hebrew word ישׁ (*yš*) is used through out the Old Testament to mean to save. The noun form of this verb is יְשׁוּעָה (*yešūā*), which means salvation or help. All together this noun form occurs 78 times in the Old Testament and the majority of the occurrences are in the Psalms. In many cases the term is designated to mean the assistance in war (Josh. 10,6; Jdg. 12,2; 1 Sam. 11,3; 2Sam. 10,11; 2Kg. 16,7; 1 Chron. 19,12).³ The term has also an important meaning in legal matters. Here it means that if one experiences injustice, one raises a cry for assistance, where upon those who hear it are obliged to render aid. The king is also an authority to whom one can address such a claim. The function of the king is seen chiefly in his responsibility to “help” his people (1Sam. 10,27; Hos. 13,10; Jdg. 8, 22; Jer. 23, 6).⁴ Thus the term *yešūā*, is used in the Old Testament with both military and juridical nuances. The verb *yešā* is particularly prominent in the Psalms, where men look both backwards to past and forward to future deliverance from enemies and trouble (Ps. 11, 1; 9, 9). Deliverance or salvation is the work of God, but its precise content varies according to context and circumstances.⁵ The Psalms use

3. See, STOLZ, “*yshi*”, 584-585.

4. See, STOLZ “*yshi*”, 585

5. See, BROWN, “*sozo*”, 205.

An Historical Overview

this term in the sense of profane legal usage. The cry for assistance can be seen in the following passages: Ps. 59,2; 71,1; 20,6; 22,21. The term also has the significance of preservation and redemption (Ps. 86,2; 106,10). The supplicant in distress awaits the answer and the saving intervention of Yahweh. God's assistance is available especially for the king, who is responsible for executing divine justice, and for the poor and suffering, who have particular need of it (Ps. 18, 28; 72,4; 109,31; Job. 5,15). One of the parallel expressions of this term is *mošia* and it clearly gives the notion of deliverance and salvation. And some assume that all the major judges were originally not called *šopet* but *mošia* (Jdg. 3,9). The function of "saving" was also attributed to the judges: Shamgar (Jdg.3,31), Gideon (Jdg 6, 14f), Samson (Jdg. 13, 5).⁶

The Qumran scrolls frequently refer to God's saving and helping hand working in the history of Israel.⁷ According to them God's saving action also figures in the personal life of the God's selected ones. These age-old hymns testify to the experiences enjoyed by the one who trusts in the help of God.⁸ In the rabbinic writings *yešûâ* means the helping intervention of God, which is more prominent than the saving work of men. The most frequent reference is to the bringing of Israel out of Egypt, which serves as a type of eschatological redemption.⁹

The Greek equivalent, which is employed to mean this idea of deliverance isn't σωτηρία (*soteria*). In LXX the verbal form of *soteria*, namely *sozo* is employed to translate no less than 15 different Hebrew verbs; but the most important is *ysa*, which is used to mean to deliver and to save. The noun form *soteria*, is common especially in the historical books such as Job, the Psalms,

6. See, STOLZ, "yshi", 585-586.

7. 1QM 4, 13; 10, 4f., quoted in BROWN, "sozo", 210.

8. See, BROWN, "sozo", 210.

9. See, SB II 139, 141 quoted in BROWN, "sozo", 211.

Salvific Law

and Isaiah.¹⁰ This term has the following twofold significance in the LXX:

1. Deliverance which comes about through men: In some cases it may not have any particular theological significance - 1 Sam. 23, 5; Gen. 47,25; Jos. 6, 25. In some other cases it may be the relief of a besieged city - 1 Sam. 11, 3 or the help in a battle - Jdg. 12, 2f. 13, 5. Here it is noteworthy that the intervention of human agency does not necessarily exclude Yahweh's ultimate agency. Sometimes men are found powerless to save - Jer. 14, 9; Hos. 13, 10. Again the term is used in the judicial and governmental contexts of Israel to mean that the judges, nazirites and especially the kings had the task of delivering Israel - Jdg. 8, 22; 13, 5; 2 Sam. 3, 18; 14, 4; 2 Kg. 6, 26; Hos. 13,10. The king was considered not only as a deliverer of the nation but the deliverer of the poor, needy and oppressed within the nation (Ps. 72, 4. 13). But at the same time, the Old Testament gives repeated and sharp reminders about the human limitations in the mission of deliverance (Jdg. 7,2).

2. While Yahweh employs human agents, the pious Israelite was aware of the fact that the true deliverance comes ultimately from Yahweh himself. In Ps. 73, 12 *soteria* denotes the victory over the powers of chaos at the creation, but it can also denote victory over historical enemies (Ps. 59, 11).¹¹

By the time of the New Testament the messianic movement in Judaism was much associated with the scribes. Thus Jewish law was considered as a means of salvation.¹² In the New Testament the words *sozo* and *soteria* are used very often with a religious meaning. The verb *sozo* is found in the New Testament 106 times and the compound verb *diasozo* 8 times; where as the noun *soteria* occurs 45 times.¹³ According to some authors "the whole new

10. See, BROWN, "sozo", 206

11. See, BROWN, "sozo", 206-207

12. See, SCHNACKENBURG, *God's Rule and Kingdom*, 45f.

13. See, BROWN, "sozo", 211.

An Historical Overview

covenant is summed up in the announcement of the angel to the Virgin Mary: You shall give birth to a child and you shall call his name Jesus, that is, Yahweh saves.”¹⁴ Jesus is a form of Joshua, but whereas Joshua was God’s agent in saving ancient Israel from his enemies, Jesus is the saviour from sin.¹⁵ Mt. 1, 21 refers to the name of Jesus and says: “because he will save his people from their sins.” The terms *sozo* and *soteria* are also employed to mean the deliverance from sins (Mt. 1,21; Lk. 1,68.69.71.77) and from “the wrath to come” (Rom.5,9; 1Cor. 3,15). They are also used to mean the salvation of the souls (Mk.8,35; 1Pt. 1,9). Sometimes the term signifies the salvation which is actual (Lk. 19,8; Acts.2,47; 2 Cor. 6,2).¹⁶ The salvation has become a present fact through the actions of Jesus, which bring forgiveness of sins. It is brought out by Luke in his account of the change that came over Zachaeus. “And Jesus said to him, today salvation has come to this house, since he also is a son of Abraham. For the Son of man came to seek and to save the lost” (Lk. 19,9).¹⁷ It also signifies the salvation, which is not yet fulfilled, rather is on the process of fulfilment (1 Cor. 1,18; 2 Cor. 2, 15).¹⁸ Certain passages in the Synoptic Gospels imply eschatological salvation. In a saying following his challenge to take up one’s cross, Jesus declares: “For whoever would save his life will lose it; and whoever loses his life for my sake and the gospel’s will save it” (Mk. 8,35; Mt. 16,25; Lk. 9,24; Jn. 12,25).¹⁹ These terms render the idea of the salvation, which will be fulfilled with the entrance in to heaven: eternal life (1 Tim. 1,16).²⁰ The terms give the meaning of deliverance from immediate physical danger to life is

14. See, SPICQ, *Theological Lexicon of the N.T.*, 354.

15. See BROWN, “*sozo*”, 212.

16. See, SPICQ, *Theological Lexicon of the N.T.*, 354.

17. See, BROWN, “*sozo*”, 213

18. See, SPICQ, *Theological Lexicon of the N.T.*, 354.

19. See, BROWN, “*sozo*”, 212.

20. See, SPICQ, *Theological Lexicon of the N.T.* 354

Salvific Law

comparatively rare. It is found in the account of Paul's shipwreck (Acts 27, 20. 31.34).²¹ In the Synoptic accounts of Jesus' miracles of healing, the verb *sozo* is used 16 times (Lk. 1,69.71.77; 19,9; Jn. 4,22). The healing in these stories is always of the whole man. The faith of the person is of great importance for the achievement of healing. It makes effective Christ's saving power, "Your faith has made you well" (Mk. 10,52; Lk. 8, 48; 17, 19; 18, 42); "Your faith has saved you" (Mat. 9, 22; Mk. 5, 34; Lk. 8, 48; Lk. 7, 50). Here *sozo* has the sense of making well, delivering from the evil, physical affliction.²²

In the proclamation of the primitive church, *sozo* and *soteria* gained a central importance in relation to Christ who is the basis, content and goal of the gospel. These two terms are used to sum up the essential characteristic of Christ's mission. This is clearly expressed in Acts 4, 12 where Peter declares to the assembled religious leaders that, "there is salvation in no one else, for there is no other name under heaven given among men by which we must be saved." Peter had taken the opportunity to portray Jesus as the servant foretold by the prophets and whom God had raised up and "sent to you first, to bless you, in turning every one of you from your wickedness" (Acts 3, 26). Acts 4, 12 makes an absolute and universal claim for the Christian message of salvation. The apostolic kerygma which was addressed first to the Jews (Acts 13, 26) and then to the gentiles (Acts 16, 17) excludes every other way of salvation (Acts 13, 38), for salvation can be gained only by faith in Christ (Acts 16, 31). The salvation given to the one who believes consists of the forgiveness of sins (Acts 10, 43) and new relationship with God.²³ In Acts, statements about salvation the focus on the immediate present. The offer of salvation is linked with the demand, "Save yourselves from this crooked generation"

21. See, BROWN, "*sozo*", 211

22. See, BROWN, "*sozo*" 212

23. See, BROWN, "*sozo*", 212-213

An Historical Overview

(Acts 2, 40). A mention of future salvation is found in Acts 2, 20, alluding to Joel 2, 32 (Mt 3, 5). “And it shall be whoever calls on the name of the Lord shall be saved.” Joel’s prophecy refers to the end time, and its use implies that the end time has now dawned. It should be noted that “the name” for Joel was that of Yahweh, whereas in Acts it is applied to Jesus. In him God is personally present in a saving way.²⁴ St. Paul gives a universal dimension to the salvation brought by Jesus (1 Tim. 2,4). He does not see any distinction of race, group, or qualities, because God is all goodness (Tit. 3,4).²⁵ He continues to say that, “the living God is the Savior of all people, especially those who believe”(1Tim. 4,10). According to Paul as Christ is the head of the church, and thereby also the “the Savior of the body”(Eph. 5,24). St.Paul also continues to view Jesus as the savior of Israel (Rom. 11,26). “The grace of God that saves all people (*charis tou theou soterios*) that has appeared (Tit. 2,11) in a way personifies *charis*, because it evokes manifestation of the Son of God, the Savior, from incarnation and his death to his resurrection; a gift of the Father.”²⁶

In the secular Greek this term has the meaning of deliverance, protection, healing, health, happiness and prosperity. In the Classical language, the term both in its verbal and noun form is used, in the first instance, to denote rescue and deliverance in the sense of averting some danger that threatens life. We can find such kind of usage in the context of war or at the perils of the sea.²⁷ For the Gnostics *soteria* is knowledge given by divine revelation which frees the soul from the power of death. The mystery religions had used this term to mean deliverance, which

24. See, BROWN, “*sozo*”, 213

25. See, SPICQ, *Theological Lexicon of the N.T.*, 355

26. SPICQ, *Theological Lexicon of the NT.*, 356-357

27. For instance, Homer, Il.15, 290f; Plato, *symp.*220d; Homer *Od.* 5, 130, quoted in BROWN, “*sozo*”, 205

Salvific Law

comes through the initiate's sharing in the experience of the dying and rising of God through the actions of the mystery cult. The Latin author, Julius Finnicus Maternus of Syracuse (4th cent. AD.), who was a convert to Christianity from Neo-Platonism and an opponent of the mystery cults, spoke of the "initiates of the saved deity." They believed that the one who participates in the divine being attains a life, which extends beyond death. Thus the term *soteria* is used here to mean the participation in a superhuman existence.²⁸

In the philosophical and religious realms, the verbal form *sozo* and *soteria* are used to denote the divine preservation of all things. Plato expressed the belief in such an ordering²⁹. For another Greek Philosopher, Cornutus of Leptis, Zeus is the one through whom all things come into being and are preserved (*sozetai*). Again the emperor, Marcus Aurelius, (of the 2nd cent. AD.) who is also famous for his philosophical thinking comforted his soul with the thought of a higher divine ordering and preservation (*soteria*) of life.³⁰ In the Hellenistic - Roman period, the belief in fate was replaced by a faith in divine harmony, and the *sozein* of the gods came to include their power to save and keep from an inscrutable destiny.³¹

The Latin equivalent of this term is *salus* (Heb. 11, 7).³² In the Vulgate there are more than 100 occurrences of this term.³³ In general this Latin word renders the following nuances: 1. Personal safety, immunity from hurt or violence, well being, safety of material things, freedom from damage. 2. Physical well being (in contrast to illness), health, one's life (as threatened by illness).

28. See, BROWN, "sozo", 205

29. See, PLATO, *Leg.* 10, 903b, quoted in BROWN, "sozo", 206

30. See, AURELIUS, *Meditations* 10, 1, 3, quoted in BROWN, "sozo", 206

31. See, BROWN, "sozo", 206

32. See, ZORELL, *Lexicon Graecum Novi Testamenti*, 1293-1294

33. See, DUTRIPON, *Concordantiae Bibliorum Sacrorum Vulgatae Editionis*, 1219.

3. One's life (as liable to forfeiture), immunity from destruction, continued existence, survival. 4. Security in respect of civil rights, freedom etc. 5. The safety, security (of a state, people etc.) 6. A means of deliverance, salvation, a safe place, refuge, saviour (of persons).³⁴

Thus we can understand that the Biblical concept of salvation gives the idea of both worldly and an other-worldly deliverance. O'Collins says, "There is a strong emphasis on the this-worldly nature of salvation. Material and national prosperity is prominent. Yet it would be false to contrast an Other Testament, very earthly salvation with a New Testament, spiritual and thoroughly other-worldly salvation. Even a brief examination of the language of 'peace', 'blessing', 'life', 'law', 'justice' and 'promise' would seriously modify any such contrast."³⁵ Thus the Biblical concept of salvation is employed also in certain juridical and judiciary contexts of both Old and New Testaments. Such usages of the term can be found in the contemporary Jewish and Greek literature as well.

The Fathers of the Church also have used the Greek term *soteria* with different connotations. The patristic usage of this term can be found in following fashions. 1. Preservation in sickness ie. recovery (Justin the Martyr, *dialogus cum Tryphone Judeo*), preservation in health ie. well being or welfare (Athanasius, *apologia ad Constantium*) 2. Salvation, the purpose of incarnation (Justin the Martyr, *apologiae*), the purpose of Christ's passion and crucifixion (Clemens Romanus, *epistula Clementis ad Corinthios*). The term is also used as the meaning of the name 'Jesus' (Athanasius Alexandrinus, *expositio fidei*). Fathers of the church use the term to mean the salvation perfected in Christ because of his relationship both to the Father and to men (Gregory Nyssenus, *quod non sint tres dii*). It is understood

34. See, GLARE. *Oxford Latin Dictionary*, 1684

35. O'COLLINS, "Salvation", 908

Salvific Law

as a gift acquired from God (Origenes, *de principiis*). The fathers employ this term to mean the salvation promoted by the fellow men too (Origenes, *homiliae, 12.6*; Chrysostom. *homiliae. 3.4*).³⁶

1.1.2 The Theology of Salvation

According to Karl Rahner the theology of salvation begins from the basic human need for salvation. “This need for deliverance signifies the condition in which man inescapably finds himself in his own experience, and which he feels to be incomplete, ambiguous and full of suffering. And he feels this to be so in all the dimensions of his reality so that the experience of this state, as both individual and collective, is practically identical with his existence itself.”³⁷ The Catholic Church teaches that all human beings can co-operate in the fulfilment of the salvation history. According to the great modern theologian Oscar Cullman, in salvation history there exists an amalgamation of historically controllable and historically uncontrollable elements.³⁸ In the strict sense the history of salvation can only be used to designate the historical actions of God and man which make salvation possible. Karl Rahner is of the opinion that the divinisation of man involves a transcendental divinisation of man’s subjective disposition, the ultimate horizon of man’s knowledge and freedom, in perspective of which he accomplishes his life. Thus every human being has the potential to receive this salvation, which constitutes a revelation of God through his self-communication of grace. This revelation is necessarily accomplished in the history of human thought and action which is recorded and communicated by

36. See, LAMPE, *A Patristic Greek Lexicon*, 1369

37. RAHNER, “Salvation”, 425.

38. See, CULLMAN, *Salvation in History*, 136-137.

An Historical Overview

language. Salvation history starts in the Old Testament, and culminates in the New Testament with the person of Jesus Christ in whom exists an absolute unity of both grace and salvation, and of freedom of God and freedom of man. According to the New Testament the salvation history affects the whole mankind and therefore, every human being is affected by this great event of salvation. However, this experience of salvation varies according to each one's relationship with God. Here human relationships to the person of Jesus and to his apostles have very special roles to play (Mk. 8, 38; 6,11). The New Testament authors vary in their conception of the time and nature of salvation, but all agree that salvation is fundamentally connected with the possession of the Spirit. The possession of the Spirit and one's relationship with Christ through the Spirit is the decisive element of salvation in the New Testament.³⁹ This fact leads to the conclusion that wherever the Spirit of Christ is present there we can trace out the rays of salvation. The presence of the Spirit of Christ is to be understood as that force or reality which leads man to his ultimate goal which is Christ.

Justine the Martyr wrote, "The gentiles, who have believed on Him, and have repented of the sins which they have committed, they shall receive the inheritance along with the Patriarchs and the prophets, and the just men who are descended from Jacob, even though they neither keep the Sabbath, nor are circumcised, nor observe feasts. Assuredly they shall receive the holy inheritance of God."⁴⁰ Here is a communitarian dimension of the reality of salvation which transcends all the criteria of human groupings. However, salvation is understood as a reality, that is always realised in a community.⁴¹

39. See, MAMPRA, "Uniqueness and Universality of Salvation", 138-139.

40. ST.JUSTIN, *Dialogue with Trypo*, XXV.

41. See, KARAKUNNEL, *The Christian Vision of Man*, 170-173.

Salvific Law

1.1.3 Salvation and Healing

The idea of salvation is often combined with that of health. The Old Testament concept of salvation is derived primarily from the great event of Israel's deliverance from Egypt. As we have seen the terms for salvation, *yesua* and *ysa*, are derived from the verb root, *ys* which means to deliver safely to a place of ease and peace. The exodus from Egypt and the ultimate entry into the Promised Land, formed the core of the idea of salvation in the Old Testament. This concept of salvation was communal, yet it was not of a supernatural nature. It envisioned the distress, from which deliverance needed, as primarily external. However, an emphasis on the individual human person and his personal needs is also developed, with a dominant corporate theme. This view is expressed in the Wisdom Literature and in some of the psalms. "The Lord is my light and my salvation; whom shall I fear?" (Ps. 27, 1). The concept of salvation itself does not play a significant role in the Wisdom Literature, rather the central concern is to get wisdom (*chokmach*). However, it is significant that the translators of the LXX, during the period of Hellenistic domination, translated *chokmah* with the word *soteria*. It is worthy to note that they also sometimes translated *shalom*, the Hebrew word usually translated "peace", with *soteria*. Here we see a probable connection of the dominant theme of deliverance to a place of ease and peace. But we can say that throughout the period of the Old Testament, salvation and health remained essentially separate ideas, though occasionally linked, especially toward the end of the period. This connection seems to be rooted in the Hebrew assumption that the body and the soul cannot be divorced. The idea of the salvation of the *nephish*, (soul) or even the *ruah* in the Old Testament is not apart from that of the body. This unity of the person made healing and health a choice metaphor for the prophets in speaking about the remedy for the tribulations of the nation of Israel.⁴²

42. See, LAPSLEY, *Salvation and Health*, 31-34.

An Historical Overview

In the New Testament the verbs meaning “to heal” *therapeuo* (to serve) and *iaomai* (to cure) are, commonly used especially in the Synoptic Gospels. Twice the term *sozo*, which as we have seen, primarily means “to save” in the New Testament, is translated “to heal” (Mk. 5,23; Lk. 8,36). Apparently the synoptic writers made no clear-cut distinctions between these two terms. Further, in one instance *sozo* appears to have been intended to have the double meaning “to save” and “to heal”. This occurs in Mk. 5,34 at the close of the account of the woman who was healed. Healing is frequently said to have resulted from faith and is also associated with the forgiveness of sins.⁴³

In the Eastern theological tradition there exists a combination of the themes of salvation and healing. The Syrian poet theologian, St. Ephraem sees salvation along with this shade of meaning. Shemunkasho wrote, “It is noticeable that Ephrem frequently introduces imagery from the sphere of medicine in to the context of salvation. Since, besides Nature, Scripture is the guideline to understand the Divine Economy and salvation, Ephrem’s understanding of the biblical narrative about the creation of Adam and Eve in Paradise serves as a starting point. In Paradise, Adam and Eve enjoy good health, and once the Fall has occurred they fall under the curse and suffered pains.”⁴⁴ St. Ephraem prays to Christ the redeemer, “Lord, enable me to drink from Your fountain. Enrich my mind from Your gift. And vest me with the breastplate, that one which protects the soul that is inside. As the Good One, multiply every help to me. Again, stretch out to me the medicine that cures me; and through You, may I clean my stains. From Your treasures, may I recompense my debts.”⁴⁵ Again the poet sings, “I was in wonder as I crossed the borders of Paradise at

43. See LAPSLEY, *Salvation and Health*, 36-37

44. SHEMUNKASHO, “Salvation History”, 175.

45. ST.EPHRAEM, *Hymns on the Church*, 26,1.

Salvific Law

how well being, as though a companion, turned around and remained behind. And when I reached the shore of earth, the mother of thorns, I encountered all kinds of pain and suffering. I learned how, compared to Paradise, our abode is but a dungeon; yet the prisoners within it weep when they leave it”⁴⁶ These passages demonstrates the close relationship between health and salvation that existed within early christianity.

1.1.4 Church, the Sacrament of Salvation

In his first Epistle, St.Clement (AD. c. 30-98) wrote, “The apostles have preached the Gospel to us from the Lord Jesus Christ; Jesus Christ [has done so] from God. Christ therefore was sent forth by God, and the apostles by Christ. Both these appointments, then, were made in an orderly way according to the will of God. Having therefore received their orders, and being fully assured by the resurrection of our Lord Jesus Christ, and established in the word of God, with the full assurance of the Holy Ghost, they went forth proclaiming that the kingdom of God was at hand. And thus preaching through the countries and cities, they appointed the first fruits [of their labours], having first proved them by the Spirit, to be bishops and deacons of those who should afterwards believe. Nor was this any new thing, since indeed many ages before it was written concerning bishops and deacons. For thus saith the Scripture in a certain place, ‘I will appoint their bishops [overseers] in righteousness, and their deacons [servants], in faith”⁴⁷

Thus the purpose of apostolic succession is nothing other than to preach the good news and to lead the whole mankind to the salvation brought by Jesus Christ. According to St. Clement this was the divine purpose behind the *orderly establishment* of the

46. ST.EPHRAEM, *Hymns on Paradise*, 5,1.

47. ST.CLEMENT, *The First Epistle of St.Clement*, XLII, Here the scriptural reference is to Is.60, 17. Actually the text has been altered by St.Clement. The LXX text reads as follows, “I will give thy rulers in peace and thy overseers in righteousness.”

An Historical Overview

Church. The fourth Lateran Council (1215) teaches, “There is indeed one universal church of the faithful, outside of which nobody at all is saved, in which Jesus Christ is both priest and sacrifice. His body and blood are truly contained in the sacrament of the altar under the forms bread and wine, the bread and wine having been changed in substance, by God’s power, in to his body and blood so that in order to achieve this mystery of unity we receive from God what he received from us.”⁴⁸ According to the teachings of the Council of Florence (1431- 1445), “Not all the justified faithful are members of Christ, but only the elect, who finally will reign with Christ for ever. The members of Christ, from whom the church is constituted, are taken *according to the ineffable foreknowledge of God*; and the church is constituted only from those *who are called according to his purpose* of election.”⁴⁹ Here the Council offers a more rigid idea of seeing the Church as the only agent of salvation. However when we study the later teachings of the Church, we can see a gradual evolution in the understanding of the idea of salvation. Pope Leo XIII (1878-1903) explains the nature of the Church in the following words, “It is necessary to enter more fully in to the nature of the Church. She is not an association of Christians brought together by chance, but is divinely established and admirably constituted society, having for its direct and proximate purpose to lead the world to peace and holiness. And since the Church alone has, through the grace of God, received the means necessary to realize such end, she has her fixed laws, special spheres of action, and a certain method, fixed and conformable to her nature, of governing Christian peoples.”⁵⁰

In the modern times there has been development of ecclesiological vision in the teachings of the Catholic Church,

48. Fourth Lateran Council, Const. 1, in TANNER, *Decrees*, vol. 1, 230.

49. Council of Basel-Ferrara-Florence-Rome, Sess. 22, in TANNER, *Decrees*, vol. 1, 493.

50. LEO XIII, *Sapientiae Christianae*, 25

Salvific Law

which is very clear in the decrees of the Second Vatican Council. “Christ is the light of the humanity; and it is, accordingly, the heartfelt desire of this sacred Council, being gathered together in the Holy Spirit, that, by proclaiming his Gospel to every creature (Mk.16,15), it may bring to all men that light of Christ which shines out visibly from the Church. Since, the Church, in Christ, is in the nature of sacrament - a sign and instrument, that is, of communion with God and of unity among all men- she here purposes, for the benefit of the faithful and of the whole world, to set forth, as clearly as possible, and in the tradition laid down by earlier Councils, her own nature and universal mission. The condition of the modern world lends greater urgency to this duty of the Church; for while men of the present day are drawn ever more closely together by social, technical and cultural bonds, it still remains for them to achieve full unity in Christ.” (LG. 1). The Council continues to teach that, “The one mediator, Christ, established and ever sustains here on earth his holy Church, the community of faith, hope and charity, as a visible organization, through which he communicates truth and grace to all men. But the society structured with hierarchical organs and the mystical body of Christ, the visible society and the spiritual community, the earthly Church and the Church endowed with heavenly riches, are not to be thought of as two realities. On the contrary, they form one complex reality, which comes together from a human and divine element. For this reason the Church is compared, not without significance, to the mystery of the incarnate Word. As the assumed nature, inseparably united to him, serves the Word as a living organ of salvation (*organum salutis*),⁵¹ so, in a some what similar way, does the social structure of the Church serve the Spirit of Christ, who vivifies it, in the building up of the body.” (LG.8). Here the concept of the Church is very clear and the council establishes that the very reality of the visible structures of the

51. See TANNER, Decrees, vol. 1, 854

An Historical Overview

Church has no other purpose than to lead the whole universe to that experience of being one with the Saviour Jesus Christ. Thus the real mission of the visible Church is strictly salvific.

According to Papp-Szilágyi, the human race is never deprived of the divine revelation. In fact, from the very first moment of creation God revealed Himself to man. The same God is the first master, legislator and judge of man. Evidently, the pure and authentic religion is the one revealed by God, as Jesus Christ, who with his testimony has confirmed, and before Him Moses and the prophets through the divine manifestations have transmitted it to the humanity, fulfilling the divine revelation.⁵²

The modern theologians too, agree with this idea of the necessary salvific mission of the Church. Avery Dulles criticizes the juridicist view of the Church. According to him, this ecclesiological view “conceives of authority in the Church rather closely on the pattern of jurisdiction in the secular state, and greatly amplifies the place of law and penalties. There is a tendency to juridicize not only the ruling power, but even the powers of teaching and sanctifying, so that spiritual ministries are not regarded as effective unless they conform to the prescriptions of canon law.... [While quoting the criticism by a Bishop against the merely juridical approach, Dulles] called for a manner of speaking and thinking that exhibited the Church as being, in the term used by Pope John XXIII, ‘the loving mother of all!’”⁵³

52. “*Quia vero genus humanum nunquam caruit revelatione divina; primo enim memento creationis ejus jam se Deus homini manifestavit, seu revelavit. Ipse Deus primus hominis Magister, Legislator et Judex fuit (Gen. 1-2), patet, subjective puram et sufficientem religionem esse solum revelatam a Deo, quemadmodum eam suo testimonio confirmando ante se (Moses and the prophets) factas manifestationes divinas Jesus Christus generi humano tradit et revelationem divinam complevit.*” PAPP-SZILÁGYI, *Enchiridion*, 7-8.

53. DULLES, *Models*, 37. The matter within the [] is attached by the author of this Book for clarification.

Salvific Law

Yves Congar says, “Christ was endowed by God with his power, in order to reconcile us and reunite us in him, into one body consisting of all those reconciled with God. Henceforth his aim is to recapitulate in himself, for the glory of the Father, all the world he has won, the *populus acquistionis* (I Pt. 2,9) to take up to himself all that belongs to the first Adam, so that, created in the image of God and re-created in that of Christ, it may be restored to the model after which it was fashioned. Now, this work of recreation is performed by Christ through his Spirit in an invisible manner, but he does it also by visible means: by sacraments ... and by ministry of men... So we must always bear in mind that Christ’s promise to be ‘with you all days even to the consummation of the world’ (Mt. 28, 20) is fulfilled in two ways: he is in the church by his Spirit, his *pneuma*, and he is present by his power. He is in his Church, animating it, by a spirit of holiness, with eternal life; he is there acting through the agency of men invested with spiritual powers for the purpose bringing his work to fulfilment.”⁵⁴ Here Congar argues that the mission of the Church is the continuation of the salvific mission revealed in history through the life, teachings, death and resurrection of Jesus Christ. Some theologians hold the view that the execution of this salvific mission is to be realised in a very concrete fashion.

Schillebeeckx wrote, “The visible Church itself is the Lord’s mystical body. The Church is the visible expression of Christ’s grace and redemption, realized in the form of society, which is a sign (*societas signum*). The Church, therefore is not merely a means of salvation. It is Christ’s salvation itself, this salvation as visibly realized in this world.... in and through the visible activity of the Church - that is, of the apostolic office and of the faithful who are signed with the Christian character- the Lord brings to fulfilment the work of redemption for which he laid the foundation as the historical Messiah.”⁵⁵ The Church is not only a saving

54. CONGAR, *The Mystery of the Church*, 35-36

55. SCHILLEBEECKX, *Christ the Sacrament*, 48-49

An Historical Overview

institution, but also a sanctifying community at the same time. As the earthly representation of the sign of salvation in heaven, the Church in its wholeness is already a sacrament that contains the redemptive reality of Christ. It is also an offer of grace to those who approach it, and the bestowal of grace up on those who open themselves to it. Thus the Church is at the same time “a community of salvation and worship.”⁵⁶

According to Gutierrez, “The unqualified affirmation of the universal will of salvation has radically changed the way of conceiving the mission of the Church in the world. It seems clear today that the purpose of the Church is not to save in the sense of ‘guaranteeing heaven’. The work of salvation is a reality, which occurs in history. This work gives to the historical becoming of mankind its profound unity and its deepest meaning.”⁵⁷ Gutierrez is of the view that the salvific mission of the Church is to be done first of all in a concrete social context. The concrete execution of this salvific mission requires a concrete societal structure, which has its ultimate aim in the salvation of the whole mankind. Jürgen Moltman has written, “In the power of the Holy Spirit the church experiences itself as the messianic fellowship of service for the Kingdom of God in the world... Discussions about the relationships between ‘ministry and community’ or ‘ministry and charisma’ often suffer from being pursued along too narrow lines, because the participants in the discussions do not see the wider context- the manifestations of the church’s life in the eschatological history of Christ and Trinitarian history of God. If

56. SCHILLEBEECKX, *Christ the Sacrament*, 51

57. GUTIEREZ, *A theology of Liberation*, 255. Here Gutierrez refers to a Papal message of September 11, 1962, (*Pope Speaks* 8, 4). See, note no. 2 on page 302.

Salvific Law

these are ignored the church's determining conditions are easily reduced to the dignities and functions of church's office bearers."⁵⁸

Here again it is relevant to meditate on the proposition of the Vatican II declaration "This Church constituted and organized in the world as a society, subsists in the Catholic Church, which is governed by the successor of Peter and by the Bishops in communion with him, although many elements of sanctification and of truth are found outside of its visible structure" (LG. 8). The terminology subsists sheds much light on the development of the catholic thought regarding Church and ecumenism.⁵⁹ Francis Sullivan comments on this conciliar text as follows: "It means that the Church of Christ has continued and will continue to exist until the end of time with all its inalienable properties and with all the means of salvation with which Christ endowed it, and it is precisely in the Catholic Church that it continues so to exist." He continues, "Of course ...this is a question of institutional integrity, of fullness of the means of salvation. We are talking about the Church as *sacramentum*, and not as *res sacramenti*. There is no question of denying that a non-Catholic community, perhaps lacking much in the order of Sacrament, can achieve the *res*, the communion of the life of Christ in faith, hope and love, more perfectly than many a Catholic community. The means of grace have to be well to achieve their full effect, and the possession of a fullness of means is no guarantee of how well they will be used."⁶⁰

Jesus Christ founded the Church, with the dual dimensions-visibility and the invisibility, but these two aspects of the ecclesial

58. MOLTMAN, *The Church in the Power of the Holy Spirit*, 289. See also, McPARTLAN, *Sacrament of Salvation*, 61-77.

59. In fact Pope Pius XII in two of his encyclicals in 1943 and 1950 made use of the phrase that, the Church of Christ is the Catholic Church. See, Encys. *Mystici Corporis*, 221 and *Humani generis*, 571.

60. SULLIVAN, "Church of Christ", 278-279.

existence have nothing else but one and the same purpose of the salvation of the whole mankind.

1.2. The Idea of Law in a Soteriological Context⁶¹

The Latin word *ius*, which is generally used to denote law, can mean several things: rules of public authority that are in force at a given moment, private juridical acts of binding force, ownership, which is juridically protected etc.⁶² According to Cicognani, the words *ius* and *iustitia* are designated by the word $\delta\iota\chi\eta$ in Greek. The word *iustum* is designated by the Greek word $\delta\iota\chi\alpha\iota\omicron\nu$. These words take their origin from the Indo-European *dik*, which means to show or to indicate. The modern usages *diritto*, *droit*, *derecho*, *recht*, *right* also might have been originated from the Sanskrit word *rgu*, which means that which is straight, just.⁶³ Sir H. S. Maine gives a good account of the origin of law. According to him, the institution of law in its initial usage had a meaning other than political one.⁶⁴ Thus, the word *ius* designates some kind of bond in force within a public, organized society furnished with public powers. The term *ius* is essentially related with *iustitia*.⁶⁵ Thus we can find the word *ius* at the origin of the term law. But St. Thomas presents the word *lex* at the root of law.

Originally, law probably tended to find expression in custom

61. For a general introduction to the concept of law see the following works: HART, *The Concept of Law*, 48; BOGDANOR, "Law", 319.

62. Some authors hold that the term *ius* is originated from the Sanskrit root *yu*, which means to bind, to relate etc. or from the Indogermanian root *yos* or *yaos*, which means sacred, pure, good, heavenly etc. Thus says R. Puzza, "Die Etymologie des Wortes *ius* ist nicht restlos geklärt. Manche führen sie auf die Sanskrit-Wurzel *yu*=iungere bzw. *iugum* zurück, andere beziehen *ius* auf die indogermanische Wurzel *yos* oder *yaos* (heilig, rein, gut, himmlisch). Wird im ersten Fall die rechtliche Verbindlichkeit angesprochen, so steht im zweiten Fall der religiöse Bezug des Rechtes im Vordergrund." PUZZA, *Katholisches Kirchenrecht*, 2.

63. See, CICOGNANI, *Canon Law*, 9-11.

64. See, MAINE, *Ancient Law*, 42ff.

65. See, MORSDORF, *Lehrbuch des Kirchen Rechts*, 15.

Salvific Law

that was mandatory and in the religious rules that bound the society. The Code of Hammurabi of Babylonia, which traces back its origin to 1700 B. C. seems to be a compilation of some earlier customary laws. Nevertheless we can consider it as the most ancient code known for economics and legal structure. Then comes the law of the Old Testament.⁶⁶ Here we are considering the concept of law from different viewpoints. First of all we will look at the concept from a philosophical point of view and at the idea of law according to the major legal systems in the world. Then we will take in to account the scriptural understanding of the concept of law. The Patristic and Church magisterial understanding of law will occupy the next place and finally we will discuss the contemporary theological vision of law in view of making an inquiry for a salvific meaning of law.

1.2.1. The Philosophy of Law

The Philosophy of law is one of the main branches of philosophy. Even from ancient times, the philosophers like Anaximander, Pythagoras, Heracletus, Democretus, Plato, Aristotle have discussed the theme of law. For Plato the process of legislation, “is to *build*, after a judicious choice, from among the materials available.”⁶⁷ Thus for the ancient philosophers laws are the norms built upon some existing values. In the medieval period St. Thomas Aquinas wrote a long treatise on law,⁶⁸ explaining the concept of law in the following manner: Law is a rule and measure of acts, whereby man is induced to act or is restrained from acting, because *lex* (law) is derived from *ligare*, which means to bind. St. Thomas considers law as a rule, which is directed towards the common good. He further says that, “a rule or measure is imposed by being applied to those who are to

66. See, ALEGRIA, “The Rule of Law”, 287

67. SAUNDERS, *Plato's Penal Code*, 349

68. See, MARCIC, “Law, IV, Philosophy of Law”, 289

be ruled and measured by it. Wherefore, in order that a law obtains the binding force, which is proper to a law, it must need to be applied to the men who have to be ruled by it. Such application is made by its being notified to them by promulgation.”⁶⁹ However according to Örsy, immovable laws cannot rule an evolving community. “Either the laws will break the community or the community will break the laws.” Therefore, to him Aquinas’ definition of law is unsatisfactory; if the law is complete at the time of its promulgation, it is an immovable law. He holds that laws destined to guide a community are more complex by their very nature. Even though they should bring stability to the social body, they should also evolve with the same body.⁷⁰

Nevertheless, law can be defined as a rule of reason, promulgated by a competent authority, for the common good of those over whom it has the binding force. The common good is the source and the termination of every juridical order; we can therefore, go forward and say that the very same common good is the source of legislation and law too. “Aquinas’ account of the common good is essentially teleological, bound up with the ‘end’ (in Gk. *telos*) or purpose of human existence. Aquinas ... is referring to the good that perfects the human being, which affords him or her the opportunity to live happily or flourish. When a single end or goal is in some way shared by or capable of perfecting many human beings, it is in that way and to that extent their common good.”⁷¹ “The common good constitutes the individual as a subject of rights, not because the common good is the

69. AQUINAS, *Summa Theologiae*, I-II, 90, 1-4

70. See, ÖRSY, *Theology and Canon Law*, 63-64, 38-39.

71. KEYS, “Common Good”, 115.

Salvific Law

existential end of the individual, but because the common good is a means necessary for the individual to attain his end.”⁷² The common good also “presupposes a higher and an ultimate value: the human person. The common good is a real good only inasmuch as it results in the good of the individual. The common good derives its right to social supremacy from the fact that it is ordered in the final analysis to the end of man.”⁷³

According to the philosophical system of the medieval period the law has the following properties. First of all law presupposes a certain amount of permanence. It is basically unchangeable, but it contains an element of change, so that it is valid until it is duly amended by prescribed procedures. Law in the strict sense is confined to man, whose dignity it guarantees institutionally. Because of this dignity of man, he is never being treated as a mere object, but he is also a subject. Therefore he has a very active role in the establishment of law and order. On the other side, the common good is a decisive factor in law-making. Obedience to a law is determined also by the lawfulness of the one, who commands the law. Philosophers consider law as something objective. It is an order, which prevails independently of its subjects.⁷⁴

Is there a philosophical basis for the laws in the Church? Men, living in society, feel a psychological need for security. It can be obtained only when all the members of the particular society adhere to some common norms of individual conduct; thus life becomes somewhat predictable. The communities of the early Church also met with such situations. Thus the rules adopted by custom, guided by philosophical-religious principles, directed the faithful in activating the goals of the Church and regulating their lives.⁷⁵

72. VELLA, “Canon Law and the Mystical Body”, 419

73. VELLA, “Canon Law and the Mystical Body”, 419

74. See, MARCIC, “Law, IV Philosophy of Law”, 290-292

75. See, POSPISHIL, *Eastern Catholic Church Law*, 42.

An Historical Overview

For some other authors, “the notion of law is derived from the idea of obligation (in the mind of)...the lexicographers, ...namely as a cognate of the word *logos*, which is rich in meaning and implication in those two sources...- the culture of Greece and the Judeo-Christian tradition.”⁷⁶ For the ancient Greeks, the *logos* was the sum total of all those qualities which combined to form the highest ideals of a man, as an individual person, or as a member of society. As we know, the same word *Logos* with a capital L is now basic in the Judaic Christian ethos too. In the Gospel according to St. John we read, “In the beginning was the *Logos*, and the *Logos* was with God, and the *Logos* was God... All things were made through *Logos*, and without Him was made nothing that was made” (Jn. 1, 1f). The ultimate purpose of making Himself flesh is only to dwell among men “as an example and inspiration, in His perfectly lived life.”⁷⁷ The *Catechism of the Catholic Church* says that, the law is not abolished. Rather man has to find it in the person of his Master, who is the perfect fulfilment of law.⁷⁸ Therefore, “in this approach, the supreme source and exemplar of law is God Himself. He alone is at once and eternally Alpha and Omega - the fullest statement, in our human way of speaking, and the infinite purposes and potentialities of His Divine Being, and the infinite and eternal fulfilment of those purposes and potentialities...Like all created being, human nature has implanted in it, by the Creator, the urge, the drive, the impulse to more and more perfect and fuller realization of its own potentialities: the forward and upward surge to the perfection due to human nature as human nature, but with this essential difference from the lower order of beings, that the Creator has given man the incomparable compliment of allowing him to discover, through reason, just what are his purposes in being, and to choose, through his will, the

76. BUNN, “A Transcendental View of Law”, 321

77. BUNN, “A Transcendental View of Law”, 325

78. See, JOHN PAUL II, *Catechism*, n. 2053.

Salvific Law

means to attain them.”⁷⁹ In other words man, is endowed by his Creator, with the right for liberty and happiness. However, we can imagine the tensions and the conflicts arising from the clash of one individual’s idea of self-realisation, with the endlessly varied ideas and efforts of other individuals for their self-realisation. “Hence, in His providential and all-embracing wisdom, the Creator has decreed that men should work out their destiny not in isolation, but in organization...(Thus) Through interrelations and interdependence ... man ...continue in existence, and progress toward self-fulfillment and self-realisation.”⁸⁰ In the ontological context of law, law becomes necessary for man as far as he is a social being. For law, beyond its material and literal realm, it has a transcendental meaning and value (salvation) even in the whole divine design of the Creator. However, according to Raimundo Panikkar, a law to be a law, it should be accepted and recognized by those, to whom it is destined for.⁸¹

It is noteworthy here also to look at the classification of laws given by St. Thomas. He divides law into eternal law, natural law and human law. The eternal law is the divine reason, governs the whole world. The natural law is the law that, which is directly recognized by man through reason as a participation in the eternal law. And human law is an invention of man according to the principles drawn from the natural law. In other words we can say that human law is the particular applications of natural law.⁸²

1.2.2 The Concept of Law According to Some Major Legal Systems

In the history of human civilization the law had its own role to

79. BUNN, “A Transcendental View of Law”, 321-323

80. BUNN, “A Transcendental View of Law”, 323

81. See, PANIKKAR, “Super hanc petram”, 145. See also, KING, “The Acceptance of Law”, 233-266.

82. See, CICOGNANI, Canon Law, 18-23; VECCHIO, *Lezioni di Filosofia del Diritto*, 25. See also, REMIGUISZ, “Immutabilita e Storicita del diritto della Chiesa”

An Historical Overview

play. The legal systems of the Romans, Indians, Greeks, Egyptians and Jews are particularly noteworthy. Rene David, gives a rather good account of the major legal systems in the world.⁸³ We are trying to understand the idea of law as conceived by different legal systems, so that we may rightly conceptualise the Christian idea of law with its proper meaning.

The ancient Greek legal system chiefly formulated by Plato is known for its strictness. Even though they were strict, the possibility for compromise was also undeniable. “Some times popular acceptability and Platonic principles conflict; the result is then some compromise. In more favorable circumstances, Plato sees that some popularly acceptable institution, whether desirable to him, or undesirable but inevitable, offers possibilities for improvement.”⁸⁴ For certain criminal behavior death penalty was imposed in Athens in 4th century BC.⁸⁵ From this we can conclude that the better existence of the society was considered more important than the betterment and well being of the individual person.

When we take in to consideration the Roman law, what we can understand first is the distinction between the Roman citizens and others.⁸⁶ They made use of the law even to persecute Christians. For the Romans, in the ancient times law was a means only for the well-being of the Roman citizens. By first century AD. law and rhetoric were considered as interrelated subjects. Cicero’s speeches concerned the law, which was considered to be a subject of prime importance. However, with the advent of Christianity this conception of law underwent some radical

83. See, DAVID, *Major Legal Systems*, 2ff

84. SAUNDERS, *Plato’s Penal Code*, 349

85. See, MACDOWELL, “Athenian Laws”, 15ff.

86. See, McGINN, “Law, Roman”, 666

87. See, TELLEGEN-COUPERUS, “Quintilian and Roman Law”, 170.

Salvific Law

changes. The Christian emperors revised the law with a new vision.⁸⁸ Emperors Theodosius II and Justinian contributed much to the field of law. Justinian succeeded in giving women their proper dignity through legislation. Before women were thought of as people incapable of acting for themselves. Daughters too were entitled to inherit on the same basis as sons. This was “generally characteristic of Justinian’s humane legislation.”⁸⁹ However, at present it seems that the European countries place much greater emphasis on private autonomy within their legal systems.⁹⁰

In the ancient Persian world, the administrators of law were called the just ones because *arta* (justice) is considered as an indispensable element of *data* (law). Justice had an important role in the day to day human life.⁹¹ The codes of ancient Mesopotamia can be considered as the regulations codified out of the day to day social life. They were no longer the inventions of any king, but rather they were regulations of excellent justice.⁹² It is the characteristic of the ancient laws that they were essentially related with the day to day social life.

The Jewish view also law is very much related with morality. In a way they are indistinguishable.⁹³ The law in Judaism was regarded as the will of God revealed to determine a “a peculiarly Jewish way of life both for individual and the community.”⁹⁴ The

88. See, SHERMAN, *Roman Law in the Modern World*, 25f. See also, BERGER, *The Encyclopedic Dictionary of Roman Law*, 5ff.

89. GERALD, *Justinian the Great*, 94-99

90. See, FERRANDO, “Autonomia privata”, 65ff.

91. See, BUCCI, “Diritto Persiano”, 159-163

92. See, CECCARELLI-MOROLI, “Uso Giuridico”, 444-445

93. See, BERMAN, “Law and Morality”, 1481-1482

94. See, MacKENZIE, “Law in the N T”, 167

An Historical Overview

Hebraic law has a nationalistic dimension as well. The Jewish historian Josephus gives an account of the Jewish reverence for the law. “We deliberately choose and hold it a point of honour to endure anything rather than transgress them (the laws); for these laws naked and defenceless, they face tortures and death in its most terrible form, rather than repudiate the faith of their forefathers.”⁹⁵ Again Josephus holds that the laws will save their followers from falling in to sin. “For it is good that these laws should be so graven on their hearts and stored in the memory that they can never be effaced. Thus will they be kept from sin, being unable to plead ignorance of what the laws enact; while the laws will speak with great authority to sinners, in that they forewarn them what they will have to suffer and will have so graven on their hearts through the hearing that which they command that they will for ever carry within their breasts the principles of the code: which if they disdain they are guilty, and will have brought their penalty upon themselves.”⁹⁶ The Jews had very strict sense of laws, and they therefore, tried to obey them literally.

In Egypt, individual freedom and dignity of human person was very much guaranteed by law. It was on this sound foundation Egypt developed a democratic legal system. “Those who wish to judge Egypt’s progress in the field of enforcing human rights must look at the positive results achieved so far... The prospects for the future remain encouraging as evidenced by the strong leadership role of the judiciary in enforcing human rights.”⁹⁷

In an address of O’Boyle delivered in 1949 he spoke of the rich American heritage of law, “which, we [the Americans] have earned is for ourselves, but a personal possession procured for us by men, who, with magnificent vision, have bequeathed it to us

95. JOSEPHUS, *Contra Apionem* I, 239-241.

96. JOSEPHUS, *Antiquities* IV, 575-577

97. BASSIOUNI, “Freedom of Religion”, 669, See also 663-665

Salvific Law

for our guardianship and reverent protection. It is only for us to add to this heritage by our own initiative and genius as the occasion offers and warrants; and its basic and enlivening force in American jurisprudence is solemnly set forth as Liberty under Law.”⁹⁸

J. D. Mayne wrote, “Hindu law has the oldest pedigree of any known system of jurisprudence and even now it shows no signs of decrepitude ... No time or trouble can be wasted, which is spent in investigating the origin and development of such a system, and the causes of its influence.”⁹⁹ Hindu or Indian law is therefore, one of the most important legal systems that greatly influenced all other systems of law in the world. The customary laws prevailed in India encouraged the scholars of the law to give a new dimension to the study and research in the field of law and legislation.¹⁰⁰ The Hindu view of life gives much emphasis on the communitarian aspect of law. The customs of the community stands above the status of any one human individual.¹⁰¹ In a way the community is the *marga* (path) towards *moksha* (salvation).

98. O’BOYLE, “Liberty Under Law”, 1. See also the address of J. P. Kelly, former President of the Canon Law Society of America. In 1943 he said, “on this twenty-fifth anniversary of the enactment of the Code of Canon Law, The Canon Law Society of America, calls upon its fellow citizens to awaken to the necessity of returning to a juridical order founded on the supreme dominion of God; to awaken to the realization that the terrifying wave of lawlessness and delinquency sweeping our land is fundamentally due to our abandonment of the authority of God as the source and sanction of all law;” KELLY, “The Law of the Catholic Church”, 544.

99. MAYNE, *Treatise on Hindu Law*, ii. See also, ALEXANDROWICZ, *Kautilyan Principles*, 302-306 and KAUTILYA, *Arthasastra*, 26 ff. To get a bird’s eye view of Indian legal system see, MINATTUR, *Indian Legal System*.

100. ALLEN, *Law in the Making*, 71 quoted in MENON, “Hindu Jurisprudence”, 69.

101. See, DAVID, *Major Legal Systems*, 484. see also, MENON, “Hindu Jurisprudence”, 69 ff. “Indian traditions of international law should be sought in *dharma*, the law of righteousness. Indian traditions ...are remarkable for their actual or possible reliance on *dharmaic* rules regulating” relation between the individual, the family, the community and the State. This system tried to circumscribe the anarchic freedom of the individual and to convert it into a disciplined one. In the inter-State field it found its expression in the habit of discussing conflicting views and interests, arguing and negotiating ‘to the limit’ in order to preserve peace.” ALEXANDROWICZ, *Kautilyan Principles*, 301. According to Prof. Nedungalt “Conversions (to Christianity) are not only a matter of

An Historical Overview

This discussion of the major legal systems in the world can be concluded with the words of Pope Leo XIII. “In social life the true essence of liberty does not consist in the fact that every man may do as he pleases: such liberty would tend to complete turmoil and the overthrow of the organized community. Rather, true liberty consists in this, that the regime of civil law gives every man fuller freedom to live according to the precepts of the eternal law. Similarly the freedom of those in authority does not consist in their being able to issue commands at their own casual whim. Rather, human laws must get their force from the fact that they are understood to flow from the eternal law and to sanction nothing which is not contained in it as the principle of all law.”¹⁰²

1.2.3. The Scriptural Understanding of Law

In the Hebrew Bible the word used to indicate the concept of law is תּוֹרָה (*torah*). In Judaism this term is used to designate the first five books of the Old Testament. Originally *Torah* meant direction, guidance or instruction given by elders and sages (Prov. 1,8; 6,20). But later it came to mean that which points the way for the faithful Israelite and for the community of Israel.¹⁰³ In the Pentateuch, the legal norms were closely connected with the moral norms, and they remained indistinguishable. Thus we can find a unity between morality and law in the Old Testament. It is noteworthy that, God’s role in the enforcement of the legal and moral norms is emphasized on a universal basis.¹⁰⁴

The most common designations for Israelite law are commandment (Gen. 26, 5; Ex. 15, 26), word (Ex. 34, 28;

conscience, but they often disrupt families. impede social life, impinge upon economic interests, chance legal status, and usually require cultural transformation”. NEDUNGATT, “Secular State in India”, 246. See also, NEDUNGATT, “I diritti umani”, 513- 518.

102. LEO XIII, *Libertas*, n. 102.

103. See, HARRELSON, “Law in the OT”, 76. See also, SCHNACKENBURG, *God’s Rule and Kingdom*, 41ff.

104. See, BERMAN, “Law and Morality”, 1481

Salvific Law

Dt. 45,13) and its cognate terms , decree, precept (Amos 2, 4), judgment, ordinance and custom (Ex. 21, 1). In the prophets we find this word as used to designate the message of prophets by which Israel must guide its actions (Is. 8,16; 30, 9). In the postexilic period another Hebrew word is employed to mean law (Esth. 1, 8). This is a word borrowed from Old Persian culture with the meaning of order, law, and regulation. In the Aramaic portions of the Old Testament, the same word is frequently used as a synonym for *torah* (Dan. 6, 5; Ezra. 7, 17).¹⁰⁵ In the Deuteronomist writings the word designates all that is commanded by God. Above all, Deuteronomy hints with this word at the collections of laws. According to some authors the Old Testament laws are chiefly concerned with crimes against property, but the priestly prescriptions regulate sacred matters in particular. Yahweh drew near to Israel in a manner in which He made necessary the comprehensive cultic rules.¹⁰⁶

According to von Rad, the whole event of the Old Testament is to be interpreted as the establishment of the covenant. Israel understood these commandments as life-giving (Ezek. 18, 5-9), as guarantee of election, which is for Israel's own good (Deut. 10, 13). In the apocalyptic literature the "law" is understood as the principle, which does not merely regulate religious conduct, but it is actually identical with it. It is seen as the order which is eternal and which alone brings salvation.¹⁰⁷ In the history of the Israelite Legal system the Babylonian captivity has an important role to play. According to De Vaux, at this time small religious communities were enjoying a certain autonomy within the cultural limits under the direction of their priests according to their religious laws.¹⁰⁸ During the time of the Ezra, law is understood

105. See, HARRELSON, "Law in the OT", 77

106. See, BERGER, "Law, I Biblical", 278

107. See, BERGER, "Law, I Biblical", 278

108. De VAUX, *Le Istituzioni dell'Antico Testamento*, 105

as the norms that have binding force over the whole Israel. This was considered as the sacred law.¹⁰⁹

The Israelites were immensely proud of the fact that God had given them a law (Deut. 4, 5-7; 26, 16-19). The earliest codification of Hebrew law (Ex. 20, 1-17; 22, 20-23; 34, 11-26) dates from the 12th - 11th centuries BC. Though the Israelites were proud of their laws they were not so good at observing them. Thus the prophets have spoken of the new spirit of observing the law (Ezek. 36, 26-27).¹¹⁰ Schmidt summarises the purpose of the Old Testament law in the following words: "Taken as a whole the phenomenon of 'law' takes various forms and is conceptualized in various ways in the Old Testament. The common purpose of all the laws is not to create a communion with God, since this is based on an action of God, but to preserve it and thus to show that God's gift calls for a corresponding human task."¹¹¹ Again Harrelson holds the following view, "Law has as its object the maintenance of life in a community..... The time-honored distinction between the Old Testament as a book of law and the New Testament as a book of divine grace is without ground or justification. Divine grace and mercy are the presupposition of law in the Old Testament; ... the Old Testament contains evidence of a long history of legal developments which must be assessed before the place of law is adequately understood. Paul's polemics against the law in Galatians and Romans are directed against an understanding of law, which is by no means characteristic of Old Testament as a whole."¹¹²

And LXX translates the term תּוֹרָה (*torah*) in to νόμος (*nomos*). Jesus has given a new spirit to the observance of law. By his time the Torah was comprised of 613 precepts. Jesus said that, he did not come to abolish the law, rather he came to bring it to perfection

109. BRIGHT, *A History of Israel*, 386

110. See, O'DONNELL, "Law of the Church", 254

111. SCHMIDT, *Old Testament Introduction*, 136

112. HARRELSON, "Law in the OT", 76

Salvific Law

(Mt.5, 17-19). Jesus always respected the moral norms of Israel, but he criticized their Ceremonial laws. To have a clear understanding of the New Testament idea of law we must study the attitude of St.Paul towards law. St.Paul, being a Pharisee had a special appreciation to achieve the saving justice that God offered through Jesus (Rom.3,20; Gal.2,21;5,4). He held that the command of love fulfilled the law (Gal.5, 13-14; Rom.13, 8-10). According to St.Paul the end of law is Christ, who brought the law to fulfillment but put an end to the very closed Jewish juridical religious system (1Cor.9,21; Rom.10,14). Paul is of the view that the Spirit frees us from the law of sin and death (1Cor.9,21; Rom. 10,4) animating us from within (Gal.5, 18; Rom. 8, 4-14).¹¹³ He considered that the function of law in the history of salvation might contribute to the attainment of the promise by all.¹¹⁴ However, according to MacKenzie, “The New Testament does not suggest that the gospel is seen as a new law; it is a gospel, which is something different. It fulfills the law in the sense that it does what law did; it is the revelation of God’s saving will, it is a medium of salvation, it is a way of life. But all these features are incorporated into one person of the Incarnate Word.”¹¹⁵

According to Walter Kasper, law in the Bible is the disclosure of God’s will by the natural law, which was written in the hearts of the gentiles (Rom. 2, 15f) and by the word of revelation in the history of salvation. While in the Old Testament this law, regarded as a token of election, is seen in the context of God’s promised salvation, Jesus Christ, the New Testament acknowledges the law (Mt. 5, 17), restores it (Mt. 5, 31-42; 19, 8) and indeed radicalizes it (Mt. 5, 20). Paul also says that this restoration of law is just, good and holy (Rom. 7, 12. 16).¹¹⁶ “In the Other Testament as in the New Testament, law and gospel are always elements of the

113. See, O’DONNELL, “Law of the Church”, 255

114. See, BERGER, “Law, I Biblical”, 282.

115. MacKENZIE, “Law in the NT”, 176

116. See, KASPER, “Law and Gospel”, 297-299.

one word of God, though their mutual relation is always a dialectical one: Grace fulfills the law in such a way as to deprive it of its 'legal' character."¹¹⁷

Now let us evaluate the influence of the scriptural understanding of the law on the life of the Church. St. Ephraem made use of the Old Testament concept of law to mean a 'treasure house of revelations'. He wrote, "Moses, who instructs all men with his celestial writings, He, the master of the Hebrews, has instructed us in his teaching the Law, which constitutes a very treasure house of revelations, wherein is revealed the tale of the Garden described by things visible, but glorious for what lies hidden, spoken of in few words, yet wondrous with its many plants."¹¹⁸ Here it is noteworthy that St. Ephraem uses the archaic term *urayta*, of Jewish and Aramaic origin, rather than the more usual *namosa*, from Greek *nomos*. This peculiar terminology, *urayta* deliberately associates the Hebrew word *Torah*, with the root 'wr', which means light.¹¹⁹ Thus we can conclude that the Syrian understanding of law is connected with the idea of light, a concept closely associated with the soteriology of both the Old Testament and the New Testament. In a collection of monastic rules attributed to St. Ephraem, written about 373 AD we read as follows, "Abraham was justified from his works. My brother, be vigilant in your true teaching which you receive from your teachers. Nothing should be before your sight except a continuous obedience."¹²⁰ According to St. Iraneus of Lyons, the law of the Decalogue teaches us about the love towards God and the justice towards the neighbour. Therefore, it is always valid for Christians, and it was perfected and fulfilled in the incarnation of Our Lord Jesus Christ.¹²¹ However, according to Tertullian, "before the law

117. KASPER, "Law and Gospel", 298. Here Kasper refers to a maxim of St. Augustine, "*Lex data est ut gratia quaeretur, gratia data est ut lex impleretur.*"

118. ST.EPHTHAEM, *Hymns on Paradise*, 1,1.

119. See, BROCK, "Notes". 189.

120. VÖÖBUS, *Syriac and Arabic Documents Regarding Legislation*, 19

121. See, ST.IRANEUS, *Adversus haereses*, 2,16,3-4.

Salvific Law

of Moses was written on tables of stone, there was an unwritten law which was naturally understood and held in trust by the patriarchs.”¹²²

The covenant concept of the Scripture has significantly influenced the life of the church. In the primitive church the covenant theme was so important. In the early Syrian Church the awareness of the covenant theme was very influential. The scholars are very much impressed with the covenant-consciousness in the primitive Syrian Christianity. “The Christian faith is perceived as a new covenant, and this is the decisive factor determining all others in the understanding of the new religion, even to the shaping of its implications. The covenant assumes the structural position of moulding all its theology, ethics and organization.”¹²³ Further the Council of Florence teaches that, “It (the Church) firmly believes, professes and teaches that the legal prescriptions of the Old Testament or Mosaic Law, which are divided into ceremonies, holy sacrifices and sacraments, because they were instituted to signify something in the future, although they were adequate for the divine cult of that age, once our Lord Jesus Christ who was signified by them had come, came to an end, and the sacraments of the New Testament had their beginning.”¹²⁴ Again, some authors connect the idea of law with the New Testament concept of *Logos*, the central point of New Testament soteriology.¹²⁵

In the Old Testament law is understood as the divine precepts given by Yahweh to order the life of Israel, but in the New Testament the whole idea of law is summed up in the new covenant of love. In the early Christian communities this new covenant of love was the chief guiding principle of life. Here in all these places

122. TERTULLIAN, quoted in SMITH, “Law”, 940

123. VÖÖBUS, *History of Asceticism in the Syrian Orient*, 1, 12.

124. Council of Basel-Ferrara-Florence-Rome, Sess. 11, in TANNER, *Decrees* vol.1 575

125. See, BUNN, “A Transcendental View of Law”, 321-323.

a certain salvific meaning was attributed to law. It is understood as a means that brings salvation to man and light to life.

1.2.4. Law in the Teachings of the Church

Even from the early days of the history of the church, law has had a very prominent role to play.¹²⁶ These laws were called by the name sacred canons of the church. These canons are the rules of great authority. They are consisted of the canons of the apostles and decisions of the ecumenical councils and local synods as well as the prescriptions in the writings of the Fathers of the Church, which are referred in the Can.2 of the Council in Trullo.¹²⁷ The Can. 2 of the Council in Trullo reads as follows, “It is the most noble and serious resolve of this holy council that the eighty five canons which have come down to us under the name of the holy and glorious apostles, received and confirmed by the holy and blessed fathers before us, should hence forth remain firm and secure, for the healing of souls and curing of passions (*ad animarum medelam et morborum animi curationem*).”¹²⁸ By the concept of *κανων* (*kanon*) the Fathers and the Councils understand, “A rule of faith and of Christian life emanated from the ecclesiastical authority, under the action of the Spirit.”¹²⁹ The Forth Lateran Council declared, “By this inviolable constitution we decree that prelates of churches should prudently and diligently attend to the correction of their subjects’ offenses, especially of clerics, and to reform morals. ...In order that they may be able to exercise freely this office of correction and reform, we decree that no custom or appeal can impede the execution of their decisions, unless they go beyond the form, which is to be observed

126. We can get a rather good account of the idea of law according to the teachings of the primitive church and the Fathers of the Church in SMITH, “LAW”, 939-944.

127. See, SALACHAS, *Primo Millennio*, 13.

128. See, NEDUNGATT, *The Council in Trullo*, 64-65.

129. SALACHAS, *Primo Millennio*, 27.

Salvific Law

in such matters.”¹³⁰ The First Council of Lyons taught that the authority to guide the flock in the proper way is a God-given authority. The Council sees the Petrine role of the Supreme authority of the Church to give proper guidance to the flock, entrusted to him, with proper discipline and within the precepts of Christian life, so that the Church may “win souls to God with the co-operation of his Grace.”¹³¹ The Second Vatican Council firmly teaches that, “the churches of both east and west enjoy the right, and are bound by duty, to govern themselves in accordance with their own particular rules, seeing that they are recommended by venerable antiquity, are more suited to the customs of their faithful and seem more suitable for assuring the good of the souls *bonum animarum*. (OE. 5.) Again in the decree on the Bishops, the Council further affirms that, in the administration of the dioceses the pastoral function of bishops should be so ordered that the good of the Lord’s flock is always the supreme concern. (CD. 25). Pope Paul VI understood the discipline of the Eastern Churches in the following manner. The Pope wrote, “Fidelity to this sacred patrimony of ecclesiastical discipline brings it about that, among so many and so great vexations and adversities which the Eastern Churches have suffered, whether antiquity or more recent times, nevertheless the proper countenance of the East is to be observed in its variety, and indeed happened to take place not without great benefit of souls (*magno animarum emolumento*.)”¹³² The Apostolic Constitution *Sacri Canones*, by which the *Code of Canons of the Oriental Churches* (hereafter referred to as the CCEO) was promulgated Holy Father Pope John Paul II, declared that, “I implore Holy Mary ever Virgin, to whose benevolent watchfulness I repeatedly entrusted the preparation of the Code, that she entreat her Son with maternal prayer that the Code may a vehicle of love which *was* splendidly demonstrated from the heart of Christ pierced by the lance on the cross, according

130. Lateran IV, Const.7, in TANNER, *Decrees*, Vol. 1,237.

131. Lyons 1, Const.18, in TANNER, *Decrees*, Vol. 1, 290

132. PAUL VI, *Alloc.*2, 245

to St. John the Apostle, the splendid witness, that it ought to be inwardly implemented in the heart of every human creature.”¹³³

Thus in short what the Church understands by law is that of a means of love, which enables man to achieve his final goal, the salvation brought by Jesus Christ. The supreme function of canon law therefore is to help the Christian faithful to lead a life, which is oriented towards the ultimate communion with God. This idea of law was always occupied the principal position in the teachings of the Church on its law.

1.2.5. The Theological Understanding of Law: Law in the Mystery of the Church

The Second Vatican Council teaches, “as the assumed nature inseparably united to Him (Jesus Christ), serves the divine Word as a living organ of salvation, so, in a similar way, does the visible social structure of the Church serve the Spirit of Christ, who vivifies it, in the building up of the body” (LG.8). Even before Vatican II, the Church has been viewed also as a society with its institutional structures. This idea was expressed with singular clarity in the first schema of the Dogmatic Constitution on the Church prepared for the First Vatican Council . In a significant paragraph of this schema it was asserted not only that the Church was a perfect society, but also that its permanent constitution had been conferred upon it by the Lord himself: “We teach and declare: the Church has all the marks of a true Society. Christ did not leave this society undefined and without a set form. Rather, he himself gave its existence and gave it its constitution. The Church is not part nor member of any other society. It is so perfect in itself that it is distinct from all human societies and stands far above them.”¹³⁴ The ultimate purpose of the laws of the Church is, therefore, to assist the Holy Spirit, who is working in and

133. JOHN PAUL II, *Sacri Canones*, 1044

134. See, *The primum schema*, Vol.7, 567-568, quoted in DULLES, *Models*, 34.

Salvific Law

through the visible organization of the Church.¹³⁵ Bishop Wright wrote, “If any one sentence may be singled out as having most influenced the cultural, social, and legal traditions which add up to what we call Democracy, that single sentence is the one from the lips of Jesus Christ, ‘Amen I say to you, as long as you did it for one of these, the least of my brethren, you did it for me’ (Mt. 25, 40). It is not in the wisdom of Greek philosophy or in the logic of Roman law that we must seek a single proposition which has provided the motivation of Democracy’s most heroic social action and which has transformed the concepts, moral and legal, which dominate the decent, humane society. No philosophical thesis of Plato or Aristotle, certainly no legal maxim or principle of the Roman praetors, any more than of the English chancellors, has had the revolutionary effect that this single sentence of Jesus Christ has had in placing ... law at the service of the person and individual personality, however humble its possessor, at the center of democratic, social, and legal theory.”¹³⁶ The concept of the law, as functioning to serve the human person, is derived from neither a Greek nor a Roman principle of law but rather from a Hebrew ideal. The Christian Church canonized this idea by telling that the moral worth of individual action or of social planning is to be judged by its effect on the person of the “least of the brethren.”¹³⁷ While criticizing certain elements of the juridical system before the second Vatican Council, Archbishop Cushing said in 1955, “I have often meditated,... on the words in which St. Paul sums up the moral obligations so forcefully expounded in the twelfth chapter of his Epistle to the Romans: ‘*Plenitudo legis delectis*’ ‘the fullness of law is love.’... To be sure, law is a marvelous integrating force in human society, contributing indispensably to the institutions, which make civilized living possible. Unfortunately, however, the law can also be a deadening

135. See, BUCKLEY, “Canon Law”, 30

136. WRIGHT, “The Law and the Person”, 314.

137. See, WRIGHT, “The Law and the Person”, 315.

influence, constraining vital human energy into the grooves of a decadent past, and perpetuating at the expense of a helpless multitude the questionable privileges of an exploiting minority.”¹³⁸ The norms of ecclesiastical laws, therefore, should have a necessary theological dimension as well.

The Church is the mystery of salvation. At the same time it has a visible dimension too. This visible realm of the Church is to be understood along with the understanding of the Church as the mystery of salvation.¹³⁹ Karl Rahner says, “As a community as the body of Christ, as the assembly of the faithful, and as the representation of christ, of his word and of his grace, the church necessarily has a hierarchical structure. Without a holy law, without a division of labor, functions and hence also of rights among different individuals, without this kind of a differentiation of functions in the community the church would cease being the people of God, the house of God, the body of Christ and the community of the faithful.”¹⁴⁰ Prof. Huizing holds that, “A theological procedure relying on the gospel in so far as it is a gift of grace may allow us to approach the issue of the Church community as an institution (an institution of grace) from a new point of view and thus hopefully contribute to a better understanding of the foundation of the Church institution and its law.”¹⁴¹ According to Bori, the insistence on the intimate connection between the Church as an institution and as a Christian mystery gave birth to a mystical juridical ecclesiology.¹⁴² He holds the view that the authority in the Church is to be understood as that of an οἰκονομὸς μυστηρίων θεοῦ (*oikonomos mysterion*

138. CUSHING, “The Fullness of the Law is Love”, 5-6

139. See PIUS XII, *Mystici Corporis*, 218. See also, *L'essenza del Cattolicesimo*, quoted in BORI, “La Chiesa come mistero”, 50.

140. RAHNER, *Foundations*, 391

141. HUIZING, “Reflections on the System of Canon Law”, 245. See also, MURRAY, “Freedom, Authority, Community”, 142.

142. See, BORI, “La Chiesa come mistero”, 50

Salvific Law

Deou). “The mystery of the Kingdom of God is given to you” (Mk. 4, 11). “I praise You O’ Father, the Lord of heaven and earth, because, You have hidden these things to the wise and to the intellectuals but revealed them to the little ones” (Lk. 11, 21). Thus the liberty of God is to be administered in the Church through its authority. Here the *oikonomia* is realized in the Church.¹⁴³ The laws of the Church are also to be understood in the light of this principle of *oikonomia*, against the so called legal rigidity, *akribeia*.¹⁴⁴ During the codification of the CCEO, Elias Jarawan suggested that, the *oikonomia* is a theological concept that designates the plan of salvation for all men. It is to be considered as the work of the divine Wisdom. According to this plan, God the Father sent His Son in to the world, giving him all necessary power to accomplish His mission, that is to say, the mission to save all men. And Christ transmitted this power to his Church (Mt. 28, 18). This power spreads itself to all the pastoral mission of the Church and does not limit itself only to the juridical matters relating to canon law. It therefore has an aim that extends beyond the code itself.¹⁴⁵ This intervention of a catholic canonist, who assisted codifying the laws of the Church, makes us think that it is nothing wrong in considering that the legislation and

143. See, • U• EK, “L’*oikonomia*”, 70-94. See also, THOMSON, “Economy”, 368-420 and BULGAKOV, II *Paraclitico*, 378.

144. Here it is to note that, the principle of *oikonomia*. “Constitutes a characteristic feature, real privilege, and a precious treasure” for the Orthodox Church. See, ARCHODONIS, “Okonomia Today”, 39. And according to Poptodorov, in the history of the Slavic churches the very term church itself contains the principle of *oikonomia*. He holds that the Slavic term for the Church. ‘cerkvo’ is derived from the Gk. term Κυριακή οἰκεία. And the Bulgarian, Serbian, Russian, German, and English words for the church are derivations of this term and not of Εκκλησία. See POPTODOROV, “Economy”, 51.

145. “ L’*oikonomia* est un concept theologique qui designe le plan de salut pour tous les hommes. L’oeuvre de la divine Sagesse. Selon ce dessein, Dieu le Père a envoyé son fils dans le monde, lui donnant tout pouvoir necessaire pour accomplir sa mission, c’est-à-dire de sauver tous les hommes. Ce pouvoir, le Christ a confié à son tour à son Eglise (Mt. 28, 18). Ce pouvoir s’étend à toute la mission pastorale de l’ Eglise et ne se limite pas au seul ordre juridico-canonique. Il s’agit donc d’un concept qui va bien au-delà des compétences mêmes du Code tout entier.” See, Révision, *Nuntia* 10, 92.

interpretation of catholic laws also can be done in the background of *oikonomia*.

According to Ladislav Örsy the horizon of canon law should include a theologically well-developed image of God. Since the laws of the Church are meant also to please God, this image of God occupies a very prominent position in the field of legislation and interpretation of ecclesiastical laws.¹⁴⁶

In 1917 Pope Benedict XV, clearly asserted in the Apostolic Constitution *Providentissima mater ecclesia*, by which CIC 1917 was promulgated, that the Church not only illumined the customs of the Barbarians rendering them a more human meaning, but also it improved, the law of the Romans with the *divine light*, even though it was pregnant with the great ancient wisdom.¹⁴⁷ In fact Jesus spent much of his time in correcting the image that the scribes and the experts in the law had of God. He taught them that the true God is not the One who is much concerned with external rubrics and laws of human actions rather with the purity of the heart with which the laws are formed and are to be fulfilled. “In canonical manuals we read little about such things, yet there is no doubt that in any given age, canon law reflected to a high degree the contemporary perception of the personality of God. The image of God shaped the law.”¹⁴⁸ The image of God as an inspiring source for making and interpreting the laws means to be in vital touch with the best of theological thinking on the most

146. See. ÖRSY, *Theology and Canon Law*, 14. See also, WHITE, “Law in the Image of God”, I-8.

147. “*Neque enim solum barbarum gentium leges curavit Ecclesia abrogandas ferosque earum mores ad humanitatem informandos, sed ipsum quoque Romanorum ius, insigne veteris sapientiae monumentum, quod ratio scripta est merito nuncupatum, divini luminis auxilio freta, temperavit correctumque christiane perfecit, usque adeo ut, instituto rectius ac passim expolito privato et publico genere vivendi, sive aetate media sive recentiore materiam legibus condendis satis amplam paraverit.*” BENEDICT XV, *Providentissima mater ecclesia*, 5.

148. See, ÖRSY, *Theology and Canon Law*, 14.

Salvific Law

burning and proper question theology can ever raise: Who is our God? Second Vatican Council has done much to present us a right image of God and the laws of the Church have been transformed accordingly. When the council conveyed that God is a person who calls *all* to holiness, and then the laws granted a greater role to the laity. Again, as the Council presented the image of God as the One who extends His grace also to the non-Catholic Christians, and the laws on mixed marriages were revised accordingly.¹⁴⁹ Thus, “the divine law appears as a force which is always working for the reform of human law”¹⁵⁰

1.2.6 Canon Law: The Term and Doctrines in General¹⁵¹

The term Canon Law is usually used to understand “the body of law constituted by legitimate ecclesiastical authority for the proper organization and government of the Church as a visible society.”¹⁵² From a secular point of view, Canon Law is, “the body of ecclesiastical law by which a Christian Church and its members are governed; some traces of it may be seen in the common law of England and in the United States, in the laws of some states pertaining to Church property, clerical exemption from military service and jury duty.”¹⁵³ The term became popular among the decretists and decretalists of the late 12th and 13th centuries.¹⁵⁴ The Canon Law, being an outstanding piece of legislation of the Church in all times, contains all necessary substantial matter for the proper government of the visible institutes of the Church

149. See, ÖRSY, *Theology and Canon Law*, 15.

150. MOLINSKI, “Theology and Moral Theology”, 286.

151. For a general understanding and an introduction to Canon Law the following works are suggested: METZ, *What is Canon Law?*, 12-37; RAHNER, *Foundations*, 92-93; HUELS, “Introduction”; PUZA, *Katholisches Kirchen Recht*, 1-77; ÖRSY, *Theology and Canon Law*, 38-42; MYERS, “Canon Law”, 66-70.

152. BUCKLEY, “Canon Law”, 29.

153. NEILSON, *Webster’s*, 393.

154. See, BUCKLEY, “Canon Law”, 29-30

established by Christ for the salvation of the mankind.¹⁵⁵ According to Wernz, the complex of the ecclesiastical laws is established by God and is given to the Church, in order to govern and discipline it.¹⁵⁶

The term Canon is originated from the Greek word *κανων* which basically means a rule, norm, measure etc. From the 4th century onwards this term came to be used more generally to denote all disciplinary laws enacted by the Synods as distinct from those resulting from Imperial legislation.¹⁵⁷ By this concept the Fathers and the Councils understand, “A rule of faith and of Christian life emanated from the ecclesiastical authority, under the action of the Spirit.”¹⁵⁸ Prof. Salachas sees a great theological meaning behind the usage ‘canon’. According to him, the Fathers of the ancient Church, especially in the Orient, promulgated the ‘canons of the Church’ having in mind the rich theological, biblical and patristic reason these canons carrying with them.¹⁵⁹ The First Council of Nicea referred to the ecclesiastical regulation firstly with the terminology, “ecclesiastical canon”. In the primitive Church there were other terms in use for the rules of the Church, namely, ‘law of heaven’ (*ius poli*), ‘divine law’ (*ius divinum*), ‘sacred law’ (*ius sacrum*). During the Middle Ages the complex of ecclesiastical laws was called by the name ‘canonical order’ (*ordo canonica*).¹⁶⁰ By the 3rd century, Tertullian and Cyprian formed a framework and a vocabulary for the system of laws. The words such as *institutio*, *disciplina*, *regula*, *successio*,

155. See, RAHNER, “Canon Law”, 64-65; MOTRY, “Sacred Canons”, 50; LYNCH, “Canon Law”, 149

156. Thus goes the Latin definition given by Wernz, “*Complexus legum sive a Deo sive ab ecclesiastica potestate latorum quibus constitutio atque regimen et disciplina Ecclesiae catholicae ordinatur*.” WERNZ, *Ius Decretalium*, Vol.1, n.46.

157. See, DELLA ROCCA, *Manual of Canon Law*, 3

158. SALACHAS, *Primo Millennio*, 27

159. See, SALACHAS, *II Regno*, 51

160. See, BUCKLEY, “Canon Law”, 29. See also, “Canon Law” and “History of Canon Law” in STRAVINSKAS, *Catholic Encyclopedia*, 164-169.

Salvific Law

sacramentum, ordo, plebs, ius, primatus, cathedra etc. were in western legislative usage by this time.¹⁶¹

As seen above, the early canonical collections especially of the 10th to 12th centuries use the terminology ‘sacred canons’ to refer to the laws of the Church.¹⁶² According to some Pre-Vatican¹⁶³ authors, “Underlying the very fundamental concept of Canon Law is the idea of its sacredness... The qualifying term ‘sacred’ is used because the persons who legislate are sacred, and ultimately, the very purpose of Canon Law is sacred.”¹⁶⁴ It is noteworthy that in 1974 Paul VI clearly mentioned a certain sacred nature of judicial authority and activity in the Church.¹⁶⁵ But Prof. Salachas gives another dimension to the concept of ‘sacred canon’ by telling that, “The Canon Law is the law of grace, the firm and certain guide, which leads and directs the faithful towards grace.”¹⁶⁶ Therefore, according to him Canon Law is, rightly, to be called sacred canons.

The Bolognese monk of the 12th century, Gratian stands in the history of Canon Law with his ever unique identity as the father of the science of Canon Law. With his outstanding work, *Concordia discordantium canonum* (generally called by the name *Decretum Gratianii*), a comprehensive canonical collection and a didactic text book in one, started with a new attitude in the

161. See, VOGEL, “Early Church”, 35.

162. See SALACHAS, Primo Millennio, 13ff. We can see the references to the laws of the early Church by using the term ‘Sacred Canons’ in the documents of the early Ecumenical Councils. The seventh Ecumenical Council convened in 787 at Nicea addressed them likewise. It is noteworthy that the present Holy Father promulgated the CCEO, referring to the early legislation of the Church, intentionally by using the very same terminology ‘sacred canons’. See, JOHN PAUL II, *Sacri Canonnes*, 1033. See, also NEDUNGATT, *The Council in Trullo*, 64-65.

163. The term ‘Pre-Vatican’ is henceforth used in this book to refer to the facts or persons prior to the Second Vatican Council.

164. MOTRY, “Sacred Canons”, 51-52. See also MICHIELS, *Normae Generales*, 1,7.

165. PAUL VI, *Alloc.1*, 84-88, See also, WOESTMAN, *Papal Allocutions*, 123-125.

166. SALACHAS, *Il Regno*, 51.

collection and interpretation of the sources of Canon Law.¹⁶⁷ In the Middle Ages the Canon law went through a period of transition and transformation and the idea and the doctrines of the Canon Law were like wise formed. “No matter how violent were the recurrent conflicts between Church and State in the Middle Ages, the medieval mind had no difficulty in seeing ecclesiastical and secular society as but two aspects of a higher unity: as two estates, each with its own jurisdiction, and yet fused to be one, in the one whose king is Christ. But with the birth of the modern state and the breaking asunder of Christendom at the end of the Middle Ages, canon law ceased to be a universal bond of one Christian commonwealth. Step by step it lost its once imposing place in the universities; and an ever-growing legal monism, which conceives of all law only as a function of sovereign nations or states, left to canon law at best the modest place of a set of rules which is tolerated as the internal ordinance of one among several recognized religious bodies.”¹⁶⁸ According to Kuttner, even though the Catholics think that the Church must possess an autonomous legal structure, independent of the State, “the general devaluation of Canon law in the modern world and its gradual divorce from all other legal learning and practice,... left their mark on the catholic mind as well. To many of us, clergy or lay, the law of the Church appears as no more than a sum of dry technical rules for ecclesiastical administrators and judges, the rubrics, as it were, of ecclesiastical routine or, even worse, a stifling instrument of regimentation. But in fact, canon law is something much nobler and greater; it is a living force, giving form to the social body which is the Church; a rational order encompassing

167. See, KUTTNER, “The father of the Science of Canon Law”, 2-19

168. KUTTNER, *The History of Ideas*, I, 1. In fact this book is a collection of previously published articles of the same author. And the page n. of the periodicals in which the articles were previously published, is maintained in the book also. So the author of this book here upon uses the Roman numbering for the article and the Arabic numbering for the pages of the respective articles of the book.

Salvific Law

her sacramental and pastoral functions; an organized mode of thinking that teaches us the right reason of ecclesiastical life, from essential principles to practical particulars- in short, a universal system of jurisprudence, composed of divine and human elements, and of no lesser intellectual dignity than the speculative disciplines of theology and philosophy.¹⁶⁹

1.3 Conclusion

This first chapter has illustrated the concepts of salvation and law, showing a strong interrelationship between these two concepts. By the evaluation of scripture, tradition, the teaching of the Church and modern theological thoughts, we have found that God, having a divine will to save the mankind, instituted the Church as a sacrament of salvation. The institutes of the Church therefore have a very significant salvific meaning. The Church has understood its laws as a means by which the whole human race is to be led to the salvation brought by Jesus Christ, through his death and resurrection. Having taken in to account the salvific instrumentality of Church law let us try to evaluate salvific character of CCEO.

169. KUTTNER, *The History of Ideas*, 1, 1. We can see a stimulating presentation of these ideas in LeBRAS, *Historie du droit*.

Chapter 2

CCEO: HISTORY AND THEOLOGY

2.0 Introduction

An Oriental Catholic Church is a particular Catholic Christian community that lives its faith (liturgy, spiritual patrimony, discipline) within the Universal Church, according to one of the five ancient Oriental Traditions and that which leads or has at least the capacity to lead, its subsidiary eparchial or archieparchial communities under the leadership of a hierarchical head, legitimately appointed or elected.¹ “These individual Churches, whether of the East or the West, although they differ somewhat among themselves in rite (to use the current phrase, that is, in liturgy, ecclesiastical discipline, and spiritual heritage) are, nevertheless, each as much as the others, entrusted to the pastoral government of the Roman pontiff, the divinely appointed successor of St. Peter in primacy over the universal Church. They are consequently of equal dignity so that none of them is superior to the others as regards rite and they enjoy the same rights and are under the same obligations, also in respect of preaching the Gospel to the whole world (MK. 16, 15) under the guidance of the Roman Pontiff.” (OE.2). With the promulgation of CCEO, the Oriental Catholic Churches for the first time in their history obtained a complete collection of common law. The hope behind the promulgation of the Code was that it can “happily be put into the action of daily life that it offer a genuine testimony of reverence and love for ecclesiastical law.”² The late Holy Father Pope John Paul II said that, the Code “will establish an order of tranquillity, which, I desired when I promulgated the Code of Canon Law of

1. See, • U• ÉK, “Che cosa è una Chiesa, un Rito Orientale”, 276-277. See also, • U• EK, “The *Ecclesiae Sui Iuris* in the Revision of Canon Law, 292 ff.

2. PAUL VI, *AAS* (1974) 247

Salvific Law

the Latin Church, with an ardent spirit for the whole ecclesial society. It is a question of order which, attributing the principal parts to love, to grace, to charism, renders, at the very same time, an ordered progression of them easier whether in the life of the ecclesial society or in the life individuals who belong to it”³ Regarding the scope of the *Code of Canon Law* Pope John Paul II has previously spoken as follows, “by the united strength of all the members, the mission of the entire Church may be expanded and the Kingdom of Christ, may be more fully established.”⁴ The Holy Father continues in *Sacri Canones* “I implore Holy Mary ever Virgin, to whose benevolent watchfulness I repeatedly entrusted the preparation of the Code, that she entreat her Son with maternal prayer that the Code may become a vehicle of love (*caritatis vehiculum*), which was splendidly demonstrated from the heart of Christ pierced by the lance on the cross, that it ought to be inwardly implemented in the heart of every human creature.”⁵ According to His Excellency Emilio Eid, CCEO urges the Oriental Catholic Churches towards renewed pastoral and apostolic growth within the Universal Church.⁶ Thus CCEO offers a new scope of study and research in the field of ecclesiastical law. And in this second chapter of the book, CCEO will be examined from historical and theological perspectives.

2.1 The Sources of Oriental Canons

When the ancient Christian communities were formed there arose the need for a certain law. Regulations were formulated on

3. JOHN PAUL II, *Sacri canones*, 1042-1043. See also, JOHN PAUL II, *Sacrae disciplinae leges*, xi.

4. “Per quanto riguarda il Codice di Diritto Canonico Orientale, l’apposita Commissione sta lavorando perché in un tempo abbastanza breve sia dato alle venerete Chiese d’Oriente un Codice nel quale esse possano non sole le loro tradizioni e discipline, ma anche soprattutto il loro ruolo alla loro missione nel futuro della chiesa universale e nell’ ampliamento della Chiesa universale e nell’ ampliamento della dimensione del Regno di Cristo *Pantocrator*” JOHN PAUL II, *Alloc. to the Roman Curia*, 196.

5. JOHN PAUL II, *Sacri canones*, 1043

6. See, EID, “The Nature and Structure”, 25.

the basis of the accepted religious customs and philosophies. “For members who disregard in their conduct the accepted rules, and thereby became the source of disturbance, sanctions had to be created either to secure their conformity or to separate them from the community. This was the primary source of law in the Church.”⁷ In the history of the Church the civil authorities, have sometimes authored ecclesiastical legislation. “At different periods and from opposite causes, such as complete preponderance of the state over the Church at one period and the intimate implication of the state over the Church at another, the same authority which enacted laws for the state also prescribed the most minute regulations for the internal order of the church, and often at the same moment and in the same document.”⁸ Thus the ecclesiastical legislation had at the same time a religious and civil context.

2.1.1. The Concept: Source of Oriental Canons

According to Prof. Ivan • u• ek, the secretary of PCCICOR, the Oriental Canons promulgated in four *Motu proprios*⁹ appeared “rather antiquated” because of the large inclusion of the ancient Byzantine canonical norms.¹⁰ The collection of the oriental canons in the Mps., is not a ‘modern’ legislation. Rather it was the outcome of the age-old meditation and the decisions made out of it. We, therefore, understand the concept, the source of Oriental Canons, as that from which the *Code of Canons of the Oriental Churches* was originated or derived. Which are the genuine oriental sources? To answer this question I would like to quote

7 POSPISHIL, *Eastern Catholic Church Law*, 42-43.

8. SMITH, “Law”, 945.

9. These *Motu proprios* are the collection of the Oriental Canons published by Pope Pius XII. We will discuss more about them in section 2.2.4.2.

10. See, • U• EK, “The Ancient Oriental Sources”, 147. See also, SALACHAS, “Diritto Canonico Orientale”, 237-238.

Salvific Law

Prof. • u•ek again. “The sources are all Byzantine, except for a very limited number of footnotes that refer to the sources of other churches.¹¹ In particular one finds the Apostolic Canons, the canons of the seven ecumenical councils (Nicea I, Constantinople I, Ephesus, Chalcedon, Trullo-Quinisextum, Nicea II), the canons of seven regional synods (Ancyra, Neocesarea, Gangra, Antioch, Laodicea, Sradica, Carthage), the canons of the eleven holy Fathers (Dionysius of Alexandria, Peter of Alexandria, Gregory of Neocesarea, Athanasius of Alexandria, Basil the great, Gregory of Nyssa, Gregory the Theologian, Amphilochius of Iconium, Timothy of Alexandria, Theophilus of Alexandria, Cyril of Alexandria, plus letters of Gennadius and Tarasius of Constantinople), the monastic rules and typica of Basil the Great, Theodore the Studite, Athanasius the Atonite, Pachomius, and the canons of Nicephorus of Constantinople; as for Justinian’s legislation, one finds references to the entire *Corpus iuris civilis* (*Institutiones, Codex, Digesta, Novellae*), plus many references to the Baslica. All this is mostly Byzantine, due allowance being made for the councils and synods before 451 that were received by the pre-Chalcedonian Churches.”¹² Then for what purpose the large volumes of the juridical sources other than the Byzantine ones were collected and codified? Prof. Zuzek continues, “From non-Byzantine Oriental sources we have five references to the canons of Rabbula, nine to the Chaldean Synod of 410, six to Armenian sources, and fourteen to the monastic rules of Saint Pachomius of Egypt. That is all. It is not my task here to determine what non-Byzantine Oriental Catholics should say about this fact, but it is certainly an alarming discovery to make about a code that was intended for all the Oriental Churches, both Byzantine and non-Byzantine”.¹³ We, therefore, have to understand the source of Oriental Canons in this particular context. The

11 Here it is noteworthy that not even a single reference can be found in CCEO to the large two volumes of the juridical sources of the Syro-Malankara Church. See, PLACIDIUS, *Fontes Iuris* and PLACIDIUS, *De Fontibus*.

12. • U• EK, “The Ancient Oriental Sources”, 149.

scriptures, to which we can find many references in CCEO¹⁴, is of course a source of Oriental Canons.

2.1.2 The Apostolic Origin and Early Tradition

The Acts of the Apostles and the pastoral letters bear witness to the fact that from the very beginning of the Christian movement a definite, obligatory system of rules and regulations was in formation.¹⁵ Though St. Paul initially denied the salvific value to the law (Gal.2,21)¹⁶ the law for him was a pedagogue, the slave who takes the boy to school; once the boy reached the school the slave is free from his duty (Gal.3,23-4,7). But Paul refers to the law of spirit (Rom. 8,2) which alludes to liberation from sin and death. The law of Christ for Paul is the law of fraternal love (Gal. 6,2). A sound basis for some institutions of the Church can be found in the New Testament.¹⁷ In AD. 50 the Council of Jerusalem made certain decisions regarding the life of the Church.¹⁸ From the beginning of the third century at least, the local Christian

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13. • U• EK, "The Ancient Oriental Sources", 149-150. Here we have to bear in mind the fact that, Prof. • u• ek has written this article in 1973 that is before the promulgation of CCEO. Actually he was commenting on the canons collected in 4 *Mps.*, and on the canons published up to that time in the drafts of CCEO. But in case of the present Oriental Code nobody can deny its uniqueness and novelty. In fact Prof. • U• EK, being the secretary of PCCICOR also is responsible for making the Code updated according to the teaching of Vat. II. He himself affirmed the novelty of the Oriental Code in 1992. See, • U• EK, "Reflessioni", 62-63. See also, SALACHAS, *Primo Millennio*, 13ff. and NEDUNGATT, *The Council in Trullo*, 64-65.
 14. See, PCLTI, *Codex Canonum Ecclesiarum Orientalium, Fontium Annotatione Auctus*.
 15. See, POSPISHIL, *Eastern Catholic Church Law*, 43.
 16. Here we have to bear in mind that Paul was criticising the so-called Jewish observance of law. See, MUNCK, *Paul and the Salvation*, 87ff, quoted in MacKENZIE, "Law in the N T", 172.
 17. See, MacKENZIE, "Law in the N T", 170 ff. See also, MacKENZIE, *Reading Cases and Materials in Canon Law*, 5. For a better understanding of the concept of law in the NT see section 1.2.3 of this book. It is good to have a look at the following passages of the NT: Mt.5, 17-48; 12, 1-14; 15, 1-20; 19, 16-30; 23, 1-46; Mk. 2, 23-28; 3, 1-6; 7, 1-23; 10, 17-31; Lk 11, 39-42, 47-51; 18, 18-30; 20, 45-47; Rom. 3, 30; 7; 9, 32; 13, 8; 1 Cor. 5, 1-8, 12; 9, 19-22; Gal. 2, 16, 21; 3, 2; 3, 23-4, 7; 5, 14; Eph. 5, 3-6, 14; Col. 3, 5-4, 6; 1 Thes. 4, 3-12; Tit. 3, 1-11; Jam. 2, 8. See also, KASPER, "Law and Gospel", 297-299.
 18. See, POSPISHIL, *Eastern Catholic Church Law*, 45.

Salvific Law

community, wherever it was established, was adequately equipped for its government. Each community had the following characteristics on a rather universal basis: oneness of faith, of ethics, and of cult (especially Baptism and Eucharist), a monarchical and indivisible episcopacy, the notion of apostolic succession, the distinction between clergy and laity and finally an awareness of the principle of a *ius ecclesiasticum*. The bases of the organization of the community can be traced from the New Testament writings themselves (Mt.16, 18-19; 18,18; 28,18;Jn.10,21;21,15-17). The beginnings of a regulatory system can be seen in the following passages too: the Apostolic Council of Antioch of 51 (Acts 15,23-29), matrimonial legislation, excommunication, justice within the community (Mt. 18, 15-18; 1Cor. 5-7).

The canonical sources prior to the third century are the New Testament, the apocryphal and antiheretical literature of the second century and the writings of the Apostolic Fathers and apologists. Among these the most important ones are the letter of the Roman community to the community of Corinth, known as the *Prima Clementis* (Rome, c.96), the epistle of Barnabas (Alexandria, 96-130), the apocryphal apocalypse known as the *Shepherd of Hermas* (Rome, c.96-140), the letters of Ignatius of Antioch (d., c. 110), and the letter of Polycarp of Smyrna (d. 167) to the community of Philippi. The pseudo apostolic documents with a juridico-didactic or juridico-liturgical nature were also there. The *Didache* (c. 100), and the *Apostolic Tradition* of the Hippolytus of Rome (c. 21) are the most important among them.¹⁹

19. The following are some other early writings which contributed to the systematic organisation of the Church:*Didaschalia Apostolorum* (c.250 or 300); 30 *Canones ecclesiastici Apostolorum* (c.300); *Constitutiones Apostolorum* in eight books (c.400); 85 *Canones Apostolorum*-the books of *Constitutiones Apostolorum*; the 38 *Canones Hippolyti* - an enlargement of *Traditio Apostolica*; the 9 *Canones pseudosynodi Antiochene apostolorum* (c.350 to 400); the *Constitutiones per Hippolytum or Epitome* (post-5thc.); the *Testamentum Domini* (400-500); 18 and the 25 *Canones paenitentiales apostolorum* (4th c.) the *Octateuchus Clementis* (512 or 518) See, VOGEL, "Early Church", 34-35.

The first Greek canonical document preserved in the original version is Synogoge Canonum by John the Scholastic (c.570). The other important oriental canonical collections prior to the 6th century are the following: The first collection consisting of the decrees of the Synods of Ancyra (314), Niocaesarea (314-325), Gangra (341-342), Antioch (c. 341) and Laodicea (343-380), compiled by Bishop Melotios of Antioch was called *Corpus Canonicum* of Antioch. The canons of the Councils of Nicea I (325) and Constantinople (381) were subsequently added to the *Corpus Canonicum* of Antioch. And the collection to which the Fathers of the Chalcedon council refer is this one. And finally the canons of the Council of Chalcedon (451) also were added to this collection. And the whole collection was called *Syntagma Canonum Antiochenum*. In about 500 the *Syntagma* was translated in to Syriac. During the 6th century the canons of the Council of Ephesus (431), Synods of Carthage (419), and Sradica (343) and the 85 canons of the Apostles were also added to this collection. And the Council in Trullo (691) limited the juridical sources of the Church to the canons of the general and local councils, the patristic canons, and the canon of Cyprian (c. 2).²⁰

20. See, SALACHAS, *Primo Millenio*, 13ff., See also, NEDUNGATT, *The Council in Trullo*, 64-65. and VOGEL, "Early Church", 35. When we consider the history of Oriental Canons, the following works. even though all of them may not be catholic, are worthy of consultation: SELB, *Orientalisches Kirchenrecht*, Band I & II. The first band mainly deals with the Nestorian Iegislative texts; SELB, *Sententiae Syriacae*, The Roman-Eastern legislative contacts are rather well explained in 210f.; VÖÖBUS, "Important Manuscript Discoveries". This article is worth reading when we consider the relationship between the Roman Law and the Oriental Canons; VÖÖBUS, *The Synodicon*; Especially the introductory pages 1-26 of vol. I, give a short account of the origin and nature of the west syrian canonical tradition. A recent study by Prof. Gallagher, gives a comparative account of juridical sources of Rome and Byzantium. This study deals with the following collections: 1. *The Nomoknon in .XIV Titles* 2. *The False Decretals* 3. *Concordia Discordantium Canonum* of Gratian 4. *The Commentary on the Nomocanon* by Theodore Balsamon 5. *The Nomocunon* of Gregorios Bar Hebreus and *The Two Canonical Collections* by Ebedjesus of the Assyrian Church of the East. See, GALLAGHER, "Diversity in Unity", 47-89. The *Nomo canon* of Bar Hebreus, is of later origin. It was originally written in Syriac, but is available in Latin and French. It is translated from Syriac to

Salvific Law

According to Prof. Farrugia, St. Nicodemus of Mount Athos (1749-1809) attempted a codification of the ancient Oriental Canons and added a commentary, called *Pedalion*, which was quickly put in to practice in the Patriarchate of Constantinople. The work of St. Nicodemus sheds light on the close relationship between law and spirituality and the interpretation of law and dogma.²¹

2.1.3 The Canons of the Ancient Oriental Sources in Motu Proprios

In this section we consider the canons of the ancient oriental sources found in the four *Mps.* Since the *Mps.* are the sources from which CCEO was derived, this analysis is crucial. The following table will show a clear account of this distribution.²²

The Or. Canonical Source	Time/Year	Total n. of Canons	The Canons Referred in the <i>Mps.</i>
Apostolic Canons	Second century but compiled by the end of the 4 th Century	85	4, 5, 14, 15, 20, 26, 27, 30, 31, 34, 36, 37, 38, 39, 40, 41, 42, 45, 48, 54, 55, 56, 62, 74, 75, 82, 84
Council of Nicea I	325	20	1, 2, 3, 4, 5, 6, 7, 15, 16, 17, 18
Council of Constantinople I	381	7(8)	2, 4, 6
Council of Ephesus	431	8(9)	1, 4, 8
Council of Chalcedon	451	30	2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 14, 15, 16, 17, 19, 20, 21, 25, 26, 30
Council in Trullo	691	102	3, 5, 6, 7, 8, 9, 13, 17, 18, 20, 23, 25, 26, 27, 30, 34, 37, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 51, 53, 54, 64, 69, 80, 87

Malayalam, the Indian language of Keralam. We will discuss more about the *Nonrocanons* in section 2.2.3 of this book.

21. See, FARRUGIA, “Sources of Oriental Canon Law”, 31.

22. See, • U• EK, “The Ancient Oriental Sources”, 151- 153. See also SALACHAS, *Primo Millennio, 13ff.* and MEYENDORF, *Byzantine Theology*, 80-81. Here we have to bear in mind that the *Mp. de .Sacramentis* was not yet published.

CCEO : History and Theology

Council of Nicea II	787	22	2, 3, 4, 6, 10, 11, 14, 15, 16, 18, 19, 20, 21, 22, and Actio VII,
Council of Constantinople IV	869-871	27	5,10,12,13,14,15,16 17, 18, 19, 21, 22, 23, 24 26,27
Synod of Ancyra	314	25	10, 11, 15
Synod of Neocesarea	314-325	15	2,9
Synod of Gangra	341-342	20	7, 8, 14 3, 5, 6, 9, 10, 11, 12, 13,
Synod of Antioch	ca. 341	25	14, 15, 16, 17, 18, 19, 20 21, 22, 2,3 24, 25
Synod of Laodicea	ca. 360	59(8)	12, 13, 15, 18, 20, 24, 31, 40, 42, 55, 56, 57
Synod of Sradica	343	21	1, 2, 3, 4, 5, 11, 13, 14, 17
Synod of Carthage	419	133-147	2, 3, 4, 5, 6, 8, 11, 12, 13, 14, 15, 16, 21, 22, 23, 28, 29, 31, 34, 35, 36, 43, 53, 54, 55, 56, 57, 58, 61, 62, 73, 74, 76, 77, 78, 79, 80, 81, 86, 88, 89, 90, 93, 94, 8, 99, 100, 102, 104, 105, 106,107,110,120,121, 122, 123, 124, 125, 127, 128, 130 132, 133
St. Basil	+379	92	9, 10, 18, 19, 21, 22, 23, 27, 31, 36, 38, 40, 42, 44, 46, 47, 48, 69, 70, 77, 78, 87, 88
Timothy of Alexandria	+355	15-29	11, 15, 22, 23
Theophilus of Alexandria	+412	14	4, 5, 9, 10, 13
Cyril of Alexandria	+44	7	1 2 3 4

Salvific Law

Here it is good to note the following references to other sources:

1. There are five references to the letter of Tarasius of Constantinople to Pope Hadrian. 2. Two references to the writings of Gennadius of Constantinople (the encyclical letter of 459 and the letter to Martyrius of Antioch). 3. A reference to the 227 canons accepted in *Fonti IX*, appears 15 times in Mps.²³

2.2 The Codification of CCEO

Centuries long legislative activities of any ecclesiastical or civil society naturally result in a large body of laws, but in order to make them accessible to the practitioners and experts in its comprehension and interpretation, simultaneously to legislative activity, there must also be an effort to arrange the body of laws. This process of the arrangement of laws is called *codification*. The term *code* takes its origin from the Lat. root *codex*, which originally referred to the blocks of wood covered with wax, used for writing. The Greek word parallel to *codex* is *σύνταγμα* (*syntagma*), which also gives the meaning of arrangement, collection.²⁴ With reference to a collection of laws, a *code* is a *systematic* arrangement of laws, according to a certain uniform set of principles which can organize all fields of legislation for a given society or be restricted to one field, such as civil, commercial, criminal or maritime law. However, a code is to be distinguished from a *compilation* or *consolidation* of laws: compilations are simply collections of laws, perhaps according to a chronological order; whereas, the consolidation of laws includes also the modifications of legislation in order to effect a concordance between them.

23. See, • U• EK, “The Ancient Oriental Sources”, 153.

24. Here are some other words which were used to designate the collections of laws: *Korm aja* (Rus.) which designates a Slav canonical collection; *Hudaye* (Syr.) which can be translated as a collection of directives; *Fetha Nagast* (The Book of Kings) designates 16th century Ethiopian code of canon law. See. NEDUNGATT, “The Title”, 74.

In both these efforts a systematic organization of laws is not intended.²⁵

2.2.1 History of the Codification of Positive Laws

One of the earliest known attempts to consolidate laws is that done by the Babylonian King Hamurabi, in 1792-1790 B.C. The Twelve Tablets (451-450 BC.) were another collection done to respond to a call for a written set of laws accessible to all Roman citizens. We can find the term *codex* first used in two private collections of imperial laws, which were named after their compilers namely the *Codex Gregorianus* (ca. 291 AD.) and the *Codex Hermogenianus* (ca. 294 AD.). Emperor Theodosius II intended to create a code of Roman law, but achieved only a collection of imperial laws which were arranged chronologically, and known as the *Codex Theodosianus* (438 AD.)²⁶

The Emperor Justinian I did the next significant attempt at the codification of Roman legislation. His *Corpus Iuris Civilis* (528-565 AD.), the basis for most of the legal systems in Europe and the legal systems of those regions colonized by the European powers, has played an important role in the field of world legislation. Actually Justinian entrusted the work of codification to Tribonian, one of the great lawyers of history. The first task was to codify the existing laws, and it thus contributed to the forthcoming of *Codex*. Next came an arranged collection of the jurists' decisions, which was known as *Digesta*. Finally, Justinian published a law book called *Institutiones* for the education in the law schools. The subsequently published laws of Justinian were collected under the title of *Novellae*.²⁷

25. See, FARIS, *Constitution and Governance*, 67 - 68. See also FARIS, "Codification", 49ff.

26. See, FARIS, *Constitution and Governance*, 68.

27. See, GERALD, *Justinian the Great*, 94-95.

Salvific Law

The modern codifications of laws include those done in Prussia, Austria and France. In Prussia, as the result of the initiative of Frederick the Great, the general code was formulated and acquired the force of law in 1794; the code divided the entire legislation of the state into two sections: man as an individual and man in his social relations. The two examples of the early codification done in Austria are the *Criminal Constitution* of Empress Maria Theresa in 1768, followed by the *Civil Code* of Emperor Francis in 1811. The codification of French legislation was done by Napoleon I. For a certain time it was called the *Code Civil des Francais* (1804), but later referred to as the *Code Napoleon* or the *Code Civil*. The Napoleonic Code served as a model for most codes outside Anglo-American sphere of influence. Later modern codes such as the German civil code of 1900 and the Swiss civil code of 1912, while departing from Napoleonic model, are examples of the process of codification in the twentieth century.²⁸

2.2.2 The Imperial Legislation: A Model for Codification

In the history of the Church we found that there were a few emperors who involved themselves in the legislation for the Church. Once the emperor himself became a member of the Church, he found himself in a position “to protect the basic

28. See, FARIS, *Constitution and Governance*, 69. It is worthy to note that we can find an ancient codification of the customary laws in Indian civilisation. See, KAUTILYA, *Arthasastra*; “The Historian of The *Law of Nations* who intends to ascertain the totality of factors which contributed to the development of our system of international law cannot confine his inquiry to pre-nineteenth century Europe Only. The orthodox view expressed in some of our treatises that present-day system of international law is exclusively a product of Christian civilisation and had been established by the European Family of Nations only is not tenable in the light of historical reality. But some of these rules had been sorted out and classified much earlier in the systematic expositions of statecraft written in this classical period of Hindu literature. Among the works of this period Kautilya’s *Arthasasthra* (fourth century BC.) is one of the most significant sources indicating the principles of inter-sovereign conduct in India and further India.” ALEXANDROWICZ, *Kautilian Principles*, 301-302; See also, MAINE, *Ancient Law*, 40 ff; DAVID, *Major Legal Systems*, 480ff.

sacramental and doctrinal principles upon which the Church is built. No text ever gave the emperor the power to define or formulate these principles; but it is universally accepted that he had a responsibility for relating them to the empirical realities of history, and thus to manage, where necessary, the practical affairs of the visible Church. This is the meaning of the famous words attributed to Constantine- ‘I have been established by God as the supervisor of the external affairs of the Church.’ - and consistently applied in the legislation of Justinian. The *Codex* and the *Novellae* contain a set of laws concerning the Church which cover a much wider range of ecclesiastical functions and activities than does the entire conciliar legislation before and after Justinian.”²⁹ Here it is relevant to quote Prof. •u•ek again. While giving an account of the sources of CCEO, he said, “as for Justinian’s legislation, one finds references to the entire *Corpus iuris civilis* (*Institutiones, Codex, Digesta, Novellae*).”³⁰ Thus the legislation of the Roman Empire played a major role as the juridical source and the model in the process of CCEO codification.

2.2.3 The *Nomocanons in the History of CCEO*

As a manifestation of the close relationship between the Church and the State, which arose after the fourth century, a particular form of legislation called the *nomocanon*, began to evolve in the Eastern Roman Empire. Being derived from two Greek terms, νομοζ (with a secular meaning) and κανων (with an ecclesiastical meaning), the term denotes a collection of both secular and ecclesiastical laws. The institution of the *Nomocanon* came in to existence in a particular situation, when the civil authorities, in addition to their secular authority assumed the role as guardian of the Church and disposed of

29. MEYENDORF, *Byzantine Theology*, 82. See also *De Vita Constantini*, 4,24; PG 20; 1172_{AB}.

30. •U•EK, “The Ancient Oriental Sources”, 149.

Salvific Law

the matters, which were essentially ecclesiastical. Naturally, therefore, the collections of laws include both ecclesiastical and civil ones.³¹

Byzantine Canon Law developed steadily in the centuries following Justinian. The precise way in which it developed, influenced individuals who then made compilations of Canons, which were subsequently taken over and approved by authorities. This is how the *Nomocanons* came in to existence in Byzantium.³² The *Nomocanon* exercised a great influence in the evolution of Oriental Canons. Two *Nomocanons* are particularly worthy of attention. The earliest one is the *Nomocanon of the Fifty Titles*, which was elaborated during the sixth century and updated versions were in use in the East throughout the twelfth century.³³ John the Scholastic (565-577), the Patriarch of Constantinople, who was a lawyer by formation, contributed much to the codification of the *Nomocanon of the Fifty Titles*.³⁴ Another collection, the *Nomocanon of the Fourteen Titles* was compiled during the early part of the seventh century. It is attributed to Photius. An amplified and updated recension of it was done in 883.³⁵ This collection also underwent three major revisions and was adopted by a council at Constantinople in 920 as the official legislation of the Constantinopolitan Church. In the same way, we have collections, often systematic, of the Chaldean (East Syrian), West Syrian, Maronite, Armenian, Gregorian, and the Coptic traditions too.³⁶ Many of these collections are not in

31. See, FARIS, *Constitution and Governance*, 68.

32. See, GALLAGHER, "Diversity in Unity", 50.

33. See, FARIS, *Constitution and Governance*, 68.

34. See, MEYENDORF, *Byantine Theology*, 84.

35. See, NEDUNGATT, "The Title", 73- 74.

36. The names of the following canonists who made some collections of Oriental canons are worth mentioning: Gabriel of Barsa (East Syrian Tradition - 9th Century), Abdiso bar Brikha (East Syrian Tradition- 14th Century), As- Safi Abdul- Fadail ibn al'Assal (Coptic tradition- 1250), Mixit'ar Gos (Armenian tradition - 1286), Mattheos

print, and are mostly unknown because of the practical inaccessibility.³⁷

2.2.4 The Codification of CCEO: History and Process

We can find several works that give detailed accounts of the codification of the Oriental Canons.³⁸ Card. Ignatius Moussa I Daoud is very much aware of the laborious task of codification of the Oriental Canons. According to His Eminence, the work of Codification was not easy on account

Blastares (Greek - 1335). See, NEDUNGATT, "The Title", 73- 74. We can get a good account of the oriental collections of canons in COUSSA, *Epitome praelectionum*, vol.1, 119-121.

37. See, FARIS, *Constitution and Governance*, 68-69. The *Nonocnon* of Bar Hebraeus (1226-1286), Jacobite West Syrian canonist and theologian, is also worthy of our consideration. Actually Bar Hebraeus didn't use the term *Nmocanon* for his work. The title he used was *Kethabha dhe-Hudlauye*, (Book of Directions). The term *Nomncanon* was attributed to it by the translators. See, BEDJAN, "Introduction", *Gregorii Barhebraei*.
38. See, COUSSA, "Codificazione canonica orientale", 35-61. Acacio Coussa was the Secretary of the Pontifical Commission for the redaction of the Code of Oriental Canon Law in 1935-1962. CICOGNANI, "De Codificatione Canonica Orientali", 86-95. This article refers to the oriental sources such as canons of the regional synods: The Ruthenian Synod of 1626, Ruthenian Provincial Synod of 1724, Maronite Synod of 1818 (MANSI, 39, 249-252), Patriarchal Council of the Greek Melchite Catholics in 1835 (MANSI, 39, 323-338- Lat., 46, 983-998- It.), the First Greek Catholic Provincial Council of 1872, the Second Greek Provincial Council of 1885, the Ruthenian Provincial Synod of 1891, the Syrian Synod of 1888, the Coptic Synod of 1898, the Third Greek Provincial Council of 1900, the Armenian National Council of 1911. See, 95. Cicognani was Adesor to Sacra Congregazione Orientalis in 1932. • U • EK. "Presetnzione", 110- 135. • U • EK "Incidenza del Codex *Canonum Eccle,siarum Orientalium*", 266 - 327. Ivan • u • ek was the general secretary of PCCIOR form 1973 till the dissolution of the commission after the promulgation of CCEO in 1991. SAL,ACHAS, II *Regno*, 49- 59. CLSA, "Preface to the Latin Edition". xxi- xxxiv. HERRANZ, "Introduzione", LIX- LXI. BROGI, "Codificazione del Diritto Comune delle Chiese Orientali Cattoliche", 7-30. CAPRILE, "Il nuovo Codice dei Canoni delle Chiese Orientali", 171-177. ROHBAN, "Codification du Droit Canonique Oriental", 237-298. FALTIN, "La Coditicazione del Diritto Canonico Orientale", 121- 137. Daniel Faltin OFM was an 'assistant' to the Redaction Commission. FARIS, *Constitution and Governance*, 70-93. FARIS, "Codification", 449-485. FARIS, "Historical Introduction", 39- 56; McMANUS, "The Code of Canons of the Eastern Catholic Churches", 22-61. POSPISHIL, *Eastern Catholic Church Law*, 66-70.

Salvific Law

of the historical diversity of the Oriental Churches, their traditions, their ancient legal usages in juridical matters etc. It was made possible as authorized by the See of Rome as a ministry to the catholicity of the Church.³⁹ When we consider the history of the codification of Oriental Canons we can find several phases in the process. First we have to consider the period before Pope Pius XII. Then we can look at the period that begins with Pope Pius XII. And finally we look at codification process led by PCCICOR and the promulgation of CCEO.

2.2.4.1 The Pre-Pius XII Period

The Oriental Churches were always active in their legislative activity and each had amassed an extensive body of laws, which eventually became practically inaccessible. By the beginning of the eighteenth century, collections of the Oriental canons had been gathered; but a comprehensive and authoritative code of canons of the Oriental Catholic Churches was still in need.⁴⁰ Again in the history of the universal Church, a special interest for collecting the juridical sources of the Oriental Churches can be identified from the second half of the 19th century. Pope Pius IX thought of collecting and publishing the juridical sources of the Church. According to the desire of the Pope, John Baptist Pitra O.S.B, began the research for the scattered Oriental Canons and as a result two volumes were collected and published with the title *Iuris ecclesiastici graecorum historia et monumenta*. The Pope also expressed the wish that, “the deposit of the Catholic faith in the East would be preserved inviolate and in its integrity (*integrum inviolatumque*), so that the ecclesiastical discipline continue to develop smoothly and that the sacred liturgy would shine forth with every holiness

39. See, DAOUD, “Presentazione”, xiv.

40. See, ASSEMANI, *Bibliotheca Iuris Orientalis Canonici et Civilis*, 5 vols.

and splendor.”⁴¹ His Holiness thus constituted ‘Congregazione de Propaganda Fide ‘pro negotiis ritus orientalis’ in 1862 by the Constitution, *Romani Pontifices*. The Holy Father appointed a cardinal *ponens*, “who would undertake the task to direct with care, the studies, which are necessary to collect the canons of the Oriental Church and if it is necessary to examine the oriental books of whatever type whether those regarding the translations of the Holy Bible or the catechesis or the discipline.”⁴² The interventions of some Oriental Fathers in the First Vatican Council also paved the way for the codification of the Oriental Canons. The names of the Melchite Patriarch Gregory Yussef and Bishop Joseph Papp-Szilágyi, the Bishop of Oradea Mare, are worth mentioning.⁴³ The preparatory commission of the Council on the missions and Churches of the Oriental rites acknowledged the great need of the Oriental Churches for an authorized Code of Canons. It was suggested that such a code must be complete and common to all nations and also accommodated to the circumstances of the times.⁴⁴ Though the First Vatican Council, ended prematurely, Pope Leo XIII was thoroughly informed about the affairs of the Oriental Churches. The Pope extolled, “the legitimately approved variety of Oriental liturgy and discipline, which admirably illustrates the mark of catholicity of the Church of God.”⁴⁵ By this time the synods of some Oriental Churches (1736-1835) sketched out a disciplinary patrimony

41. PUS IX, *Acta*, 1, 3, 402-403. See also, PITRA, *Iuris Ecclesiastici Graecorum Historia et Monumenta*, 2 vols.

42. PIUS IX, *Acta*, I, 3, 410.

43. See, MANSI, 49, 200; 49, 198; See also, PAPP-SZILÁGYI, *Enchiridion*. J. Papp-Szilágyi’s work., *Enchiridion Juris Ecclesiae Orientalis Catholicae* can be considered as an introduction to the Oriental Canons and the *Prolegomena* in 7ff., defines certain essential notions with regard to the science of Canon Law.

44. See, MANSI, 49, 1012, see also 50, 31.

45. LEO XIII, *Orientalium dignitas* quoted in PCLTI, *Prefatio*.

Salvific Law

of all the Oriental Churches defined on the basis of the sacred canons of the early Church.⁴⁶

Pope Benedict XV wisely and earnestly began the work of the codification of Canon Law for the Latin Church. An inquiry about the codification of Oriental Canons requires also an examination of the codification projects of the Latin Church. Although, both the 1917 and the 1983 codes of the Latin Church, explicitly excluded the Oriental Catholic Churches, in some way or other they can be considered as juridical precedents for the Oriental code of canons with regard to the legislative approach adopted in them and their method of codification of the laws. Further, certain substantial portions of both the aforementioned codes were incorporated verbatim in Oriental Code.⁴⁷

With regard to the Oriental Catholic Churches, Pope Benedict XV being aware of the fact that the Oriental Churches, “from the memory, more ancient of their time, offer elegant light of holiness and doctrine to illumine, the Christian regions with their splendor even after a long time”⁴⁸ created the Congregation for the Oriental Churches on 1st May 1917. The same Supreme Pontiff founded the Pontifical Oriental Institute, in Rome on 15th October 1917 in view “of generating the Catholic Oriental to the hope of recapturing the ancient richness.”⁴⁹ On February 22, 1926, at a plenary meeting of the Congregation for the Oriental Churches, the need for a code of Oriental Canons was expressed. However, the question was postponed for formal presentation at a future meeting. On July 25, 1927, at a plenary meeting of the same congregation, the

46. See, PCLTI, *Prefatio*.

47. See, FARIS, *Constitution and Governance*, 70.

48. See, BENEDICT XV, *Dei providentis*, 529-531.

49. See, BENEDICT XV, *Orientis catholici*, 531- 533.

project of the codification of Oriental Canons was formally proposed, unanimously accepted and referred to Pope Pius XI on August 3, 1927. The Pope in audience with Cardinal Aloysius Sincero, the secretary of the Congregation for the Oriental Churches, judged that the codification of the Oriental Canons was not only necessary but it was one of the most urgent issues. His Holiness ordered a consultation with the heads of the Oriental Churches with a Notification of the Congregation for the Oriental Churches dated 5th January 1929.⁵⁰

A preliminary *College or Council of the Presidency*, comprising the Pope as president, along with Cardinal Pietro Gasparri, Cardinal Aloysius Sincero and Syrian Patriarch Rahmani, was constituted on 27th April 1927 and functioned until 1929 when it became necessary to reconstitute due to the illness of Patriarch Rahmani. In 1929, a new *Commission of the Presidency* for the Codification of the Oriental Canons was constituted with the Pope as president and whose membership included Cardinals Pietro Gasparri, Aloysius Sincero, and Beneventure Cerreti. The commission was further modified on July 13, 1929, and its name changed to: *Commission for*

50. "Cum quamplurimi Orientalis Ecclesiae Rmi Praelati ad Apostolicam Sedem supplices preces instanter porrexerint, ut suis quoque Ecclesiis providentur per Orientalem Codificationem, Ssmus D. N. Pius div. Prov. Pp. XI ipsa re interpellari mandavit Excemos DD. Patriarchas, Rmos Metropollitas, Archiepiscopos et Episcopos, ut, collatis consiliis, libre significarent quae de hoc tanti momenti negotio sentirent, simulque mentem suam aperirent qua via et qua ratione procedendum esset respectu praesertim habito ad disciplinam. traditiones necessitates atque privilegia uniuscuiusque ritus, ut Codificatio in veram utilitatem vergeret illarum Ecclesiarum, cleri, populi. Quibus habitis, atque insuper ab iisdem Praelatis sacerdote pro suo cuiusque ritu delecto, qui operam navaret est *Commissionem Cardinalitiam pro studiis ut aiunt praeparatoriis Codificationis Orientalis*. Haec autem Commissio, ut sequitur, componitur: Emus ac Rmus D. Card. Petrus Gasparri *Praeses*. Emus ac Rmus D. Card. Aloysius Sincero, S. C. pro Ecclesia Orientali a Secretis., Emus ac Rmus D. Card. Boneventura Cerreti, Emus ac Rmus D. Card. Franciscus Ehrle, Rmus D. Hameltus Cicognani, S. C. pro Eccl. Orient. Adessor, a Secretis.", SCOC, *Notification*, 669.

Salvific Law

the Oriental Codification under the presidency of Cardinals Gasparri, Sincero, Ceretti and Ehrle of the Sacred Congregation for the Oriental Churches. It was the responsibility of this commission to study the responses of the Patriarchs, to oversee the system of work and operative criteria, the division of the work and the participation of the Oriental Catholics in the work⁵¹

On November 29, 1929, Pope Pius XI created the *Commission of Cardinals for the Preparatory Studies of Oriental Canonical Codification* under the presidency of Cardinal Pietro Gasparri with Cardinals Sincero, Ceretti, and Ehrle as members.⁵² Monsignor Cicognani, the Assessor of the Congregation for the Oriental Churches, served as the secretary of the commission. A *College of Delegates*, comprised of fourteen priests elected by their respective synods of the Oriental Churches, was created to assist the cardinals in the preparatory work. A *College of Consultors*, consisting of twelve experts of the sources of Oriental canons, was created to collect and publish the canonical sources.⁵³ The coordination of the efforts of the various commissions was entrusted to the Assessor of the Congregation for the Oriental Churches. It was the responsibility of this commission to formulate the first drafts of the future code.⁵⁴ This commission began its work from September 15, 1930 and functioned until August 6, 1936, in the preparation of eight drafts (*schemata*) which were

51. See. FALTIN, "La Codificazione del Diritto Canonico Orientale", 126. See also, FARIS, *Constitution and Governance*, 73.

52. See. FARIS, *Constitution and Governance*, 73. Here it is note worthy that Brogi gives another account of the establishment of this commission : "Il 13 luglio 1929 Pio XI istituiti una 'Commissione Cardinalizia per gli studi preparatori della Codificazione Canonica Orientale' che fu presieduta dal Cardinale Pietro Gasparri fino alla sua morte, sopravvenuta il 18 novembre 1934." BROGI, "Codificazione del Diritto Commune delle Chiese Orientali Cattoliche", 11.

53. See, *L'Osservatore Romano*, April 2, 1930.

54. See, AAS 21 (1929) 28 quoted in FARIS, *Constitution and Governance*, 73.

distributed to Oriental Catholic hierarchies, Latin rite bishops in Oriental territories, major superiors of religious institutes for men in the Oriental Churches and Roman dicasteries and various universities. Meanwhile the commission published the *Fonti* collected from various Oriental Catholic traditions.⁵⁵ The work of the preparatory commission finished when the eight drafts were completed. On 17th July 1935, Pope Pius XI constituted the *Pontifical Commission for the Redaction of Oriental Canon Law*.⁵⁶ The Pope entrusted the commission with the task of revising the *schemata* in consideration of the comments submitted by the various consultative bodies.

2.2.4.2 The Promulgation of the *Motu proprio*s

By 1945, the Redaction Commission had formulated a draft of the entire code, the *Codex Iuris Canonici Orientalis*,⁵⁷ which was modified in due time. At this stage of the project, Pope Pius XII granted several audiences to the secretary of the Redaction Commission, during which His Holiness reviewed all the suggested modifications to the 1945 draft. His Holiness' oral approval of the text did not preclude the possibility of further modification by the Redaction Commission itself or by the Holy Office. The Redaction Commission presented to the Pope a complete draft of the *Codex Iuris Canonici Orientalis* in a nearly final form in March 1948. In view of certain urgent needs, some parts of the new legislation were

55. These sources were published in three series of *Fonti della Codificazione Orientale*: Series I of 13 vols; Series II of 32 vols., and Series III of 14 vols. See, *Relazione sulla stampa della serie III, Nuntia* 3, 96-100. *Resconto sulla pubblicazione delle Fonti, Nuntia*, 10, 119-128.

56. See, PIUS XI, *AAS* 27 (1935) 306-308.

57. See, FALTIN, "La Codificazione del Diritto Canonico Orientale", 133. There were some 14 suggestions regarding the title of the draft. But finally "*Codex Iuris Canonici Orientalis*" was selected. See, COUSSA, "*Codificazione canonica orientale*", 45. See also, SALACHAS, *Il Regno*, 51-52 and NEDUNGATT, "The Title", 61-63.

Salvific Law

promulgated in four *Mps.*⁵⁸ Thus Pope Pius XII, promulgated 1590 canons out of the 2666 canons prepared by PCCICOR, during the period of 1949-1957.⁵⁹ And the following are the four *Mps.* promulgated:

1. *Crebrae Allatae*- 131 canons on marriage were promulgated on February 22, 1949 and came in to force of law on May 2, 1949.⁶⁰
2. *Sollicitudinem Nostram* - 576 canons on procedure were promulgated on January 6, 1950 and came in to force of law on January 6, 1951.⁶¹
3. *Postquam Apostolicis* - 325 canons on religious, temporal goods and the definition of terms were promulgated on February 9, 1952 and came into force of law on November 21, 1952.⁶²
4. *Cleri Sanctitati*- 558 canons on rites and persons promulgated on June 2, 1957 and came in to force of law on March 25, 1958.⁶³

Pope John XXIII announced on January 25, 1959, the convocation of a synod for the Diocese of Rome and an ecumenical council for the universal Church.⁶⁴ Pope mentioned

58. See, FARIS, *Constitution and Governance*, 72ff.

59. See, SALACHAS, *Il Regno*, 49.

60. See, PIUS XII, CA

61. See, PIUS XII, SN

62. See, PIUS XII, PA

63. See, PIUS XII, CS

64. "Venerabili Fratelli e Diletti Figli Nostri! Pronunciamo inanzi a voi, certo tremando un poco di commozione, ma insieme con umile risolutezza di proposito, il nome e la proposta della duplice celebrazione: di un Sinodo Diocesano per l'Urbe, e di un Concilio Ecumenico per la Chiesa universale. Per voi, Venerabili Fratelli e Diletti Figli Nostri, non occorono illustrazioni copiose circa la significazione storica e giuridica di queste due proposte. Esse condurranno felicemente all'auspicato e atteso aggiornamento del Codoce di Diritto Canonico, che dovrebbe accompagnare e coronare questi due saggi dipratrica applicazione dei provvedimenti di ecclesiastica

that one aspect of the program of the *aggiornamento* would be the updating of the canonical discipline of the Church. In this very same document the Pope specifically mentioned about the forthcoming promulgation of the *Code of Eastern Canon Law*.⁶⁵ However, later it was thought that the common law for the Oriental Catholic Churches also would be adapted according to the certain needs of the modern world. The promulgation of the canons on sacraments was therefore, postponed and the entire project was suspended until after the Second Vatican Council.⁶⁶ Out of 2666 canons, only a total of 1574 canons were promulgated in the above-mentioned four Mps. The other unpublished texts remained in the archives of the Redaction Commission. These texts are important with regard to the science of Canon Law in so far as they reflect the nature and structure of Canon Law during the middle of the twentieth century.⁶⁷

2.2.4.3 The Second Vatican Council

The Second Vatican Council (1962-1965) had an important role in the history of CCEO. The Vatican II formulated certain disciplinary material to be published in legal form. The Council introduced some important changes with regard to the recognition of the juridical status of the Oriental Catholic Churches. These innovations had to be incorporated in to the Code of Oriental Canons. On November 21, 1964 the Council

disciplina che lo Spirito del Signore Ci verrà suggerendo lungo la via. La prossima promulgazione del Codice di Diritto Orientale ci da il preannuncio di questi avvenimenti.” JOHN XXIII, *Solemnis Allocutio*, 68-69.

65. The pope was referring to the Mp. *de Sacramentis* which was presented to His Holiness on 12th November 1958 by Card. Aegagianian the president of the Redaction commission. And it was ready for promulgation. See, *Les Textes, Nuntia* 1, 31. See also, BROGI, “Codificazione del Diritto Commune delle Chiese Orientali Cattoliche”, 13.

66. See. FARIS, *Constitution and Governance*, 75.

67. See, SZENTIRMAI, “The Legal Language “, 40 ff.

Salvific Law

promulgated the decree, *Orientalium Ecclesiarum*, which was a fundamental legislative guideline too.⁶⁸ In fact it is a conciliar document that overcame several objections and reactions. While some of the Council Fathers stood for the absolute abandonment of draft prepared, some others opined that its contents would be incorporated in to other documents of the Council. Thanks to the special interest of the late Pope John XXIII, the document held its place among the conciliar decrees.⁶⁹ Many of the contents of the decree later found their expression in CCEO. We can find references to the documents of Vatican II, through out CCEO.⁷⁰

In the Council discussions regarding the two codifications (CIC and CCEO) opposition was voiced to a single codification encompassing every law of the Church. But despite the objections it was decided not to abandon the original plan of one code for the Latin Church and another code for the Oriental Churches.⁷¹

2.2.4.4 The Pontifical Commission for the Revision of the Oriental Code of Canon Law (PCCICOR)

Pope Paul VI established the *Pontifical Commission for the Revision of the Code of Oriental Canon Law* (PCCICOR) on June 10, 1972. The Commission was composed of the members who enjoyed a deliberative vote and the consultants who had no vote.⁷² The PCCICOR was authorized to revise the promulgated and the unpromulgated texts of the *Codex Iuris Canonici Orientalis* according to the genuine traditions and

68. See, POSPISHII, *Eastern Catholic Church Law*, 68-69.

69. See, DISTANTE, *Orientalium Ecclesiarum*, 8-12. See also, •U•EK, “Animadversiones quaedam”, 266-288.

70. See, PCLTI, *Codex Canonum Ecclesiarum Orientalium, Fontium Annotatione Auctus*. Faris gives a rather good account of the influence of OE on CCEO. See, FARIS, *Constitution and Governance*, 75ff.

71. See, POSPISHIL, *Eastern Catholic Church Law*, 69.

72. See, PAUL VI, Alloc.3, 647. See also, *Istituzione, Nuntia* 1, 11;

patrimony of the Oriental Churches and the directives of the Vatican II. Pope Paul VI, in his allocution of March 18, 1974, emphasized that the members of the PCCICOR were the “arrangers” (*ordinatores*) and not the “authors or makers” (*auctores seu factores*) of the law.⁷³

The PCCICOR inaugurated the publication of *Nuntia*, its official journal of communication in 1975.⁷⁴ All together the journal was published in 31 numbers and discontinued in 1990. Since *Nuntia* was published from the very early of the revision process, it contributed to the dissemination of the evolution of the drafts, by including the unpublished canons of the Redaction Commission, the initial texts prepared by the study groups, the comments of the consultative bodies, the revised texts, the 1986 draft of the entire code and subsequent amendments, the deliberations of the 1988 plenary meeting of the PCCICOR and amendments which were made as a result of that meeting.⁷⁵

2.2.4.5 The Guidelines for the Revision

Initially Faculty of Canon Law of the Pontifical Oriental Institute, Rome, prepared a text of Guidelines for the revision of the Oriental Code.⁷⁶ This text was approved at the first Plenary Assembly of the PCCICOR on March 18 to 23, 1974. These guidelines indicate the fundamental principles, which

73. “The Commission was instituted for the precise purpose to prepare a Code and to proceed in an orderly fashion arranging the laws and not to make or enact on their own authority laws themselves. The norms shall be upheld, while the principles of the laws themselves shall be derived from the sources and neither the former nor the latter can be altered. To use other words, the men assigned to the Commission are arrangers of these laws and not authors or creators” PAUL VI, AAS 66 (1974) 243; *Nuntia* 1 (1975).

74. In fact the publication of *Nuntia* began in 1973 with a mimeographed first edition- which is referred to as the *fasciculus praeivus*.

75. Faris gives a short account of the activities of PCCICOR as published in the 31 issues of *Nuntia*. See, FARIS, *Constitution and Governance*, 87-88.

76. See, *Nuntia*, 26, 99-113

Salvific Law

were to be operative throughout the revision process. The canonical vision behind the process can be distinguished from these guidelines.

First of all the guidelines held that the purpose of the revision process was to publish a single code that would serve as a common law for all the Oriental Catholic Churches.⁷⁷ The differences existing among canonical discipline of different churches were to be treated in particular laws. Here it was indicated that the process of codification is aiming to uphold at the same time the individuality of each church and the unity of the Catholic Church. The guidelines also held that the code should draw its inspiration from genuine Oriental sources. This was to safeguard the essential oriental character of the Code.⁷⁸ Again the guidelines indicated that the promotion of the unity of churches must be of primary concern in the elaboration of the code. The code must recognize the Orthodox Churches as “sister churches” and that they enjoy the right to govern themselves. The Oriental code must have an essential *juridical character* and it is not to be a mere handbook of dogmatic, pastoral and moral theology. The code must show at the same time a *pastoral character* with a concern not only for justice, but also for equity and charity. The Bishops and others, *who are entrusted with the care of the souls must be given reasonable discretionary power in order to adapt the canonical provisions to their particular needs and situations*. The principle of *subsidiarity* shall be expressed in the canons of the code, so that, what a lower institution of the hierarchy can

77. Here we have to bear in mind the discussion in the First Vatican Council on the theme of the plurality of the Codes in the Church. See, MANSI, 50:31.

78. As we have seen, the Redaction Commission of 1929 was entrusted with the task of collecting the juridical sources relating to the Oriental Catholic Churches. And the reports on the project of publication of these sources can be seen in *Resconto sulla pubblicazione delle Fonti*, *Nuntia*, 10, 119-128 and in *Relazione sulla stampa della seria III*, *Nuntia* 3, 96-100. See also, • U• EK, “The Ancient Oriental Sources”, 147ff.

accomplish for itself, shall not be reserved to a superior authority. The notion of *rite* and the nature and juridical status of *sui iuris* churches must be examined and juridically articulated in the code. The laity must be called to cooperate more directly in the apostolate of the Church in the area of liturgy, administration, tribunals and preaching. Sufficient freedom in expressing their opinions must be guaranteed. There is to be a uniformity of *procedural norms*. Each Oriental Catholic Church must be permitted to establish its own tribunals to deal with cases in all three instances up to the final sentence. All *latae sententiae* penalties should be eliminated from the Oriental Code. Greater emphasis is to be given to the *canonical admonition* prior to the imposition of a penalty. A canonical penalty should be considered not only in terms of the deprivation of a good, but also, in accordance with Oriental tradition, in the imposition of positive acts of penance.⁷⁹ Thus the Guidelines of the revision of the Oriental Code were aiming at a Code, which is at the same time juridical and pastoral.

2.2.4.6 The Revision and Promulgation of the Oriental Code

PCCICOR continued its work in the light of the approved guidelines. The first phase of the revision project was the elaboration of a complete draft of the code. The work was divided into eight and entrusted to nine different committees under the direction of a central committee. The eight drafts, which were prepared earlier and approved by the superior authority, were distributed to various consultative bodies for comments.⁸⁰ Each draft contained with itself also a *praenotanda* indicating the noteworthy issues and certain innovations found in the text. Each draft was revised in the

79. See, *Guidelines, Nuntia*, 3, 18-24

80. See, *Relatio de statu laborum Commissionis, Nuntia*, 11, 87.

Salvific Law

light of the comments of the *praenotanda*. Then the preparation of a complete draft from the eight former ones started. In fact the former drafts were prepared according to diverse principles and with a varied terminology. The task, therefore, involved methodological works like checking the terminology, orthography, linguistic style, punctuation, cross-references and the structural and logical coherency etc. The committee *de coordinatione*, carried out all these works, which began in April, 1984, and prepared the 1986 *Schema Codicis Iuris Canonici Orientalis*. The committee continued its arduous task until the text was presented to the pope.⁸¹ The draft was given to the members of the PCCICOR on October 17, 1986, with a request for a response by April 30, 1987.⁸² The comments received from the members were examined by a committee *de expensione observationum* on November 9 to 27, 1987, and on January 11 to 20, 1988. The committee compiled its responses and distributed them to the members of the PCCICOR.⁸³ In the Second Plenary Meeting of the PCCICOR the final step of the preparation of a text was done. This text was the one that was, to be presented to the Pope for promulgation. The meeting took place from November 3 to 14, 1988.⁸⁴ The entire draft was presented to the Roman Pontiff on January 28, 1989.

There were proposals that the CCEO should be promulgated *pro presentibus conditionibus*, that is, with the provision that the CCEO would serve until full unity is achieved with the non-Catholic Oriental Churches.⁸⁵ However, it was not accepted because the nature of a code requires a certain

81. *Nuntia* 21 (1985) 66-79; *Nuntia* 27 (1988) 3-81.

82. See, *Nuntia* 23 (1986) 109

83. *Nuntia* 28 (1989) 3-109.

84. *Nuntia* 29 (1989) 3-77.

85. In *OE*. 30 also we can find such a proposal.

permanence and stability. The *Codex Canonum Ecclesiarum Orientalium* was promulgated by Pope John Paul II with the apostolic constitution *Sacri Canones* on October 18, 1990, and it came in to the force of law on October 1, 1991⁸⁶.

2.3. The Nature and structure of CCEO

The Oriental Code is at hand for the administration and ministry of the Oriental Catholic Churches and also for the study and research by the students of Canon Law. Faris wrote, “The Eastern Catholic Churches must be grateful to Rome for the gift of the code. Yet it should be made clear that the CCEO is a gift of the Western Church to the Eastern Churches. Therefore, while the question was never raised in the *Guidelines*, some consideration should be given to the *modus procedenti* in the formulation of the CCEO. The mandate given to the PCCICOR was to prepare a revision of the promulgated canons and the unpromulgated texts in the light of the Second Vatican Council. The Commission itself did not enjoy any legislative authority.”⁸⁷ Therefore, the task of the PCCICOR was only to prepare a text for promulgation. Regarding the draft of 1986 proposals were made that together with the Pope, the heads of the *sui iuris* churches also must sign the document for promulgation, but it was decided that the act of promulgation could not be anything other than an act of the Supreme Authority of the Church alone, that is of the Pope, insofar as the code contained the canons common to all the Oriental Catholic Churches.⁸⁸ Some other Proposals were made that the CCEO should be promulgated *pro presentibus conditionibus*, that is, with the provision that the CCEO would serve only until full unity is achieved with the non-Catholic Oriental Churches. (OE.30). However, the proposal was not accepted on the ground that the nature of a code requires a certain permanence and stability.⁸⁹ The above mentioned facts are indicative of the real nature of CCEO.

86. See, *AAS* 82 (1990) 1033-1363

87. FARIS, *Constitution and Governance*, 92

88. *Nuntia* 28 (1989) 7.

89. See, FARIS, *Constitution and Governance*, 91ff.

Salvific Law

2.3.1 The Title: *Codex Canonum Ecclesiarum Orientalium*

The title of a document not only serves the purpose of identification, but can also indicate its scope and contents.⁹⁰ The “working title” of the Oriental Code, which was prepared before the Vatican II was *Codex Iuris Canonici Orientalis*.⁹¹ Some presumed that this was to be the title of the 1990 code, since the phrase which was in such a common use, had been employed in papal documents and pronouncements and it was thus even incorporated in to the title of the PCCICOR.⁹² However, it appeared to be a parallel variation of the title *Codex Iuris Canonici*⁹³ and in the final session of the codification, the title of the Oriental code agreed upon and accepted by the Pope was *Codex Canonum Ecclesiarum Orientalium*.⁹⁴ The Latin term *codex* is the parallel of the Greek term, *σύνταγμα*, which denotes a systematic arrangement of canons. In modern times, the Latin term *codex* denotes a comprehensive systematic arrangement of a body of laws. According to the Oriental traditions, the term *canonum* is more appropriate than *lex* or *ius*, because the term *canon* accentuates the spiritual character of the code and its theological foundation.⁹⁵ The

90. See, NEDUNGATT, “The Title”, 61.

91. See, in fact this title was not an officially approved one, even though several official documents have cited the Code with this title. See, COUSSA, “Codificazione canonica orientale”, 45. See also, Section 2.2.4.2 of this book.

92. See, AAS 51 (1959) 68-69; *Nuntia* 1 (1975) 90; See also FARIS, *Constitution and Governance*, 92.

93. During the final phase of the Revision of the Latin code, in 1981 the President of the PCCICOR, Cardinal Parecattil, proposed that the title of the Latin Code be *Codex Iuris Canonici Ecclesiae Latinae* or *Codex Iuris Canonici pro Ecclesiae Latinae*. The proposal was not accepted on the ground that the title *Codex Iuris Canonici* had become a traditional one for Latin canonical legislation and the jurisdiction of the Code was defined in the very first canon. See PARECATTIL, “The Title of the Latin Canon Law”, 79-80. See also *Communicationes* 14 (1982) 123.

94. *Nuntia* 28 (1989) 13; *Nuntia* 29 (1989) 30-34.

95. See, SALACHAS, *II Regno*, 51

use of the term *canon* also conforms to the long-standing Oriental tradition of the use of the terminology “sacred canons”.⁹⁶ The phrase *Ecclesiarum Orientalium* indicates the communities for which the law is intended. Some desired that the term *Catholicarum* be added to the phrase *Ecclesiarum Orientalium* in order to restrict the scope of the code to those Oriental Churches in communion with Rome but as in the case with Latin Code, the task of specification was left to the first canon which states that: “The canons of this Code concern all and solely the Eastern Catholic Churches, unless, with regard to relations with the Latin Church, it is expressly stated otherwise.”⁹⁷ Msgr. Emilio Eid wrote that the title of the Code “indicates its content in line with explicit reference to the concrete object of the Code (the canons) and to its precise, complete and living subject (the Oriental Churches).”⁹⁸

2.3.2 Certain Unique Characteristics of CCEO

The Oriental Code can claim certain unique characteristics, which indicate its juridical, theological and pastoral dimensions.⁹⁹ The Code of the Oriental Churches is first of all a common code (CCEO. 1493 § 1) for all the Oriental Catholic Churches. The common nature of the code is the result of a gradual evolution of ecclesiological thoughts and ideas.¹⁰⁰

96. See, JOHN PAUL II, *Sacri canones*, 1033

97. See, SALACHAS, *II Regno*, 51 and FARIS, *Constitution and Governance*, 92-93

98. EID, “The Nature and Structure”, 32.

99. See, SALACHAS, *II Regno*, 52-56. See also, EID, “The Nature and Structure”, 34-38. CAPRILE, “Il nuovo Codice dei Canonici delle Chiese Orientali”, 173-175. BHARANIKULANGARA, “Ecclesiology and Contents”, 32-38.

100. In 1929 the redaction commission had discussed about the different possibilities of codes of Canon Law: a single universal code for the whole Catholic Church and particular code for every Oriental Church; a single code for the Latin Church and a common code for all the Oriental Churches. And Cardinal Pietro Gasparri, the President of the commission at one time opined that, “As for the starting point it need not

Salvific Law

CCEO a common code for all the Oriental Catholic Churches has 1546 canons within it. At the same time CIC has 1752 canons. This disparity between the two codes (of 206 canons) points to the fact that some canons which are to be applied in certain particular contexts are lacking in CCEO. CCEO leaves them to the particular legislation of each church *sui iuris*.¹⁰¹ Pope John Paul II said, “Besides, it may be noted well that this Code leaves to the particular law of each church *sui iuris*, those things which are considered not necessary for the common good of all the Oriental Churches. Concerning those matters our wish is that those who possess legislative powers in each church *sui iuris* should provide at the earliest, for particular norms according to the traditions of proper Rite and also having before their eyes the precepts of Second Vatican Council.”¹⁰² In harmony with the teaching of Vatican II (LG. 31), the Code retains a clear distinction between clerics (CCEO. 323), religious (CCEO. 410) and laity (CCEO. 399).¹⁰³ “The principal characteristic note of the Oriental Ecclesiastical Organization” is the juridical figure of the Patriarch. The oriental Code on the basis of the genuine traditions of the Oriental Churches and according to the directives of the Vatican II, establishes a right equilibrium between the personal power of the Patriarch as the ‘Father and Head’ and the power of the patriarchal synod.¹⁰⁴

to be treated to formulate one Code for the Oriental Churches, distinct and separate from the Code for the Latin Church; but a single Code for the whole Catholic Church, in which the disciplinary particularities of the Oriental Churches are to be considered.” See, FALTIN, “La Codificazione del Diritto Canonico Orientale”, 126-128. See also, • U• EK, “Léide de Gasparri”, 429ff.

101. See, *Principi direttivi*, *Nuntia*, 3,3

102. JOHN PAUL II, *Sacri canones*, 1037-1038.

103. See, EID, “The Nature and Structure”, 35. See also, • U• EK, “Bipartizione o tripartizione”, 328ff.

104. See, EID, “The Nature and Structure”, 35-36.

The Oriental Code is unique in its dealing with the theology of the sacraments too.¹⁰⁵ In the spirit of the Vatican II the code formulated the canons on sacraments in fidelity with the ancient sacramental discipline of the Oriental Churches (OE. 12). The following are some unique characteristics of CCEO with regard to the canons on sacraments: the pneumatological basis (CCEO. 667, 675 § 1, 692, 698, 718, 743), the unity of the sacraments of initiation (CCEO. 697, 695), the restriction of the administration of the sacrament of baptism to priests alone (CCEO. 677), the administration of the sacrament of confirmation by the priest together with the sacrament of baptism (CCEO. 694), the acceptance of the ancient oriental legislation regarding the marriage of priests (CCEO. 373, 758§3), the omission of the canon 1061 of CIC with the phrase ‘matrimonium ratum et matrimonium consummum’ in the case of the dissolution of marriage, the conservation of the matrimonial impediment arising from the relationship between the Godparent and the baptized and between the Godparent and the parents of the baptized (CCEO. 811), the consideration of the sacramental blessing as a requisite for the validity of the marriage (CCEO. 828).¹⁰⁶

Concerning the faithful living outside the proper territory of each church *sui iuris* especially the Patriarchal church *sui iuris*, CCEO gives the provision in CCEO 146-150. But in case of doubts, the provision is given with the clause “*ius a Romano pontifice approbatum*” and the Roman Pontiff will issue a *ius speciale ad tempus*.¹⁰⁷ Even though CCEO is meant for all the Oriental Catholic Churches, in certain matters its

105. See ROHBAN, “Codification du Droit Canonique Oriental”, 280-281.

106. See, SALACHAS, *II Regno*, 55-56

107. See, *L'Osservatore Romano*, Weekly Edition in English (5 November 1990), 4-5. See also, BHARANIKULANGARA, “Ecclesiology and Contents”, 32-33.

Salvific Law

norms are to be considered in Latin Church too. We can find in the very first canon itself the expression “*nisi relationes cum Ecclesia latina attinet*” and the usage “*etiam Ecclesiae latinae*” can be found in about 10 places. Another Characteristic of CCEO is its ecumenical dimension. The entire Title XVIII is devoted for fostering the unity among the Christians. We can find the ecumenical vision of the Code in some other canons also.¹⁰⁸ The language of CCEO is also remarkable for its precision, style and uniformity of terminology. The *Coetus de co-ordinatione* had worked quite a lot to formulate such precise language and clear terminology.¹⁰⁹

2.3.3 The Structure and Contents of CCEO

CCEO has a particular mode of structure and division apart from CIC. The Code is divided into different *Titles, Articles* and *Canons*. This modality of subdivisions is adopted according to the methodology of ancient canonical collections and the traditions of the Oriental Churches.¹¹⁰ On 29 December 1936 the Commissione Cardinalizia decided not to follow the mode of division of Books as adopted in CIC, and it was decided to follow the division of Titles.¹¹¹ Thusly, the text prepared and presented on 9 July 1941 contained 24 *Titles*.¹¹² In 1980 PCCICOR set up a Coetus minor to study the systematic coordination of the new Code. It also recommended the same mode of division of the previous commission. Thus the draft was divided in to 28 titles and in accordance with the oriental canonical tradition this mode of division was accepted

108. See, CCEO. 902-908; 143 § 4; 238 § 3; 324 § 4; 625; 780 § 2.

109. *Nuntia* 21 (1985) 66-82. See also, SZENTIRMAI, “The Legal Language”, 40ff.

110. *Nuntia* 26 (1988) 17ff. See also, *Nuntia*, 28 (1989) 11.

111. See, *Relatio de statu laborum Commissionis*, *Nuntia*, 11,84.

112. See, *Les Textes*, *Nuntia* 1,24

for the final formulation of the code.¹¹³ The Code promulgated in 1990 was composed of 30 Titles. “The division in to Titles was favored by Supreme Pontiffs from the beginning of the oriental codification and later formally accepted by them. In fact Pope Pius XI, in the audience of 8 February 1937, in connection with the IV Plenary Assembly of the Commission, explicitly decided that for, ‘the Code of Oriental Canon Law (*Cdex Iuris Canonici Orientalis*), the order, which is in full harmony with their traditions and their wishes, may be adopted. Hence the division is in titles.’”¹¹⁴

In CCEO the canons are arranged “in an order of substantial priority of the matter”, explicitly indicated in the titles and in the few subdivisions in to chapters and articles. The general norms are placed at the very outset of the Code. Just after the preliminary canons there comes the title on the rights and duties of the Christian faithful.¹¹⁵ The next 12 titles deal with the various hierarchical orders of the Church. The following three titles are concerned with the Evangelization of the people, Catholic education and Divine worship and sacraments respectively. There is title XVII of some six canons devoted to the baptized Christians who come in to full communion with the Catholic Church. The unique content of CCEO is the XVIIIth title which exclusively deals with ecumenism. The title on the juridical persons (XIX) occupies the next place. Next three titles deals with the offices and administrative powers in the Church. Title XX is concerned with the temporal goods of the Church. Then three titles are devoted to trials

113. *Relatio de statu laborum Commissionis, Nuntia*, 11, 84-85. See also *Nuntia*, 28 (1989) 11.

114. EID, “The Nature and Structure”, 32.

115. SALACHAS, *Il Regno*, 51-52.

Salvific Law

and tribunals. Titles XXVII and XXVIII are concerned with penalties and penal procedure. The final two titles are discussing laws, contracts, administrative acts and prescriptions.

2.4 The Theology of CCEO: An Introduction

Canon Law is distinguished from civil law in so far as it has also a spiritual and theological dimension. The basis on which the Canon Law is founded is the image of God as the source of its existence, and final end. Canon Law, therefore, is made after the image of God the Father, who guides the Church in His eternal providence, justice and mercy, the Son, who, through His life and mission continues to be in the Church, His Mystical Body and the Holy Spirit who blesses the Church with His Grace in abundance, for the day to day Ecclesial life. As God the Father sent His Son, so also the Son sent His apostles to preach the Gospel, to baptize and make disciples of all nations, remaining with them all days until the end of the world. The whole mission of the Church is therefore, to be united with Christ in the three functions of teaching, sanctifying and administering. And the reality of Canon Law is also founded on this truth. The Church being an organized social entity perfects man and leads him to his eternal destination, that is salvation. In the words of Msgr. Emilio Eid, the vice president of PCCICOR, the Church “builds the just city of men with its institutions and discipline in view of the blessed city of God.”¹¹⁶

2.4.1 The Theology of the Title of CCEO

The title of the Oriental Code is not a mere mark of identification. It has a theology behind it. The title of CCEO-*The Code of Canons of the Oriental Churches* was already

116. EID, “The Nature and Structure”, 30

proposed by Cardinal Aloysius Sincero in 1932.¹¹⁷ The term *codex* is the Lat. parallel of the Gk. word *syntagma*, which signifies something more than a mere collection of laws. The word for indicating a mere collection of laws is *synagoge*.¹¹⁸ So, when CCEO uses the word *codex* in its title, it intends to communicate something more than a simple collection of laws. We can conclude that it also hints the thematic arrangement of the laws. In other words it is not a mere collection of dry laws, rather it is a consummation of laws based on certain principles. In the case of the laws of the Church these principles are essentially theological and biblical.

The title of CCEO was adopted on the ground of ancient oriental traditions, which had a special veneration for the ‘sacred canons’.¹¹⁹ According to the oriental pattern of thought the laws of the Church are not mere laws, rather they are ‘canons of grace’. That means they lead the faithful and orient them towards the grace of God. They are therefore laws of theology as well. Behind the ancient oriental legislation one can find theological, biblical and patristic reasoning.¹²⁰ The term ‘canons’, pregnant with theological implications, is therefore attributed to the legislation in the churches of ancient Orient.

The terminology ‘the Oriental Churches’ in the title of CCEO also invites us to reflect upon the communion of the oriental churches within the mystery of the universal Catholic Church. Here is a script of the 60s, “The question of about the proper ‘juridical’ form of the Church is an eminently ecumenical problem. When divided churches meet, they

117. See, *Nuntia*, 29 (1989)31-34;28 (1989) 13; See also, EID, “The Nature and Structure”, 32. SALACHAS, “Canones Preliminares”, 1-2

118. See, NEDUNGATT, “The Title”, 76.

119. See, *Nuntia*, 28(1989)13.

120. See, SALACHAS, *Il Regno*, 51.

Salvific Law

quickly ascertain that their entry into full fellowship as do their faith and doctrine. Therefore, the movement in which those things which divide the Church were made objects of common observation and adaptation was from the beginning not only a movement for faith, but a movement for Faith and Order. Certainly the churches sought out one another at first for the sake of the basic content of the gospel. The further they progressed in contact and dialogue, however, the less they were able to satisfy themselves with recognizing the spiritual unity given in Christ; rather they had to ask themselves how the various church orders were related to one another.”¹²¹ We can consider the usage ‘the Oriental Churches’ as a response to the challenges raised by the communion ecclesiology of Vatican II. The ecclesiastical communion is that which is in force among all the baptized in the Catholic Church, who have been united with Christ by the ties of the profession of faith, of the sacraments, of the ecclesiastical regime and of the communion (*LG. 14, UR. 3*).¹²²

The title of CCEO reveals at the same time the antiquity and the novelty of the Oriental canons. It visualizes an *aggiornamento* of the Oriental Churches also. Thus the title of the Code responds to the questions raised by Prof. • u • ek in 1973.¹²³ We can say that the title of CCEO is a theological maxim that indicates the antiquity, the novelty, the catholicity and the individuality of the Oriental Catholic Churches. It is a well thought and well formulated canonico-theological title for a code of canons of the Oriental Churches.

121. VISCHER, “Reform of Canon Law-an Ecumenical Problem”, 395.

122. See, GIRLANDA, *Il Diritto nella Chiesa*, 41

123. See, • U • EK, “The Ancient Oriental Sources”, 147. In fact Prof. • U • EK being the secretary of PCCICOR is also responsible for making the Code updated according to the teachings of Vat. II. He himself affirmed the novelty of the Oriental Code in 1992. See, • U • EK, “Reflessioni”, 62-63.

2.4.2 The Communion Ecclesiology of CCEO

“The Church is a kind of sacrament or sign of intimate union with God and of the unity of all mankind. It is also an instrument to achieve such union and unity.”¹²⁴ One of the novelties of CCEO is its communion ecclesiology. The Can.1 of CCEO establishes that the canons of this code are meant for the Oriental Churches. Similarly the first canon of CIC restricts the application of its canons to the Latin Church. This duplicity of the codes in one, single Catholic Church can be resolved only in the light of the ecclesiological teachings of Vatican II. “By divine Providence it has come about that various churches, established in various places by the apostles and their successors, have in the course of time coalesced into several groups, organically united, which, preserving the unity of faith and the unique divine constitution of the universal Church, enjoy their own discipline, their own liturgical usage, and their own theological and spiritual heritage. Some of these churches, notably the ancient patriarchal churches, as parent-stocks of the Faith, so to speak, have begotten others as daughter churches, with which they are connected down to our own time by a close bond of charity in their sacramental life and in their mutual respect for their rights and duties. This variety of local churches with one common aspiration is splendid evidence of the catholicity of the undivided Church.” (LG. 23). “Moreover, within the Church particular Churches hold a rightful place; these Churches retain their own traditions, without in any way opposing the primacy of the Chair of Peter, which presides over the whole assembly of charity and protects legitimate differences, while at the same time assuring that such differences do not hinder unity but rather contribute toward it.” (LG. 13). “These individual Churches, whether of the East or the West, although they differ somewhat among themselves

124. PROVOST, “Structuring the Church as a *Communio*”, 191.

Salvific Law

in rite (to use the current phrase), that is, in liturgy, ecclesiastical discipline, and spiritual heritage, are, nevertheless, each as much as the others, entrusted to the pastoral government of the Roman Pontiff, the divinely appointed successor of St. Peter in primacy over the universal Church. They are consequently of equal dignity, so that none of them is superior to the others as regards rite and they enjoy the same rights and are under the same obligations, also in respect of preaching the Gospel to the whole world (Mk. 16, 15) under the guidance of the Roman Pontiff.” (OE. 3). “The Sacred Council, therefore, not only accords to this ecclesiastical and spiritual heritage the high regard which is its due and rightful praise, but also unhesitatingly looks on it as the heritage of the universal Church. For this reason it solemnly declares that the Churches of the East, as much as those of the West, have a full right and are in duty bound to rule themselves, each in accordance with its own established disciplines, since all these are praiseworthy by reason of their venerable antiquity, more harmonious with the character of their faithful and more suited to the promotion of the good of souls.” (OE. 5). These texts emphasize the fact that the universal Church is a communion of churches.¹²⁵

Here we have to bear in mind what the Church intends by communion. The reality of communion in the Church has its fundamental basis on the life of the primitive ecclesial community as described in the *Acts of the Apostles*, Ch. 2. The primitive Christian church at Jerusalem seemed to be characterized by a community of faith and hope, a union of minds, and the concrete expression of this union was a sharing of goods. It would not have been communities worthy of the

125. See, SALACHAS, “Ecclesia universa et ecclesia sui iuris”, 66-67.

name, if among the members some lived in abundance while others were in want.¹²⁶ Communion cannot be lived in an exclusively spiritual or disincarnated way. In the plan of God, full, life-giving communion is achieved in and through the Church.¹²⁷ We can find the continuation of this communion in today's Church in two levels: Universal and Particular. As a basis of this communion we can find 5 elements: 1. the Sacrament of Baptism, which constitutes the people of God 2. the organic difference among the faithful of the Church on account of the hierarchical and charismatic gifts rendered by the same Holy Spirit 3. the acceptance of all the visible structures of the Church by which the Church preaches the Gospel of salvation 4. the union with Christ in the visible Church through the ties of the profession of faith, of the sacraments, of the ecclesiastical hierarchy 5. the ministry and leadership of the Supreme Pontiff and other hierarchical heads of the Church.¹²⁸ And CCEO 8 defines the community of Christian faithful as a group of people united in faith and sacrament: "In full communion with the Catholic Church on this earth are those baptized persons who are joined with Christ in its visible frame by the bonds of profession of faith, of the sacraments and of ecclesiastical governance."¹²⁹

In the Universal Church we experience the communion of all the faithful, the whole people of God under the guidance of the Roman Pontiff and other hierarchical heads. In the particular level while remaining in communion with the Pope and the Universal Church, the faithful and the hierarchy of the same church *sui iuris* enjoys a communion among themselves (CCEO. 27). The communion that the people of God enjoy

126. See, LYNCH, "The Limits of *Communio* in the Pre-Constantinian Church", 160

127. See, BURKE, "Communio", 118

128. See, GIRLANDA, *Il Diritto nella Chiesa*, 42

129. See also, CIC 20

Salvific Law

within the Universal Church is not only a communion of Christian faithful but on the other hand it turns to be a communion of churches too. Here we have to bear in mind the fact that every supraepiscopal power that exists in the Oriental Churches, that is the power of the Patriarch, of the Major Archbishop, of the Metropolitan and of the Archbishop, is under the supreme authority of the Roman Pontiff and of the ecumenical council. The juridical norms, which determine the powers of the heads of the Oriental Churches or its synods or councils can, have their origin only from the supreme authority of the Church.¹³⁰ It is also important to mention about the juridical status of the Latin Church in relation to the Oriental Churches. Prof. • u•ek has written, “As regards the Latin Church, which is also an *Ecclesia ritualis sui iuris*, as is clear from Canons 111 and 112 of the 1983 Code of Canon Law (CIC), that its nature is such that it cannot be fitted into any of the juridical forms listed,¹³¹ even though the titles of the Roman Pontiff include that of ‘patriarch.’ If we speak of the Roman Pontiff as ‘Patriarch of the West’ and the Latin Church as the ‘Patriarchate of the West,’ we must always remember that within the primatial power conferred by Christ on Peter and his successors, it is not possible to make *adequatae distinctiones* between his powers as Bishop of Rome, Archbishop and Metropolitan of the Province of Rome, Primate of Italy, and Patriarch of the West. It is therefore impossible for the structure of the Latin Church to be equal or analogous to an Eastern *Ecclesia patriarchalis*, in which (in view of the fact that it is not a structure *iuris divini* but only *iuris*

130. • U•EK, “Presentazione”, 126

131. Prof. • u•ek, had previously discussed in the same article about the various categories of the Oriental Churches *sui iuris* as presented in the Oriental Code: the Patriarchal Churches, the Major Archiepiscopal Churches, the Metropolitan Churches and the Other Churches *sui iuris*. See, • U•EK, “The *Ecclesiae Sui Iuris* in the Revision of Canon Law” 296.

ecclesiastici even if *Divina autem Providentia - LG. 23*) the patriarch is ascribed only a power limited *ad normam iuris* and quite frequently conditional on the *consensus* of a synod of bishops, which has its own specific powers- which may even be exclusive, such as those concerning legislative power for the whole patriarchate.”¹³² Prof. Salachas holds that, about the supreme authority of the universal Church both the Oriental and the Latin codes have canons, which are identical.¹³³ According to them the communion within the universal Church is experienced only in union with the head of the universal Church, who is the Pope.

2.4.3 The Ecumenical Perspective of CCEO

One of the directives given to the Commission for the Codification of the Oriental Code in 1974 is that the figure of the Code is to be authentically ecumenical. And the guidelines formulated for the revision of the Oriental Code also recommend the spirit of ecumenism in the Code.¹³⁴ Accordingly CCEO devoted one entire Title to ecumenism (CCEO. 902-908). These canons are formulated on the basis of the sources such as: the Second Vatican Council’s Decree

132. • U• EK, “The *Ecclesiae Sui iuris* in the Revision of Canon Law”, 297-298.

133. “Inoltre, in ambedue i Codici i canoni sulla suprema autorità della Chiesa universale sono identici, tracciati ricordiamo i due primi fondamentali: 1) Come, per volontà del Signore, San Pietro e gli altri Apostoli costituiscono un unico Collegio, per la medesima ragione il Romano Pontefice, successore di Pietro, ed i Vescovi, successori degli Apostoli, sono tra di loro congiunti (CCEO can. 42; CIC can.330); 2) Il Vescovo della Chiesa di Roma, in cui permane l’ufficio concesso dal Signore singolarmente a Pietro, primo degli Apostoli, e che deve essere trasmesso ai suoi successori, e capo del Collegio dei Vescovi, Vicario di Cristo e Pastore qui in terra della Chiesa universale (*universae Ecclesiae*); egli perciò, in forza del suo ufficio, ha potestà ordinaria suprema, piena, immediata e universale sulla Chiesa, Potestà che può sempre esercitare liberamente (CCEO can.43; CIC can.331). In questa unica divina costituzione della Chiesa universale, la comunione gerarchica col Capo appartiene a quei requisiti essenziali della cattolicità delle varie Chiese.” SALACHAS, “*Ecclesia universa et ecclesia sui iuris*,” 67.

134. See, *Guidelines, Nuntia*, 3,20.

Salvific Law

on Ecumenism, the Ecumenical Directory and other conciliar and post-conciliar sources, which deal with ecumenism.¹³⁵ “Already from the earliest times the Eastern Churches followed their own forms of ecclesiastical law and custom, which were sanctioned by the approval of the Fathers of the Church, of synods, and even of ecumenical councils. Far from being an obstacle to the Church’s unity, a certain diversity of customs and observances only adds to her splendor, and is of great help in carrying out her mission, as has already been stated. To remove, then, all shadow of doubt, this holy Council solemnly declares that the Churches of the East, while remembering the necessary unity of the whole Church, have the power to govern themselves according to the disciplines proper to them, since these are better suited to the character of their faithful, and more for the good of their souls. The perfect observance of this traditional principle not always indeed carried out in practice, is one of the essential prerequisites for any restoration of unity.” (UR. 16). Again the Council continues, “The Sacred Council feels great joy in the fruitful zealous collaboration of the Eastern and the Western Catholic Churches and at the same time declares: All these directives of law are laid down in view of the present situation till such time as the Catholic Church and the separated Eastern Churches come together into complete unity.” (OE. 30). In the light of these teachings the Code holds that the restoration of the unity of all Christians is the solicitude of the entire Church. All Christian faithful, especially pastors of the Church, therefore, should pray and work for that fullness of unity desired by the Lord, resourcefully taking part in the ecumenical action set in motion by the grace of the Holy Spirit. (CCEO. 902). The Code expresses its broadness when it says, “Directors of schools, hospitals and

135. See, SALACHAS, “Implicanze ecumeniche”, 77, SALACHAS, II Regno, 56. See also, RIES, “Neue Perspektiven für die Ökumene im CCEO”, 494-496.

other similar Catholic institutions are to see to it that other Christians who attend these institutions or stay there have the facilities to get spiritual aid and receive the sacraments from their own ministers.” (CCEO. 907). Another ecumenical perspective is evident in the norm on *communicatio in sacris*. “It is desirable that the Catholic faithful, while observing the norms on *communicatio in sacris*, do not undertake all by themselves any project whatever in which they can co-operate with other Christians, but that they do it together: such are charitable works and works of social justice, the defense of the dignity and the fundamental rights of the human person, promotion of peace, days of commemoration for one’s fatherland, national holidays.”(CCEO.908).¹³⁶ The ecumenical vision of the Oriental Code can be traced in the following canons: CCEO.143§ 4; 238§ 3; 324§ 4; 625.¹³⁷ In the canons on the mixed marriage we can witness the concern of the Code for the non-Catholic Churches (CCEO.780-781). Here the Code recognizes the juridical systems of other Christian churches.¹³⁸ The non-Catholic churches have their own juridical systems, which are strongly united with the sacramental life of the Church. “With impressive consistency, the Orthodox Churches start from the conviction that the Church is, primarily, the Eucharistic fellowship made possible by Christ and realized through Holy Spirit. Christ not only established the sacraments; he is also present through the sacraments in his Church. Especially through the Eucharist he creates ever anew the fellowship with himself and among the members of his body. As the Church, in trust in the promise of the Holy Spirit, allows itself to be brought in to his sacrifice

136. See, WIJLENS, *Sharing the Eucharist*, 291 ff.

137 See, BHARANIKULANGARA, “Ecclesiology and Contents”, 36

138. See, SALACHAS, *Il Regno*, 56

Salvific Law

and opens itself to the power of his resurrection, it is confirmed as his body and given continual newness of life. The order of the Church can therefore be understood properly only when this point of departure, the sacramental community, is kept in view. Order grows out of the sacramental community, and is subjected to it as its servant...It arises rather out of the sacramental community, and its function is protectively to surround the sacramental event.”¹³⁹ Having understood this Orthodox view of the Church’s juridical system, CCEO indirectly gave due emphasis on the different dimensions of the principle of *oikonomia*.¹⁴⁰ Still, the following prayer of Kallistos Ware is good enough to meditate upon, “Precisely how the general conscience of the Church can find expression today in the Christian East, as it did in the days of St. Athanasius, St. Gregory of Nazianzus, St. Maximus the Confessor or St. Gregory Palamas, it is not easy to determine in the abstract. One thing, however, is abundantly clear. Unless this general conscience plays a responsible role... little permanent good can be expected of the whole venture... Let us pray that, in the East as in the West, the prophetic voice of the people of God may be heard in our time with renewed clarity and effectiveness.”¹⁴¹

2.4.4 CCEO: A *Vehiculum Caritatis*

Holy Father John Paul II promulgated CCEO with the following words: “ I implore Holy Mary ever Virgin, to whose benevolent watchfulness I repeatedly entrusted the preparation of the Code, that she entreat her Son with maternal prayer that the Code may become a vehicle of love which was splendidly demonstrated from the heart of Christ pierced by the lance on

139. VISCHER, “Reform of Canon Law - an Ecumenical Problem”, 402.

140. See, • U• EK, “L’conomie”, 70ff.

141. WARE, “The Ecumenical Councils and the Conscience of the Church”, 233.

the cross, according to St. John the Apostle, the splendid witness, that it ought to be inwardly implemented in the heart of every human creature.”¹⁴² The Oriental Code therefore has a role, which raises itself beyond the frontiers of the mere juridical strictness, the *akribeia*. It is in a position to elevate the Churches on which it has a binding force to a level where they can judge and decide things according to the *oikonomia* of the Almighty. The Holy Father, hopes that the Oriental Code “will establish an order of tranquility, which I desired when I promulgated the Code of Canon Law of the Latin Church, with an ardent spirit for the whole ecclesial society. It is a question of order which, attributing the principal parts to love, to grace, to charism, renders, at the very same time, an ordered progression of them easier whether in the life of the ecclesial society or in the life of the individuals who belong to it.”¹⁴³ At the presentation of the Oriental Code Msgr. Emilio Eid said on 25th October 1990, “In fact the economy of Redemption completes and perfects the work of creation. The Author of nature is the same as the Author of grace. The law of incarnation of the Son of God, made man, governs the whole mystery of salvation, and constitutes the concrete basis of the whole ecclesial order: The ‘Salvation of souls the supreme law’. Thus from the double source of divine law-natural and positive-extended through apostolic tradition and legitimate authority in the Church, Canon Law derives all its efficacy and normative value.”¹⁴⁴ The law of the Church is realized as a sacramental reality, which continues the living presence of Christ, manifested through the Holy Eucharist and the Mystical Body, which is the Church.¹⁴⁵ Therefore, the Oriental Code

142. JOHN PAUL II, *Sacri canones*, 1043

143. JOHN PAUL II, *Sacri canones*, 1042-1043. See also, JOHN PAUL II, *Sacrae disciplinae leges*, xi.

144. EID, “The Nature and Structure”, 30.

145. CAPRILE, “Il nuovo Codice dei Canonici delle Chiese Orientali”, 174.

Salvific Law

aims that the law, being part of the mystery of the Church, can help the Church to carry out effectively its functions of sanctifying, teaching and governing in a spirit of love and mercy.

2.5 Conclusion

The advent CCEO marked a new phase in the history of the Oriental Churches. Both the commissions, namely those for the codification and for the revision, worked extensively to make this advent an historical one. Thus CCEO, in fidelity with the ancient canons and other sources of some Oriental Churches drew up a design for an Oriental ecclesial life within the catholicity of the Universal Church, being always in accordance with the *oikonomia* of the Almighty. Even the structure of the Oriental Code reveals a certain oriental character. The title of CCEO is well formulated according to the Oriental theology. Through its communion ecclesiology CCEO occupies a very unique place in the history of the science of Canon Law. The ecumenical approach of CCEO is also noteworthy. Thus CCEO can truly claim to be a *vehiculum caritatis* in the history of the universal Church. In the following chapters we look at this salvific instrumentality of CCEO in its explicit and implicit realms.

Chapter 3

THE EXPLICIT SALVIFIC CHARACTER OF CCEO

3. 0. Introduction

In this chapter the explicit salvific character of CCEO will be examined with special reference to the canons on the sacrament of the Holy Eucharist and the usages *salus*, *salus animarum* and *aequitas*. An explicit salvific character of the Code is evident in these canons because they directly speak of the salvation and find salvation as the supreme goal of every law of the Church. The Eucharist, being the pretaste of the heavenly banquet is the culmination of all the means of salvation, which man encounters on this earth. We will see the general occurrences of the term *salus* in the Oriental code and evaluate these canons in the light of their respective juridical sources. Our next attempt will be to see the concept of *salus animarum* in CCEO. First of all we will try to understand the terminological meaning of the usage *salus animarum*, then evaluate this spiritual principle in the pastoral and judicial contexts of CCEO. And in the final section of this chapter we will see the principle of equity in CCEO form a salvific point of view.

3.1 The Eucharistic Spirituality of the Oriental Code

It is the Eucharist that makes the Church the living body of Christ. This understanding of the Holy Eucharist has evolved through a very long history of the Church. At one time the Church condemned those who were not in communion with the Eucharist. The tenth canon of the Council of Trent was originally drawn up in the following words, “If any one shall say, that faith alone is a sufficient preparation for receiving the most excellent sacrament of the Holy Eucharist, let him be anathema. And, that this sacrament may not be taken unworthily, and therefore unto death and condemnation, the

Salvific Law

Council ordains and declares, that, for those whose conscience is *burthened* with mortal sin, it is necessary to premise sacramental confession. And if any one shall presume to teach, preach, obstinately to affirm, or publicly to dispute to the contrary, let him be *ipso facto* excommunicated.”¹ Where as the Second Vatican Council declared, “This Church of Christ is truly present in all legitimate local congregations of the faithful which, united with their pastors, are themselves called churches in the New Testament. (Acts. 8, 1; 14, 22-23; 20, 17). For in their locality these are the new People called by God, in the Holy Spirit and in much fullness. (1 Thess. 1, 5). In them the faithful are gathered together by the preaching of the Gospel of Christ, and the mystery of the Lord’s Supper is celebrated, that by the food and blood of the Lord’s body the whole brotherhood may be joined together. In any community of the altar, under the sacred ministry of the bishop, there is exhibited a symbol of that charity and ‘unity of the mystical Body, without which there can be no salvation.’ In these communities, though frequently small and poor, or living in the Diaspora, Christ is present, and in virtue of His presence there is brought together one, holy, catholic and apostolic Church. For ‘the partaking of the body and blood of Christ does nothing other than make us be transformed into that which we consume” (LG. 26). “Therefore all should hold in great esteem the liturgical life of the diocese centered around the bishop, especially in his cathedral church; they must be convinced that the pre-eminent manifestation of the Church consists in the full active participation of all God’s holy people in these liturgical celebrations, especially in the same Eucharist, in a single prayer, at one altar, at which there presides the bishop surrounded by his college of priests and by his ministers.” (SC. 41). We, therefore, can say with full

1. WATER WORTH, *Council of Trent*, cxxxiv. The official canon of the council is a little modified one. We quote this draft just to show the mind of the Church, onetime.

confidence, that the local church that celebrates the Eucharist is an authentic manifestation of the Church of Christ. And the people of God gathered around the altar of Christ in fact “becomes the one, holy, catholic and apostolic Church in this celebration.”²

3.1.1 The Sources of the Salvific Nature of the Eucharist

We can find the Passover meal of the old covenant, which is a liturgical rite that represents the core of the Passover celebrations as laid down in Chapter 12 of Exodus as an Old Testament source of the Eucharistic liturgy. It was the commemoration of the liberation of the people of Israel from slavery. It also enacts the creation of the liberated people, specifically through covenant, as the holy and priestly people of God. Through this memorial celebration of liberation Israel enters into communion with God. Moreover, it becomes a “prophetic sign for the future, and a guarantee of final salvation”³ The Old Testament Passover meal “is a sacrificial meal of an anamnestic and eschatological nature. It at the same time recalls the Lord and his salvific action of the past, and, in virtue of the ‘memory’ of the Lord, the divine salvation worked in the past is performed in it in the present, while the fulfillment of eschatological salvation is foretold in it as prophetic sign.”⁴

The Last Supper of Our Lord (Mt.26, 26-29) and the Eucharistic celebrations of the primitive Church have a kind of structural similarity with the Old Testament Passover meal. “All the essential elements of the Old Testament Jewish Passover liturgy are still found in the Christian Eucharistic celebration”⁵ And “in its structure and thematic content, the New Testament Eucharistic celebration corresponds broadly

2. See, BÉKÉS, “The Eucharist makes the Church”, 349

3. See, FÜGLISTER, *Il valore salvifico della pasqua*, 164-169

4. See, BÉKÉS, “The Eucharist makes the Church”, 352.

5. FÜGLISTER, *Il valore salvifico della pasqua*, 169.

Salvific Law

to the Jewish Old Testament Passover celebration.”⁶ Jesus celebrates the Last Supper with his disciples as an Old Testament Passover meal of an anamnestic nature. Within the framework of memorial meal Jesus presents a new salvific action on God’s part and institutes a new memorial of this action. The Lord foreshadows his sacrificial act, the new divine act of salvation that would be fulfilled on the cross.⁷ Thus we can say that, the salvific action, as become evident in the sacrifice of Jesus, is anticipated in the Last Supper in the symbolic and sacramental action of ‘giving his body’ and ‘pouring out his blood.’ The present Eucharistic celebration is the reenactment of this sacrifice on the cross. The Eucharist is celebrated “not only in order that the believers should remember Jesus and his salvific action, but also in order that God should remember Christ and Christians so as to implement in the present the salvation that has its basis in the past, that is, in the salvific action that took place once and for ever.”⁸ Thus the sacrament of the Holy Eucharist being originated from the Passover of the Old Testament and the sacrificial death of Christ on the cross is essentially and explicitly salvific. The canons of the Church, which deal with the sacrament of the Holy Eucharist, therefore, essentially communicate this salvific character.

3.1.2 The Eucharist-centered Spirituality of the Code

According to some authors the Catholic spirituality manifested in the law codes of the Church is first of all centered on the liturgy.⁹ CCEO.17 states, “Christ’s faithful have the right to worship God according to the prescriptions of their own Church *sui iuris*, and to follow their own form of spiritual life, of course in accord with the teaching of the Church.” Again

6. FÜGLISTER, *Il valore salvifico della pasqua*, 335

7. BÉKÉS, “The Eucharist makes the Church”, 353.

8. FÜGLISTER, *Il valore salvifico della pasqua*, 169.

9. See, HUELS., “Spirituality”, 111.

The Explicit Salvific Character of CCEO

when the Oriental Code speaks about the prescription in CCEO. 1542 - 3 it holds that a canonical prescription cannot affect the rights and obligations which bear directly on the spiritual life of the Christian faithful. Great emphasis on the spiritual life of the Christian faithful is given in the Oriental Code. Principally the Catholic spirituality is centered on the mystery of the Holy Eucharist.¹⁰ For, “The mystery of the Eucharist is the true centre of the sacred liturgy and indeed of the whole Christian life.”¹¹ According to the Oriental traditions the sacrament is called mystery (*mysterion*), but when they speak about ‘divine mysteries’ or ‘immaculate mysteries’ they intend to speak only about the Eucharist. According to the Antiochian tradition the Eucharist is the mystery in which all the salvific events of both Old Testament and New Testament are culminated.¹² Thus the Eucharist is the culmination or the centre of every other mystery. From the early times the Church called the order of the Eucharist by the names such as ‘the Divine Liturgy of St. James’ or ‘the Divine Liturgy of St. John Chrysostom’ or ‘the Divine Liturgy of St. Basil’.¹³ The Syriac word *Qurbano/ Qurbana*, which is used to mean the Eucharist also, has this sense of divinity. Thus Eucharist always has the nature of a divine mystery that bring about the real presence of the Body of Christ.

10. Some ancient Oriental Sources of Monastic Life give witness to the Eucharist-centered spiritual life of the Monks. Thus goes the rule 9 of some anonymous monastic rules of early 4th century: “It is not lawful for a monk to stand outside and narrate vanities at the time of the prayer of the community of the Eucharist; if he is a partaker he shall go in and weep over his sins or else he shall not go as the one not guilty.”, VÖÖBUS, *Syriac and Arabic Documents Regarding Legislation*, 73. See also, *Rules of Rabbula for the Clergy and Qeïama* (5th Century), Rules: 31, 33, 49, 52, 59 in VÖÖBUS, *Syriac and Arabic Documents Regarding Legislation*, 44 - 50.

11. *Eucharisticum Mysterium*, 539.

12. See, SMC, *Hasaganangal*, 68.

13. See, *De Divina Eucharistia, Nuntia*, 4, 34-35. See also, SALACHAS, “Divine Worship, Especially the Sacraments”, 511- 512 and SALACHAS, “De Divina Eucharistica”, 585.

Salvific Law

The Code exhorts Christian faithful in CCEO. 881 § 1-4 to hold the Eucharist in highest honor. All the Christian faithful are bound to participate in it every Sunday and Holy Day of obligation. The Code encourages the seminarians (CCEO. 346§1), the clerics (CCEO. 377), the members of the religious and secular institutes (CCEO. 538§ 1-3) to participate in the daily Eucharistic celebration. Again the code suggests that the reception of Holy Eucharist is to be considered as that much essential and important so that it can be received frequently and especially in some special occasions, such as in danger of death (CCEO. 713§ 1-3, 708).¹⁴ The Code also suggests the directives to be observed in giving communion to the non-Catholic Christians (CCEO. 671 §1-5).¹⁵ Here the Oriental Code understands Eucharist as a symbol of unity among the Christians. Thus the Code gives directives for a Eucharist-centered Christian life and spirituality.

3.1.3 Eucharist the Bread of Life

Jesus instituted the mystery of the Eucharist as the bread of life, given by the Father in heaven for the eternal life of those who believe in him and so that they may become God's children (Jn. 6, 33.35.54). "What the Lord Jesus himself did at the Last Supper is perpetuated in the Divine Liturgy by the power of the Holy Spirit through the ministry of the priest who acts in the person of Christ over the offering of the Church. Christ Jesus gave to his disciples his body, which was to be offered for us on the cross, and his blood, which was to be poured out for us, thus instituting the true and mystical sacrifice. In this sacrifice the bloody sacrifice of the cross is commemorated with thanksgiving, is actuated and shared by the Church through oblation and through communion, in order to signify and realize the unity of the people of God and to build up

14. See, HUELS., "Spirituality", 111.

15. See, WIJLENS, *Sharing the Eucharist*, 311-312; See also, CHEMPAKASSERY, *Memory and Presence*, 5-7

The Explicit Salvific Character of CCEO

Christ's Body, namely the Church.” (CCEO. 698). This canon of CCEO is very much theological. It communicates both the pneumatological and sacrificial dimensions of the Eucharist. This offering signifies the sacrificial death and resurrection of the Lord. At the same time the bread of life is offered and sanctified through the Holy Spirit. It is both a thanksgiving *eucharistia* to the Father, and the expression of the people of God as the Body of Christ (1 Cor. 10, 17).¹⁶ The reception of the Holy Communion is considered as a cause of stability in the Church. Can. 9 of the Apostles (ca. 400) states that “All the faithful who enter into the Church and hear the Scripture, but not remaining for the prayer and the Holy Communion, therefore, create confusion in the Church.”¹⁷ According to the canonical teachings of the Church, the purpose of the Eucharistic celebration is the communion of the people of God as the Body of Christ, which ultimately aims at the final communion with God that is salvation through the ministry of the Church.

3.1.4 Priest and the Eucharist

The Oriental Code asserts that every ordained priest has an essential right to celebrate Eucharist. The English translation has made use of the term ‘inviolable’ to indicate the essential nature of this right. CCEO.700§ 2 states that “If it is possible, presbyters are to celebrate the Divine Liturgy together with the presiding bishop or with another presbyter, since thus the unity of the priesthood and of the sacrifice will be properly manifested. Each priest, however, has his inviolable right to celebrate the Divine Liturgy individually, not, however, simultaneously when a concelebration is taking place in the

16. See, SALACHAS, “Divine Worship, Especially the Sacraments”, 512 and SALACHAS, “De Divina Eucharistica”, 585 - 586.

17. See, SALACHAS, “De Divina Eucharistica”. 599

Salvific Law

same church.” Thus the canon asserts that catholic priesthood is a eucharist-centered one. According to Pope Paul VI, through the celebration of the Holy Eucharist a priest can have an abundance of Graces. According to CCEO. 704 the Eucharist can be celebrated on any days according to the liturgical prescriptions of each church *sui iuris*. “Since the celebration of the Divine Liturgy is an act of Christ and the Church, in which the work of Christ is continuously exercised, the canon recommends its daily celebration as praiseworthy, without imposing it as a juridical duty. Indeed, a priest’s spiritual life must be nourished by drawing upon the sacred scripture and the Holy Eucharist.”¹⁸ Again Can. 711 of CCEO reads thus, “With a grave sin on one’s conscience, no one is to celebrate the Divine Liturgy or receive the Divine Eucharist, unless there is a serious reason and there is no opportunity to receive the sacrament of penance. In this case one should make an act of perfect contrition, which comprises the intention of approaching this sacrament as soon as possible.” Full reconciliation with God and the Church is an indispensable condition for celebrating and participating in the Eucharist. In the liturgies of St. John Chrysostom, St. Basil and St. James the priest recites, ‘No one who is a slave to carnal desires and passions is worthy to present himself, draw near or offer sacrifice to you, King of glory, since serving you is a great and tremendous thing even for the same celestial powers.’¹⁹ But CCEO also asserts that the purity of the celebrant’s conscience is trustworthy. The celebration of the Eucharist is to be considered as a source of power for the day-to-day priestly life. It ultimately leads the priest in the path of salvation. Here by the path of salvation which is the salvation of both the priest and of the souls entrusted to his pastoral care.

18. See, SALACHAS, “Divine Worship, Especially the Sacraments”, 513 - 514 and SALACHAS, “De Divina Eucharistica”, 589.

19. SALACHAS, “Divine Worship, Especially the Sacraments”, 517 and SALACHAS, “De Divina Eucharistica”, 598.

The Explicit Salvific Character of CCEO

Moreover the celebration of the Eucharist also manifests the priestly unity, especially in concelebration. “Concelebration, whereby the unity of the priesthood is appropriately manifested, has remained in use to this day in the Church both in the east and in the west.” (SC. 57). The priests when they concelebrate with the Bishop, give witness to their participation in the identical priesthood and ministry of Christ. (PO.7). As the priests concelebrate, they also manifest the faith, ministry and fraternity that bind them together. It also manifests the apostolic charity among the priests.²⁰ The Oriental Code, therefore, holds that the Holy Eucharist has a salvific dimension in the life of a priest in both the personal and communitarian realms.

3.1.5 The Healing Dimension of the Eucharist

CCEO 713 § 1 states, “The Divine Eucharist is to be distributed in the celebration of the Divine Liturgy, unless a just cause suggests otherwise.” Here what is intended is the case of *viaticum*. Prof. Salachas comments on this canon saying, “Only a just reason, such as *viaticum* for the sick, can justify the administration of Holy Communion outside the celebration of the Divine Liturgy.”²¹ Thus the Eucharist is understood as a medicine. Here we have to think about what St. Ignatius of Antioch said about the Holy Eucharist. According to him the Holy Eucharist is a medicine of immortality. In the Syro-Malankara liturgy of the Holy Qurbono the priest says the prayer Husoyo as follows, “The Lord and Merciful One, grant us peace, forgiveness and healing.”²² Some psychologists give witness that participation in the Holy Eucharist has helped a good number of their patients to get

20. See SALACHAS, “Divine Worship, Especially the Sacraments”, 513 and SALACHAS, “De Divina Eucharistica”, 588.

21. SALACHAS, “Divine Worship, Especially the Sacraments”, 518.

22. SMC, *Thakso di Qurbo*, 142.

Salvific Law

healed of their diseases. Some 90% of the psychiatric diseases are due to over anxiety.²³ The participation in the Eucharist gives a soothing touch of the divine and it is therefore a salvific intervention through the sacrament of the Holy Eucharist. In the first chapter of this book we understood salvation as something, which is concerned with the whole person. Therefore, through the Holy Eucharist, the Church is carrying out a salvific action or a healing ministry.

3.1.6 Holiness: The Purpose of the Eucharistic Sacrifice

CCEO. 713 § 1 states, “The Divine Eucharist is to be distributed in the celebration of the Divine Liturgy, unless a just cause suggests otherwise.

§ 2. Concerning the preparation for participation in the Divine Eucharist through fast, prayers and other works, the Christian faithful are to observe faithfully the norms of the Church *sui iuris* in which they are ascribed, not only within the territorial boundaries of the same Church, but, in as much as it is possible, everywhere.” Here the Code exhorts the faithful to approach the Holy Eucharist with due preparation and reverential fear. For, according to the Malankara tradition, the Holy Eucharist symbolizes the fire placed on the tongue of Isiah.²⁴ The purpose of such a symbolic action was just to purify the prophet. In the history of the Church we can always see that a minimum one-hour fasting is prerequisite for the reception of the Holy Communion.²⁵ The very sacrificial purpose is the purification of the people of God. “Christ loved

23. See, McMANUS, *The Healing Power of the Sacraments*, 77.

24. See, SMC, *Kurbanakramam*, 43.

25. See, BENEDICT XIV, *De synodo diocesana*, 6, cap.8, n.10; Council of Hippo (393) can. 28 in MANSI, 3, 923; Council of Carthage (397), III, 29 in MANSI, 3, 885; St. Augustine Ep. 54, Ad Jan., cap. 6 in MIGNE, PL., 33, 203 and all these references are quoted in PIUS XII, *Apost. Const. The Eucharistic Fast*, 25. See, also MORIARTY, “New Regulations on the Eucharistic Fast”, 1-31; SCHO, *Instruction on the Eucharistic Fast*, 47-51.

The Explicit Salvific Character of CCEO

the Church and gave himself up for her- a fragrant offering and sacrifice to God- that he might sanctify her... so that she might not have any spot or wrinkle or any such thing, but that she might be holy and without blemish.” (Eph. 5, 2. 22-27). “Only God is holy, and no creature can be holy except to the extent of its union with he who is Holy. ...From this point of view, in the light of the divine transcendency, the religious relationship of man with God cannot be other than sacrifice as access to the one who is holy.”²⁶ That is why the Eucharist is called Holy Communion. Through this mystery of mysteries one truly encounters the Holy of holies. We sing according to the Syro-Malankara tradition, “We see on the altar in the form of bread and wine, the Holy One, at whose sight even the fiery angels tremble.”²⁷

3. 2 The concept of *salus* in CCEO

As we have seen in the first Chapter of this book²⁸ the Oriental Code uses the very same terminology of the Bible, *salus* to express the final end of human existence. The dictionary of law gives the following meanings for the term *salus*: health, prosperity, safety, welfare and deliverance²⁹. The legal or canonical nuance of the term is the well being or the good of the human person. When the code uses the term mystery or economy of salvation, it understands the whole event by which man regains his well being. When the term appears in the Canon law of the Church, the term is to be understood with all its religious, theological and scriptural meanings. Some authors attribute to the concept of salvation in Oriental Code, the following meaning in the context of religious life. “This was done by the individual men or woman

26. BOURASSA, “Sacrifice”, 144.

27. SMC, *Kurbanakramam*, 44.

28. See, Section 1.1 of this book.

29. See, BLACK, *Black's Law Dictionary*, 1340.

Salvific Law

in order to secure salvation, which means deliverance from the power of evil besetting the person's body, mind and soul. Redemption was also aimed at, namely, the deliverance from the spiritual effects of past transgressions. In seeking redemption from personal sins through various forms of self-mortification, the person intercedes not only for one self but also for others; by focusing on the spiritual good of others, they assist their own advancement on spiritual path.”³⁰

In general the Code uses the term *salus* 10 times,³¹ and all these occurrences appear in different contexts. These can be classified in to two different categories:

1. The duty to teach or preach the mystery of salvation.
2. The salvation as the final end of the whole universe.

3.2.1 The Christian duty to teach or preach the mystery of salvation

In CCEO. 14, we read as follows: “All the Christian faithful have the right and the duty to work so that the divine message of salvation may more and more reach all people of all times and of the whole world.” Here the communication of the message of salvation is understood as one of the fundamental rights and obligations of each and every Christian faithful. This canon is formulated in the light of the documents *Lumen Gentium*, *Apostolicam actuositatem* and *Ad gentes* of Second Vatican Council.³² In these documents the communication of salvific message of Christ is understood as a most important Christian duty, and by this, one can “share the salvific mission of the Church” (LG. 11). “The lay apostolate, however, is a participation in the salvific mission of the Church itself. Through their baptism and confirmation all are commissioned

30. POSPISHIL, *Eastern Catholic Church Law*, 301.

31. See, •U•EK, *Index Analyticus*, 304-305.

32. See, PCLTI, *Codex Canonum Ecclesiarum Orientalium*, 5.

The Explicit Salvific Character of CCEO

to that apostolate by the Lord Himself. Moreover, by the sacraments, especially holy Eucharist, that charity toward God and man which is the soul of the apostolate is communicated and nourished. Now the laity are called in a special way to make the Church present and operative in those places and circumstances where only through them can it become the salt of the earth. Thus every layman, in virtue of the very gifts bestowed upon him, is at the same time a witness and a living instrument of the mission of the Church itself ‘according to the measure of Christ’s bestowal’.” (LG. 33). CCEO. 406 states that “Lay people, aware of the obligation set forth in can. 14, should know that this obligation has a greater impelling force in those circumstances in which people can hear the gospel and know Christ only through them.” During the time of the formulation of the Code one member asked about the missionary significance of the canon 14 of CCEO, outside the territory of each Church *sui iuris*. The answer was the following, “the canon treats the fundamental rights and obligations of each and every baptized person.”³³ According to CCEO 585 § 1. “Each of the Churches *sui iuris* is to continually see that, through suitably prepared preachers sent by the competent authority according to the norms of the common law, the Gospel is preached in the whole world under the guidance of the Roman Pontiff.”³⁴ Thus salvation is understood here as the supreme goal of the whole humanity, which is to be proclaimed by every Christian faithful so that every human being can experience the mystery of salvation. Here the mystery of salvation is to be understood as Christ’s salvific work by which the whole universe is invited towards salvation, its supreme end. When the Oriental Code understands the

33. *Risposte, Nuntia*, 28,16. “il canone tratta dei diritti e degli obblighi fondamentali dei singoli battezzati.”

34. See, SALACHAS, “De Christifidelibus”, 21. See also, RSY, “Fundamental Rights in the Church”. 177-188.

Salvific Law

primary duty of the Christian faithful as to communicate the message of salvation, it upholds that the whole Christian life is aiming at the universal salvation.

Further Can. 20 of CCEO states, “Since Christ’s faithful are called by baptism to lead a life in harmony with the gospel teaching, they have the right to a Christian education by which they are properly instructed how to achieve the maturity of the human personality and at the same time to know and live the mystery of salvation.” Here the right to understand the mystery of salvation is upheld again as one of the fundamental rights of the Christian faithful. This canon must be understood in light of CCEO 627-629. Just as education is considered as a human right, Christian education or education of the mystery of salvation is one of the most fundamental Christian rights.³⁵ “A Christian education does not merely strive for the maturing of a human person as just now described, but has as its principal purpose this goal: that the baptized, while they are gradually introduced the knowledge of the mystery of salvation, become ever more aware of the gift of Faith they have received, and that they learn in addition how to worship God the Father in spirit and truth (Jn. 4,23) especially in liturgical action, and be conformed in their personal lives according to the new man created in justice and holiness of truth (Eph. 4, 22-24); also that they develop into perfect manhood, to the mature measure of the fullness of Christ (Eph. 4,13) and strive for the growth of the Mystical Body; moreover, that aware of their calling, they learn not only how to bear witness to the hope that is in them but also how to help in the Christian formation of the world that takes place when natural powers viewed in the full consideration of man redeemed by Christ contribute to the good

35. See, SALACHAS, “De Christifidelibus”, 28-29, See also, FELICIANI, “Christian Faithful”, 92-93. CCEO. 404 § 1,2,3;618;620;623§ 1;624 3;634§ 3;627-650.

The Explicit Salvific Character of CCEO

of the whole society. Wherefore this sacred synod recalls to pastors of souls their most serious obligation to see to it that all the faithful, but especially the youth who are the hope of the Church, enjoy this Christian education.” (GE. 2). Parents and Christian educators, therefore, have a grave obligation to open their children or students the mystery of salvation as far as possible.

Again in CCEO. 289§1 we see “In carrying out the teaching function, the parish priest is bound by the obligation of preaching the word of God to all Christ’s faithful so that, rooted in faith, hope and charity, they may grow in Christ and that the Christian community may render such witness of love as the Lord commanded. The parish priest is also to lead Christ’s faithful to the full knowledge of the mystery of salvation by a catechetical formation that is adapted to the age of each one.” Here the teaching of the mystery of salvation occupies a principal part of the teaching function of the parish priest.³⁶ When the Code speaks about the duties of the theologians it highlights that the primary duty of a theologian is to teach about the mystery of salvation. “It is for theologians, given their profound understanding of the mystery of salvation and their expertise in the sacred and related sciences as well as in current problems, to elucidate the faith of the Church, to defend it and to pave the way for doctrinal progress, while faithfully submitting to the authentic magisterium of the Church and at the same time availing themselves of proper freedom”(CCEO. 606 § 1). In CCEO. 634 §1 we can see that, “The Catholic school has a particular obligation to create an atmosphere animated by the gospel spirit of freedom and love in the school community, to help the young in the development of their own personality in such a way that at one and the same time they grow in accordance with that new creature in to which they

36. See, CD. 30; See also, SABBARESE, “De Eparchis De Episcopis”, 259-260.

Salvific Law

have been transformed through baptism, and it should so orient the whole of human culture to the message of salvation that the knowledge which the students gradually acquire of the world, of life and of mankind is illumined by faith.”³⁷ According to CCEO, the teaching of the mystery of salvation is so fundamental that even from the very early period of one’s life one must be informed thoroughly about the salvific mysteries (GE. 8).

When the code considers the priestly formation it again emphasize the understanding of mystery of salvation. CCEO. 348§2 states, “They ought to start the philosophical-theological course with an introduction into the mystery of Christ and the economy of salvation, and they shall not finish until there has been shown, taking into consideration the order or hierarchy of the truths of Catholic doctrine, the relationship between all the disciplines and their coherent arrangement.” The teaching of the economy of salvation begins at the very outset of priestly formation. “In revising ecclesiastical studies the aim should first of all be that the philosophical and theological disciplines be more suitably aligned and that they harmoniously work toward opening more and more the minds of the students to the mystery of Christ. For it is this mystery which affects the whole history of the human race, continually influences the Church, and is especially at work in the priestly ministry.” (Op.Tot. 14). Again in CCEO. 350§2, “ It is necessary that sacred scripture be as the soul of all theology, and must influence all sacred disciplines; therefore in addition to exegesis, an accurate methodology, the principal sources of

37. “The dicastery of the Roman Curia entrusted with Catholic education in the universal Church is called Congregation for Catholic Education (CCE). It is for this congregation to define what Catholic education is at all levels and set its goals and determine the means (PB. 114).” NEDUNGATT, “Ecclesiastical Magisterium”, 476.

The Explicit Salvific Character of CCEO

the economy of salvation as well as the greater themes of biblical theology are to be taught.”

In the light of the above given canons it can be concluded that the teaching and the acquisition of the knowledge of the mystery of salvation occupies a principal position in the life of the Church. Starting from the very basic level of Christian faithful the code puts forward that every one has the right and duty to acquire and impart the knowledge of the mystery of salvation. Here we can see an important dimension of the Oriental Code, that is its salvific dimension. The code suggests that each and every Christian faithful with out any distinction of the group or community in which he has membership, has the right and duty to part take in the salvific mission entrusted by Christ to the Church.

3.2.2 The salvation as the final end of the whole universe.

To examine the universal salvific vision of the Code we consider three canons in the context of their formulation and on the background of their sources. CCEO. 616 § 1 reads as follows, “The preachers of the word of God should set aside words of human wisdom and abstruse themes and preach to Christ’s faithful the entire mystery of Christ, who is the way, the truth and the life; let them show that earthly things and human institutions are also ordered, according to the plan of God the Creator, to the salvation of humanity, and that they can therefore make no small contribution to the building up of the Body of Christ.” This canon is formulated in the light of the pastoral slant of the Vatican II document, *Christus Dominus* 12.³⁸ It is to be considered as “a pastoral canon, an instrument for bishops to urge the practice of authentic preaching.”³⁹ This canon is gives us the necessary light in to the pastoral and

38. See, *Schema de magisterio, Nuntia* 10, 75

39. NEDUNGATT, “Ecclesiastical Magisterium”, 471.

Salvific Law

salvific dimension of the Code. It emphasizes that this dimension is inalienable to a Law-Code of the Church. In 1967 the Synod of Bishops demanded that the norms of the Church should be pastorally more useful.⁴⁰ When the formulation history of this canon is taken in to consideration, we can see an important development in its second paragraph, which happened in the discussions of the PCCICOR in 1983. The Latin term *iuris fundamentalis* has been added to it. Thus goes CCEO. 616 § 2. states : “Let them teach also the doctrine of the Church about the dignity of the human person and fundamental human rights (*iuris fundamentalis*), about family life, social and civil life, the sense of justice to be pursued in the world of work and of economics, a sense which can make for the building of peace on earth and bring about the progress of peoples.” This canon considers that the whole purpose of all human institutions is the salvation of humanity. Further the code gives proper stress on the day to day well being of every human being. The Code affirms that the ultimate destiny is the eternal salvation of every human being at the culmination of his earthly life. Therefore the laws of the church as they serve the well-being of the faithful, and they become the means of the salvific mission of Christ. The Second Vatican Council, speaks about the teaching office of the bishops saying, “The bishops themselves, however, having been appointed by the Holy Spirit, are successors of the Apostles as pastors of souls. Together with the supreme pontiff and under his authority they are sent to continue throughout the ages the work of Christ, the eternal pastor. Christ gave the Apostles and their successors the command and the power to teach all nations, to hallow men in the truth, and to feed them. Bishops, therefore, have been made true and authentic teachers of the faith, pontiffs, and pastors through the Holy Spirit, who has been given to

40. See, *Schema de magisterio*, *Nuntia* 10, 75.

The Explicit Salvific Character of CCEO

them.” (CD.2).⁴¹ By teaching a life of faith and truth the Bishops are leading their sheep to the salvation brought by Jesus Christ. Here both the teaching of the Council and the Oriental Code clearly affirm that, salvation, the eternal destiny is the continuation and culmination of the earthly life. The life and laws of the Church, therefore, are to be ordered in such a manner so that every human being can reach up to this final aim, eternal salvation. Again, the council in its constitution, *Gaudium et Spes* teaches, “Modern man is on the road to more freedom thorough development of his own personality, and to a growing discovery and vindication of his own rights. Since it has been entrusted to the Church to reveal the mystery of God, Who is the ultimate goal of man, she opens up to man at the same time the meaning of his own existence, that is, the innermost truth about himself. The Church truly knows that only God, Whom she serves, meets the deepest longings of the human heart, which is never fully satisfied by what this world has to offer. She also knows that man is constantly worked upon by God’s spirit, and hence can never be altogether indifferent to the problems of religion. The experience of past ages proves this, as do numerous indications in our own times. For man will always yearn to know, at least in an obscure way, what is the meaning of his life, of his activity, of his death. The very presence of the Church recalls these problems to his mind. But only God, Who created man to His own image and ransomed him from sin, provides the most adequate answer to the questions, and this He does through what He has revealed in Christ His Son, Who became man. Whoever follows after Christ, the perfect man, becomes himself more of a man. For by His incarnation the Father’s Word assumed, and sanctified through His cross and resurrection, the whole of man, body and soul, and through that totality the whole of nature created

41. See, SALACHAS, *Istituzioni*, 231-234.

Salvific Law

by God for man's use. Thanks to this belief, the Church can anchor the dignity of human nature against all tides of opinion, for example those which undervalue the human body or idolize it. By no human law can the personal dignity and liberty of man be so aptly safeguarded as by the Gospel of Christ which has been entrusted to the Church. For this Gospel announces and proclaims the freedom of the sons of God, and repudiates all the bondage which ultimately results from sin. (Rom. 8, 14-17); it has a sacred reverence for the dignity of conscience and its freedom of choice, constantly advises that all human talents be employed in God's service and men's, and, finally, commends all to the charity of all (Mt. 22, 39). This agrees with the basic law of the Christian dispensation. For though the same God is Saviour and Creator, Lord of human history as well as of salvation history, in the divine arrangement itself, the rightful autonomy of the creature, and particularly of man is not withdrawn, but is rather re-established in its own dignity and strengthened in it. The Church, therefore, by virtue of the Gospel committed to her, proclaims the rights of man; she acknowledges and greatly esteems the dynamic movements of today by which these rights are everywhere fostered. Yet these movements must be penetrated by the spirit of the Gospel and protected against any kind of false autonomy. For we are tempted to think that our personal rights are fully ensured only when we are exempt from every requirement of divine law. But this way lies not the maintenance of the dignity of the human person, but its annihilation. "(GS. 41).

The Code considers the sacraments to be the means by which man grows and the universe is led to the destiny of salvation.⁴² CCEO.697 states, "The sacramental initiation in the mystery of salvation is completed with the reception of the Divine

42. See, SALACHAS, *L'iniziazione Cristiana*, 50-54.

The Explicit Salvific Character of CCEO

Eucharist; therefore after baptism and chrismation with holy myron the Divine Eucharist is to be administered as soon as possible according to the norms of the particular law of each Church *sui iuris*.” Through the sacrament of baptism man is freed from the bondage of sin. Chrismation endows him with the Holy Spirit. Through the Holy Eucharist man comes in to communion with the divine life.⁴³ ‘ The unity of these three sacraments endows man with spiritual power to win the world (by means of other sacraments) in which he lives.

Here the Church teaches that the laws of the Church are to safe guard the dignity and freedom of the human person. The Church, being the sacrament of salvation, cannot but respect human dignity and freedom, and the salvific mission of the Church is done through its canonical instruments. The law of the Church, therefore, has this salvific mission to accomplish. By administering justice the law of the Church is fulfilling this ecclesial mission. Again, the Code establishes that man as a rational, superior creature, has the obligation to lead the whole universe to its ultimate destiny, its salvation. The sacraments of the Church are the means in this salvific progress. The Code respects the dignity and freedom of every particular ecclesial community. Thus the Oriental Code in a special way respects the values of every church *sui iuris* in guiding the people of God towards the mystery of salvation.

3.3 The Concept of *Salus Animarum* in the CCEO

The Second Vatican Council in the Constitution on the Church, *Lumen Gentium*, teaches that Christ established and continually sustains the Church here on earth with a “visible delineation through which He communicated truth and grace to all.” Yet the Church, which is structured with hierarchical

43. See, SALACHAS, “De crismatione sancti Myri”, 583

Salvific Law

organs and the Mystical Body of Christ, is not to be considered as subsisting within two separate realities; rather they form one complex reality, which coalesces from a divine and a human element. The Council document goes on to state that, “For this reason, by no weak analogy, it is compared to the mystery of the incarnate Word. As the assumed nature inseparably united to Him, serves the divine Word as a living organ of salvation, so, in a similar way, does the visible social structure of the Church serve the Spirit of Christ, who vivifies it, in the building up of the body.”(LG.8). The Council teaches that both the visible and the invisible aspects of the Church form one single, complex reality. Canon law, being part of the visible aspect of the Church, “participates in the invisible task the Church has to fulfill, the salvation of souls.”⁴⁴ Pope Pius XII in his allocutions to the Rota officials highly stressed the salvific and pastoral dimension of the canon law.⁴⁵ In these exhortations the Pope put forward the following principles to look at the laws of the Church. First of all the Church is a sacrament of salvation for the people of God. The salvation of the people of God is the ultimate and highest goal of every ecclesial action. Therefore, this salvific principle (*salus animarum*) is to become a legal reality, and those who implement the law must apply it. The Pope taught, “The Science and practice of canon law evidently do not recognize any ‘legal law’⁴⁶ which is not also true law; their function is to

44. See, WIJLENS, “*Salus Animarum Suprema Lex*”, 574.

45. PIUS XII, *Alloc.1*, 281-290. PIUS XII, *Alloc.2*, 493-498. PIUS XII, *Alloc.3*. 682-690.

46. The Pope explains the term ‘legal law’ as follows, “The nineteenth century is the great culprit as regards responsibility for juridical positivism. If its consequences have been late in making themselves felt in all their gravity in legislation, this is due to the fact that culture was still imbued with the Christian past, and that the representatives of Christian thought were still able practically everywhere to command a hearing in legislative assemblies. Still to come was the anti-Christian totalitarian State which, in principle or at least in fact, did away with all restraint imposed by the supreme law of God, and unveiled before the world the true face of juridical positivism. Does one need to go far back in history to find a so-called legal law, which strips people of all personal dignity?...

The Explicit Salvific Character of CCEO

direct the juridical system of the Church, within the limits fixed by divine law, constantly and entirely toward the end of the Church herself, which is the salvation and welfare of souls. The Divine law serves this purpose perfectly; ecclesiastical law too must tend to the same end as perfectly as possible.”⁴⁷ Prof. Ivan • u•ek wrote, “there was a fundamental awareness during the long and laborious process of drawing up the *Codex Canonum Ecclesiarum Orientalium* that this was to be an instrument in the service of the economy of the salvation of souls (*animarum salutis economia*) constituting the supreme end of all the laws of the Church (*supremus universarum Ecclesiae legum finis*).”⁴⁸ In 1983 Pope John Paul II said that, the *Code of Canon Law* is “an effective instrument by the help of which the Church will be able to perfect itself in the spirit of the Second Vatican Council and show itself ever more equal to carry out its salvific role in the world.”⁴⁹ When the Synod of Bishops thought of the revision of CIC, it suggested in 1967 that, “To foster the pastoral care of souls as much as possible, the new law besides the virtue of justice, is to take cognisance of charity, temperance, humaneness and moderation, whereby equity is to be pursued not only in the application of laws by pastors of souls, but also in the legislation itself.”⁵⁰

Here in this section of the book we are considering the principle of *salus animarum* in CCEO. The CIC very clearly affirms in Can. 1752 that, the salvation of souls, “in the Church

This legal law in the sense in which We have explained it, has overturned the order established by the Creator; it has called disorder order, tyranny authority, slavery liberty, crime patriotism.” PIUS XII, *Alloc.4*, 606

47. PIUS XII, *Alloc.4*, 608

48. ZUZEK, “Foreword”, 31. See also, JOHN PAUL II, *Sacri canones*, 1038

49. JOHN PAUL II, *Sacrae disciplinae leges*, x-xi.

50. The Synod of Bishops 1967, quoted in WIJLENS, “*Salus Animarum Suprema Lex*,” 574.

Salvific Law

must always be the supreme law.” And the commentary on this canon goes as follows: In order to bring CIC/83 to a close, nothing is more appropriate than to remember that canonical equity -the spirit of the Gospel in dealing with particular subjective situations- can and should be applied in harmony with the supreme law of the Church, which is the salvation of the souls.⁵¹ Even though, the Oriental Code, in the parallel canon (CCEO. 1400) does not explicitly suggest this idea, the spirit of the Code is always for it. At first we try to comprehend the concept of *salus animarum*. Then we will analyse this principle in its applications in CCEO.

3.3.1 The Concept of *salus animarum*: A Terminological Analysis

In both the law codes of the Catholic Church, we find the two expressions of *salus animarum*. We have already discussed about the concept of *salus* in the first chapter and also in the previous section of this chapter.⁵² Definitely this expression is concerned with the wholeness of a human person, and not simply of the so - called “soul”, a concept of the traditional catechism. The Second Vatican Council in its pastoral constitution on the Church in the modern world, speaks in this way. The Council teaches, “For it is the human person that is to be saved, and human society to be restored. It is around humankind, therefore, one and entire, body and soul, heart and conscience, mind and will, that our whole treatment will revolve. “(GS.3). By the concept *salus animarum* what the Code aims at is the good of the whole human person. “According to the warm, living concepts of Natural Law, the human person enjoys those Civil Rights that are necessary for

51. See, CAPROS, *Code of Canon Law Annotated*, 1081.

52. See, Sections 1.1 and 3.2 of this book.

The Explicit Salvific Character of CCEO

him to work out his eternal destiny, and it is duty of the (society) to protect him in the enjoyment of these freedom.”⁵³ In the declaration on education Vatican II teaches, “ For a true education aims at the formation of the human person in the pursuit of his ultimate end and of the good of the societies of which, as man, he is a member, and in whose obligations, as an adult, he will share. Therefore children and young people must be helped, with the aid of the latest advances in psychology and the arts and science of teaching, to develop harmoniously their physical, moral and intellectual endowments so that they may gradually acquire a mature sense of responsibility in striving endlessly to form their own lives properly and in pursuing true freedom as they surmount the vicissitudes of life with courage and constancy. Let them be given also, as they advance in years, a positive and prudent sexual education. Moreover they should be so trained to take their part in social life that properly instructed in the necessary and opportune skills they can become actively involved in various community organizations, open to discourse with others and willing to do their best to promote the common good.”(GE.1). CCEO.629 states, “All educators are to pay heed to the formation of the whole human person in such a way that young people, having developed their physical, intellectual and moral talents harmoniously, and well versed in the Christian virtues, may be disposed to knowing and loving God more perfectly, to evaluating human and moral values with right conscience and accepting them in true freedom, and having developed a sense of justice and social responsibility, to pursuing loving fellowship with others.” Education being an intrinsic purpose of marriage together with generation of children, is a primary responsibility of the parents. The

53. SHEERIN, “Liberty under the Law”, 11. See also, WRIGHT, “The Law and the Person”, 314 ff.

Salvific Law

Universal Declaration of Human Rights also recognizes the education of the children as a right of the parents (art.26§ 3).⁵⁴

In CCEO. 629 the Code aims at the whole development of the human person. When we try to understand the principle of *salus animarum* in the Code we have to take in to consideration this basic concept of human person, which the Code indirectly conveys.

Again in CCEO.595 § 2 we read, “The Church has the right always and everywhere to proclaim moral principles, including those pertaining to the social order, and to make judgements about any human affair in so far as this is required by the dignity and the fundamental rights of the human person or *the salvation of souls*”. This is an explicit assertion of the Code that the *salus animarum* and good of the persons are closely related. And this right to preach about the word of God and other subjects which, are closely connected with the human person, is very basic to Christian existence. For one receives it through the sacrament of baptism (CCEO. 7) and is confirmed and authorized to the apostolate of preaching by the sacrament of confirmation (CCEO. 406).⁵⁵ Here it is not a juridical power to preach, rather it is a basic right and duty of a Christian to spread the Gospel message not always verbally but through the message of his life. In all these canonical and Conciliar references the concept of *salus animarum* is more or less identified with the idea of the good of the whole human person.

According to Ladislav Örsy, the supreme value in the life of the Church, ought to be *salus animarum*. He defines a value as “a good thing”, which, besides being good in itself has also

54. See NEDUNGATT “Ecclesiastical Magisterium”, 474. See also, ÖRSY, “Fundamental Rights in the Church”, 178 ff.

55. See, BERTONE, “De ecclesiae munere docendi in genere”, 486-487.

The Explicit Salvific Character of CCEO

the potential for perfecting a human person. All other values of the Church are to be determined and interpreted, in the light of this supreme purpose or value, *salus animarum*. Örsy calls it as the ultimate hermeneutical criterion of Church law. According to Örsy ‘this consideration is all the more important in all the procedures of law, namely, legislation, interpretation and implementation.’⁵⁶

3.3.2 *Salus Animarum* the Chief Motive of the Proclamation

CCEO holds that the teaching and the evangelization, the two fundamental duties of the Church should, ultimately aim at the salvation of souls. CCEO 595 § 2 states, “The Church has the right always and everywhere to proclaim moral principles, including those pertaining to the social order, and to make judgements about any human affair in so far as this is required by the dignity and the fundamental rights of the human person or *the salvation of souls*.” Here the Code asserts that whenever it is necessary for the salvation of souls the Church at any rate should courageously teach about the fundamental rights and dignity of human person. It is noteworthy, that the Code views the concept of *salus animarum* as almost identical with the protection of fundamental human rights and respect for human dignity. This idea was very clearly depicted in the teachings of the Church. The Second Vatican Council in its decree on the Bishops teaches, “In exercising their duty of teaching- which is conspicuous among the principal duties of bishops-they should announce the Gospel of Christ to men, calling them to a faith in the power of the Spirit or confirming them in a living faith. They should expound the whole mystery of Christ to them, namely, those truths the ignorance of which is ignorance of Christ. At the same time they should point out

56. See, ÖRSY, *Theology and Canon Law*, 90-91, 111; See also KUZHINAPURATH, Daivajanam, 99-104

Salvific Law

the divinely revealed way to give glory to God and thereby to attain to eternal happiness. They should show, moreover, that earthly goods and human institutions according to the plan of God the Creator are also disposed for man's salvation and therefore can contribute much to the building up of the body of Christ. Therefore, they should teach, according to the doctrine of the Church, the great value of these things: the human person with his freedom and bodily life, the family and its unity and stability, the procreation and education of children, civil society with its laws and professions, labor and leisure, the arts and technical inventions, poverty and affluence. Finally, they should set forth the ways by which are to be answered the most serious questions concerning the ownership, increase, and just distribution of material goods, peace and war, and brotherly relations among all peoples.”(CD. 12).

In the document *Gaudium et Spes* also the Council very clearly asserts, “For man's horizons are not limited only to the temporal order; while living in the context of human history, he preserves intact his eternal vocation. The Church, for her part, founded on the love of the Redeemer, contributes toward the reign of justice and charity within the borders of a nation and between nations. By preaching the truths of the Gospel, and bringing to bear on all fields of human endeavor the light of her doctrine and of a Christian witness, she respects and fosters the political freedom and responsibility of citizens.” (GS. 76). Again Pope John XXIII tells that, “But the world's Creator has stamped man's inmost being with an order revealed to man by his conscience; and his conscience insists on preserving it. Men show the work of the law written in their hearts. Their conscience bears witness to them.”⁵⁷

The teaching function of the Church is a ministry, after the model of its founder the eternal teacher (Mt. 23, 8), who sent

57. JOHN XXIII, *Pacem in terris*, 5

The Explicit Salvific Character of CCEO

his apostles to teach all the nations (Mt. 28, 19) in his name, assuring them that those who hear them hear the word of God (Lk. 10, 16) and he would be always with them till the end of the time (Mt. 28, 20), guiding them into the truth through the Holy Spirit (Jn. 16, 12- 23). The teaching function of the Church is essentially a charism (1Cor. 12, 28-29), ‘a gift received as a grace’ (Rom. 12, 6-7). The whole Body of Christ shares this prophetic function of Christ (LG. 12), even though each member of the Church exercises it in his or her own proper way (LG.35). The teaching function of the Church, being so essential to the very existence of the Church, converges in it Christology, pneumatology, ecclesiology and the theology of grace.⁵⁸ The supreme end of this unique convergence is *salus animarum*.

In the light of the early teachings of the Church, Oriental Code asserts that salvation of the souls must be the primary motive of the proclamation of the Gospel. Here the proclamation of the Gospel is understood in a wide sense. It should also include the teaching of the fundamental rights and dignity of human person. Thus the Code restates that the concept of *salus animarum* has a very wide meaning, inclusive of all physical and spiritual factors of human person.

3.3.3 The Principle of *Salus Animarum* in the Administrative and the Judicial Contexts of CCEO

Under this title we evaluate the application of the principle of *salus animarum* in the administrative and the judicial contexts of CCEO. Jesus Christ, the “judge of the living and the dead”(Acts 10, 42), endowed the apostles and their successors, with the power to judge. The Second Vatican Council reaffirmed in keeping with Scripture and Tradition that, “bishops have the sacred right and duty before the Lord...

58. See, NEDUNGATT, “Ecclesiastical Magisterium”, 435.

Salvific Law

to pass judgement on their subjects.”(LG. 27). Therefore the right and duty to judge in the Church is of divine origin.⁵⁹ Pope Pius XII exhorts the Judges of the Roman Rota, “Bitter opposing criticisms proceeding from contrary principles - such as those which are directed against you - are already of themselves usually a sign that those at whom they are aimed are in the right; and since in your case this presumption is confirmed by the eloquent statistical data, which have been presented by your dean, all honest persons must be convinced that conscientious respect for law of God, together with a firm determination to protect truth and justice and that ‘goodness and loving kindness’ (Tit. 3, 4), which the divine Savior brought into the world and which is characteristic of those who have a heart the *salvation of souls*, are truly the guiding star which directs all your activity as judges. On that star keep your gaze ever fixed, without allowing yourselves to be disturbed by the tempestuous waves of human passions and hostile attacks, contented and happy in the consciousness that you are contributing by your work to the ‘building up of the body of Christ.’ (Eph. 4, 12).”⁶⁰ The Church being the “fundamental sacrament of salvation,” does its judicial activity “principally in defense of spiritual values, which have an importance, in the perspective of eternity and for realizing the salvific will of God.”⁶¹

We can find in two canons of CCEO the occurrence of the usage of *salus animarum* in an administrative context. The canon 1519 § 1 of CCEO reads as follows: “The person who issues a decree is to keep in mind and aim at what is the best way to lead to the *salvation of souls* and the public good, observing the laws and lawful customs, justice and equity.”

59. See, GROCHOLEWSKI, “Theological Aspects”, 552-553.

60. PIUS XII, *Alloc.*2, 498.

61. GROCHOLEWSKI, “Theological Aspects”, 556.

The Explicit Salvific Character of CCEO

First of all we have to bear in mind a clear idea of an administrative decree. CCEO does not give a clear definition of a decree, but in CIC Can. 48 we read, “A singular decree is an administrative act issued by a competent executive authority, whereby in accordance with the norms of law a decision is given or a provision made for a particular case.”⁶² An administrative decree is viewed here as a juridical act of such a great importance. In CCEO. 1519 § 1 we see that this administrative act is to be done only with a view of the salvation of the souls. “The administrative power, though subordinated to laws, both substantial and procedural, has an ample margin of discretion. It is thus that the norm given by the legislator to the author of the decree is to be understood. In respecting the norms (laws and customs), the author of the decree must keep foremost in mind the end (the salvation of the souls and the public good) in justice and equity.”⁶³ Here what the Code intends is that in each and every act of the administration and governance of the Church, primary attention is to be given for the *salus animarum*.

Again in CCEO. 1000 § 1 we read “In cases in which recourse suspends the execution of the decree the petition mentioned in can. 999 § 1 has also the same effect.” And § 2 of the same canon reads as follows, “ In other cases, unless within ten days from the receipt of the petition the author of the decree suspends its execution, a suspension for the interim can be petitioned from his higher authority, who can decide it only for a grave reason and must take care that *the salvation*

62. CAPROS, *Code of Canon Law Annotated*, 105-106.

63. De PAOLIS, “Laws, Customs, Administrative Acts”, 835. “La potestà amministrativa, benchè subordinata alle leggi, sia sostanziali sia procedurali, ha un ampio margine di discrezionalità. Si comprende pertanto la norma data dal legislatore all’autore del decreto; nel rispetto delle norme (leggi e consuetudini) l’autore del decreto deve tener presente in sommo grado il fine (la salute delle anime e il bene pubblico) nella giustizia e nell’equità.” De PAOLIS, “De Legge, De consuetudine et De Actibus Administrativis”, 1184.

Salvific Law

of souls suffers no harm.” Here the Code states that the recourse against a decree can be sought from the superior authority of the one who issued the decree. In this instance also the Code again recommend that this recourse against the decree be granted with a view “to take care that salvation of souls suffers no harm.” A commentary of this canon remarks, “as a rule, recourses are all *in devolutivo* on account of the priority of the public good over the private interest.... When suspension is not automatic, the following situations can occur: 1) suspension is granted by the author of the decree; 2) if the author does not do so, ten days after the submission of the first request, suspension can be petitioned from his superior, who may grant it only for a serious reason and while keeping clearly in mind the supreme good of the salvation of the souls; 3) if, in the meantime, the petitioner presents a hierarchical recourse, the superior examining this recourse should also decide concerning suspension, whether to confirm it or revoke it. If, instead, the petitioner allowed the time for the hierarchical recourse to elapse, also the suspension of the decree ceases *ipso iure*”⁶⁴

In the judicial context of CCEO we can find the following canon in which again there is the occurrence of the usage *salus animarum*. CCEO. 1110 § 1 states that, “In a matter which concerns private individuals only, a judge can proceed only at the request of a party; once a case has been legitimately introduced, however, a judge can and must proceed, even *ex officio*, in penal cases and in other cases which involve the public good of the Church or the salvation of souls.”⁶⁵ We can

64. PINTO, “Recourse Against Administrative Decrees”, 684. See also, GROCHOLEWSKI, “De recursibus adversus decreta administrativa”, 840 - 841; CCEO. 999 § 1, 1124 § 1, 1126, 1487 1, 1546

65. “Mentre nelle cause penali e nelle cause che interessano il bene pubblico o la salvezza delle anime, la natura dell'intervento del giudice è diversa, non è più l'autorità che riconosce ad un privato il suo diritto, ma è una autorità responsabile della tutela dell'ordine e del bene pubblico, e per questo motivo il giudice è autorizzato e anzi è obbligato a

The Explicit Salvific Character of CCEO

trace the special attention of the Code for the salvation of the souls, even in the procedure of the case and in passing judgment. According to Bishop Grocholewski⁶⁶ there is “an undeniable theological basis for the rights, which the faithful, whether they be lay or clergy constituted according to the various levels of the hierarchy, can defend before ecclesiastical tribunals... They have a theological basis insofar as they are oriented toward fulfilling God’s will... The recognition of the rights of the faithful in the Church comes from the theological foundation. Consequently these are oriented primarily toward making it possible and effective for each Christian to realize his or her own vocation in the Church and toward encouraging and facilitating the eternal life. The proclamation of the rights of the faithful in the Church would be empty if an adequate defense of these rights were not possible.”⁶⁷ Thus the defense of the rights of the Christian faithful is the chief purpose of the Judiciary in the Church. And this defence of the rights is ultimately aiming at leading the faithful to the eternal life. And therefore we can conclude that the judicial laws of the Code are also formulated with a salvific dimension. When CCEO. 1110 § 1 refers to salvation of souls, we can trace this dimension of the Oriental Code’s procedural laws.

prendere iniziative proprie per proseguire la causa e introdurre prove non richieste dalle parti e deve proseguire *ex officio*, presso i tribunali superiori, la causa del matrimonio che è stato dichiarato nullo in primo grado. Per questo il can. 1205§ 3 prescrive che se una delle parti rinuncia alla causa, l’ammissione della rinuncia rimane a discrezione del giudice, proprio perché la causa interessa il bene pubblico o la salvezza delle anime, mentre nelle cause private il giudice deve ammettere la rinuncia, a meno che non gli appaia che possa produrre un danno o una ingiustizia dal fatto dell’ammissione della rinuncia.” ALWAN, “De obligationibus iudicum et aliorum administratorum tribunalium”, 929

66. Bishop Grocholewski presented the paper “Aspetti teologici dell’attività giudiziaria della Chiesa” to the Archsodality of the Roman Curia, on November 14, 1985.
67. GROCHOLEWSKI, “Theological Aspects”, 554. See also, ÖRSY, “Fundamental Rights in the Church”, 177-188.

Salvific Law

3.3.4 The Principle of *Salus Animarum* in the Pastoral Context of CCEO

Here we examine the canons, which explicitly use the concept *salus animarum* in a pastoral context. Can. 873§ 2 of CCEO says, “If other grave reasons suggest that a certain church is no longer to be used for divine worship, the eparchial bishop can reduce it to profane but not sordid use, provided that *the good of souls* suffers no harm thereby. Before doing so he must consult the presbyteral council and have the consent of those who legitimately claim rights over the church.” This canon allows the Eparchial Bishop to give a church to profane use on the condition that the good of the souls suffers no harm. In this case the Eparchial Bishop has to decide in consultation with the Prebyteral Council of the Eparchy according to the norms of CCEO. 269 § 2 and 934.⁶⁸ We can see this law, which allows the Bishop to give a church for profane use, also in the canons of the Council of Trullo (can. 49) and of the Council of Trent (Sess. XXI, can. 7).⁶⁹ But here we can note one thing. The stress on the principle of the care for the souls in this context is an innovation of the modern legislation only. The legislation of the ancient Councils do not give any mention of the usage “the good of the souls” in this context. CIC. 1222 also gives a special emphasis on the principle of *salus animarum*.

Regarding the reservation of the absolution of certain sins the Oriental Code gives a special mention on the concept of the salvation of souls. CCEO. 727 states that “In some cases, in order to provide for the *salvation of souls* it may be appropriate to restrict the faculty to absolve from sins and reserve it to a determined authority; this, however, cannot be

68. See, ALWAN, “De sacramentalibus, de locis et de temporibus sacris”, 752

69. See, PCLTI, *codex Canonum Ecclesiarum Orientalium*, 314.

The Explicit Salvific Character of CCEO

done without the consent of the Synod of Bishops of the Patriarchal Church or of the Council of Hierarchs or of the Apostolic See.” When we take in to consideration the nature of the reserved sins we can understand that how much stress is given in the Oriental Code for the principle of *salus animarum*.⁷⁰ The only motive behind the reservation of sins is the salvation of souls. Here the Code gives a special stress on the medicinal character of the penance.⁷¹

When the Oriental Code speaks about the transfer of the parish priests, it says in CCEO. 1397 “If *the good of souls* or the necessity or advantage of the Church may demand that a parish priest be transferred from his parish, which he governs satisfactorily, to another parish or another office, the eparchial Bishop is to propose the transfer to him in writing and persuade him to consent, for the love of God and of souls.” The case mentioned in this canon is not that of a parish priest, whose ministry is harmful or ineffective, rather the case of a parish priest, who successfully governs a parish. The reasons for the transfer therefore are of a positive nature such as the good of the souls, the need or the benefit of the Church.⁷² And in can. 1400 of CCEO we read, “In the case of transfer the prescriptions of can. 1396 are to be observed, with due regard for acquired rights, and equity.” In the parallel of this canon,

70. The absolution from the following sins is reserved to the Apostolic See: direct violation of the sacramental seal: absolution of an accomplice in sin against chastity and the absolution from the sin of procuring a completed abortion is reserved to the eparchial bishop. See, CCEO.728.

71. See, *Risposte, Nuntia*, 28,98. Prof. Salachas commends on CCEO. 727 as follows, “Il canone ammette la possibilità di limitare la facoltà di assolvere dai peccati e di riservarla a un autorità superiore. Lo scopo di un tale provvedimento è medicinale nella prospettiva della salvezza delle anime; infatti il differimento dell’assoluzione dei peccati a una determinata autorità superiore è giustificato per motivi “medicinali”. See, SALACHAS, *Sacramenti*, 261. See also, SALACHAS, “Divine Worship, Especially the Sacraments”, 524; SALACHAS, “De sacramento paenitentiae”, 611-612.

72. See, GROCHOLEWSKI, “Certain Special Processes”, 785-786. See also, PAUL VI, *Ecclesiae sanctae*, I, n.20§2.

Salvific Law

CIC gives an explicit mention of *salus animarum*. CIC. 1752 states that, “In cases of transfer, the provisions of can. 1747 are to be applied, always observing canonical equity and keeping in mind the salvation of the souls, which in the Church must always be the supreme law.” By using the phrase *suprema lex*, the codes of the Catholic Church, aims at the law which transcends the letters of the law. Thusly we can say that *salus animarum* is the transcendental law that evolves from the letters of law codes of the Church.

The Oriental Code gives a special stress on the principle of *salus animarum* in the canons which are pastorally important. In the Code we can find in three places the explicit use of this principle in a pastoral context. These canons are those deal with the place of worship, absolution of some grave sins and the transfer of parish priests. When we take in to consideration these canons all together we can understand that they are of great importance in the pastoral life of the Christian faithful. The Code considers the principle of *salus animarum* as a canonical principle, which has a great pastoral importance.

3.4 The Principle of Canonical Equity in CCEO

The principle of canonical equity had an important role in the revision of the Oriental Code. A guideline for the revision of the Code states, “The Code should exhibit a pastoral character, concerned with the welfare of souls, imbued with equity and charity within church structure, and insure that bishops and pastors possess all the necessary authority to apply the provisions of canon law to their flock.”⁷³ Pope Paul VI wrote, “In the activity of the canonical legislator, as in that of the ecclesiastical judge, *canonical equity* stands as lofty ideal and as a valued rule of conduct. This was again highlighted

73. Guidelines, *Nuntia* 3, 21.

quite explicitly while the Council was in preparation: ‘The spirit of Christ’s charity and meekness should shine forth in enacting all legislation. This spirit ever remains the golden, enduring rule of the Church, and it should inform all her laws and judgments.’⁷⁴ Among the norms approved for the revision of canon law by the first Synod of Bishops is the golden rule: ‘The Code should foster not only justice but also astute equity, which is the fruit of benignity and charity. To bring about the exercise of these virtues, the Code should take pains to elicit discernment and sound learning from pastors and judges.’⁷⁵ Thus canon law is not simply a norm of life and a pastoral rule; it is also a school of justice, of discretion, and of charity in action.’⁷⁶ The principle of canonical equity has a clear salvific meaning in CCEO.

First we try to understand the very meaning of this canonical principle, and then we analyse the different canons, which use the principle of equity.

3.4.1 The Meaning of the Principle of Equity

In an etymological sense the word equity means evenness or equality. A law dictionary defines equity as follows, “Justice administered according to fairness as contrasted with strictly formulated rules of common law.”⁷⁷ The Latin word *aequitas* gives the meaning of due proportion, symmetry, fairness, impartiality, justice, impartial indifference etc.⁷⁸ “Church is the sacrament of Jesus Christ, just as he in his humanity is the sacrament of God.”⁷⁹ It is in the framework of this mystery that We should view the function of canon law ...and that force

74. Relatio super schema Voti de Matrimonio Sacramento cum texto emendato, 13.

75. Principia quae Codicis Iuris Canonici, Communicationes, 1,79

76. PAUL VI, Alloc. 5, 95.

77. BLACK, *Black’s Law Dictionary*, 540

78. See, GLARE, *Oxford Latin Dictionary*, 67

79. See, DE LUBAC, *Meditations sur l’Eglise*, 157

Salvific Law

which gradually became institutionalized as *canonical equity*. Hostiensis gave a definition that will be repeated by all canonists: ‘Justice tempered with the sweetness of mercy’⁸⁰ Hostiensis continued: ‘This is described by Cyprian in this way, Equity is justice. It is a reasonable impulse maintaining control over judicial decision and rigidity. This is the equity that a judge, who is a minister, should always keep in mind, namely, to reward the good and punish the wicked. He should take the royal road and rule himself with reasonableness, serving neither to the left nor the right.’⁸¹ From a legal point of view the term equity connoted the ideas of unity and equality and therefore of justice. It reflects the Greek concept of justice, which was to guarantee equality among men, identity of treatment under law, an equitable application of law to any one.⁸² In the primitive Church St. Paul urged the Christians to avoid judicial processes and to submit their cases to judges who will judge “according to what is good and equitable.” (1 Cor. 6, 1-7). Ecclesiastical laws are also the juridical norms formulated by human beings. They can therefore have their own imperfections. In certain moments these laws are found to be unable to protect a certain value in the Christian community or to provide a remedy for an injustice suffered. In such occasions the recourse must be sought in the principle canonical equity.⁸³ One interpreter of CIC writes, “Authentic equity, therefore, comes in to play when the law is unable to uphold a value important for the community. The community then turns to another (non-legal) system of ideas to justify a departure from the legal system ... Whoever is in charge of the

80. ‘iustitia dulcore misericordiae temperata’ in HOSTIENSIS, *Summa aurea*, Lib. V, De *Dispensationibus*

81. PAUL VI, *Alloc.5*, 99.

82. See, AMEN, “Canonical Equity before the Code”, 2.

83. See, ÖRSY, *Theology and Canon Law*, 63. See, also AMEN, “Canonical equity before the Code” 1-24. PUZZA, *Katholisches kirchenrecht*, 69-70.

The Explicit Salvific Character of CCEO

issue to give a speedy justice is entitled to invoke higher principles of morality and state that the law must cease to operate, and, through necessary accommodations, must become the servant of the value, which must be safeguarded... The life of human communities is regulated by various norms- legal, philosophical, religious. Each group of norms has its own built-in limits. When, in the concrete life, a case arises that cannot be justly resolved by law, it is right that the community should turn to philosophy or religion and let them prevail over the positive law. When this happens, there is authentic equity.”⁸⁴ Some authors see equity as equivalent to the Aristotelian concept of *epikeia*. One suggests that, “Law by its very nature is abstract, universal and impersonal. Thus the strict application of the law cannot always grant justice. *Epikēia* then comes in to play precisely to do what the law is not able to achieve, which is full justice. To practise *epikēia* means to be involved in a process and to be challenged continuously to a creative and concrete realization of justice.”⁸⁵

The canonical equity is a principle that is applied in a particular situation, in which the law fails to uphold justice or some moral or religious value of the community. When the Church applies the principle of equity in a particular context, it teaches the mankind that the salvation of a person is the supreme motive of every law. When the law fails to serve this purpose then comes the principle of equity in to play.

3.4.2 The Principle of Equity: An Historical Overview

In the history of positive law we can find the use of the principle of equity from the 3rd century BC. itself. In the Roman Empire a special magistrate called *praetor peregrinus* was appointed in 242 B.C. to provide for the needs of strangers

84. CORDIEN., *The Code of Canon Law Text and Commentary*, 43

85. WIJLENS, “Salus Animarum Suprema Lex”, 577.

Salvific Law

and aliens. In the administration of justice, he was not bound by the law for the Roman citizens, because he was appointed only for the non-citizens of Roman Empire. He was free to appeal to the ideals of natural justice, to the demands of human nature, to the image of a good head of the family, to the ways of a reasonable person, and to administer justice accordingly. And thus equity is found at work. The *praetor peregrinus* found the existing legal system all too narrow to accommodate the demands of life. Hence he entered in to the field of ethics, in order to administer justice for the aliens of Roman empire. But in course of time this process of administration of justice gave way to the formation of another legal system of laws called equitable laws. Eventually the equitable laws superseded all civil laws and was applied to all, aliens and citizens alike.⁸⁶

In the history of English laws also we can find a similar process of entry of the principle of equity in to the legal system. In England, the common law of the king, from the late Middle Ages onward, proved insufficient to bring solutions for some naturally unjust situations. And in such situations the Chancellor, had enough power to distribute justice in his own way. In the formative years of equity the Chancellors were bishops. And they made use of Christian moral principles in order to meet with some extraordinary situations, for which the common law was unable to give an answer. In reaching a sentence, the Chancellor like the praetor, took his inspiration from outside the field of law, invoked a higher principle, and gave justice accordingly.⁸⁷

The principle of equity in the legal system of the Church was very much influenced both by the Aristotelian *epikeia* and

86. See, CORDIEN., *The Code of Canon Law Text and Commentary*, 42-43.

87. See, CORDIEN., *The Code of Canon Law Text and Commentary*, 43.

The Explicit Salvific Character of CCEO

by the patristic call for mercy (*miser cordia*). And Gratian in his *Decretum* (c. a. 1140) said that equity constitutes the supreme ideal of justice. According to him equity can help to take the particularity of a case in to consideration and temper the rigor of the law. Later Hostiensis (1200-1271) developed the concept of equity in which mercy is included and has a legal effect. According to him equity is “justice tempered by sweet mercy.” For him, legal praxis was primarily the application of the canonical norms to a particular case and the resolution of this case according to the demands of *salus animarum*. The judge should always keep in mind that he should grant justice, but justice postulates that he takes in to account the particularity of every person and focuses on the salvation of the soul. In the Scholastic period Thomas Aquinas equated equity with *epikeia*. According to St. Thomas the law does not always coincide with the truth. Therefore an independent ethical decision and action is to be sought for. And equity according to him is the concretization of this ethical demand. Francis Suarez (1617) considered equity as a principle of interpretation, which helps in certain particular situations to act even against the wording of certain legal texts. Here he emphasized that the objects of equity are only human positive laws and not the natural or divine laws.⁸⁸ Thomas Schüler is of the view that the 1917 version of CIC does not include dimension of mercy in the concept of canonical equity.⁸⁹ In 1977 Pope Paul VI reaffirmed that, “...in Canon Law it is equity which governs the application of norms to concrete cases, with the salvation of the souls as the goal which is always kept in view. Equity takes the form of mildness, mercy and pastoral charity and seeks not a rigid application of the law but a true welfare of the faithful.”⁹⁰ In the Apostolic Constitution *Sacri*

88. See, WIJLENS, “Salus Animarum Suprema Lex”, 577.

89. See, SCHÜLER, quoted in WIJLENS, “Salus Animarum Suprema Lex”, 578.

90. PAUL VI, *Alloc.4*, 210-211

Salvific Law

Canones, by which the Oriental Code was promulgated, on 18th October 1990, Holy Father Pope John Paul II asserted that, by the promulgation of the Oriental Code “without doubt there is nothing that will exceptionally serve the Eastern Churches than disciplined care for the souls of the Christian faithful.”⁹¹

When we consider the historical evolution of the principle of equity we can understand that by this what the Church always intended is the salvation of the souls. The principle of equity teaches the students of canon law that human salvation is more important than all the letters of any Code.

3.4.3 The Principle of Equity in CCEO

We can find in CCEO several occurrences of equity. There is a clear idea of the principle of equity in the following canon. CCEO. 1501 states that, “If on some particular matter there is not an express provision of a law, then the question is to be decided, unless it is a penal one, in accordance with the canons of the synods and of the holy Fathers, lawful custom, the general principles of canon law applied with equity, ecclesiastical jurisprudence and the common and constant canonical doctrine.” This canon suggests what to do in case of so-called lacuna: an obvious gap in the legal system. Lacuna in the proper sense occurs when there is a right that must be supported, or an injustice that cries for redress, or a freedom that needs protection and there is no appropriate provision in the legal system.⁹² Here the Code suggests referring also to the principle of equity. CCEO 24 §2 states that in the case of judgement the Christian faithful have the right to be judged not only according to the norms of law, but also according to

91. JOHN PAUL II, *Sacri canones*, 1044.

92. See, CORDIEN., *The Code of Canon Law Text and Commentary*, 37

The Explicit Salvific Character of CCEO

the principle of equity. Here by the principle of equity what the Code means is the fundamental fairness and justice.

In the context of the life of the priests and religious the Code mentions the word equity three times. CCEO 362 § 1 says, “For a just reason a cleric can be recalled from the other eparchy by his own eparchial bishop or returned by the hosting eparchial bishop observing the agreements made as well as equity.” And can. 1400 of CCEO asserts that, the canonical equity is to be regarded in all cases of the transfer of parish priests. When the Code speaks about the exlaustration of a monk in Can. 490 it mentions the term equity coupled with charity.

Again in a pastoral context the Code in Can. 859 § 1-3 stipulates that when the partner of a polygamous marriage subsequently receives baptism he or she should have only one wife or husband. In this context the Code tells that the eparchial bishop according to canonical equity should see to that the other “dismissed” partners are provided with a decent support for their lives. Here the term equity is given along with the concepts of justice and charity.⁹³

In the canons on the administration of the Church we can see following references to equity. CCEO. 940 § 2 suggests that when one who is promoted to an office lacks the required qualities, the competent authority can make provisions in this regard, observing equity. CCEO 975 § 2 states that, “If in accordance with the prescriptions of law an office has been conferred upon a person at the prudent discretion of the competent authority, that person can be removed from it for a reason considered just by the same authority, with due regard for equity.” According to CCEO 1176 § 2, in some controversies compromises can be sought through the

93. See, COUGHLIN, “Canonical Equity”,. 423-424.

Salvific Law

arbitrators. In this process of arriving at a compromise the arbitrators are to observe equity while keeping mind the procedural laws of the Code. Again in Can. 1519 CCEO tells that the person who issues an administrative decree also has to bear in mind at the issue of the decree, the principle of equity.

3.5 Conclusion

In this chapter we have searched for an explicit salvific character of CCEO. For this we have taken in to consideration three canonical concepts of CCEO, namely *salus*, *salus animarum* and equity. When we analysed these concepts in the different contexts in which they were found, we came to the conclusion that these concepts convey almost the same meaning of the Latin word *salus* as it is used in the Scripture and Tradition. Therefore the Oriental Code which has employed these usages several times explicitly shares the salvific meaning proclaimed by the Holy Scripture and Tradition.

Chapter 4

THE IMPLICIT SALVIFIC CHARACTER OF CCEO

4.0 Introduction

In this final chapter certain canons of the Oriental Code which have an implicit salvific character will be examined. At first we take in to consideration the penal laws from a theological point of view trying to examine the salvific dimension of Oriental penal laws in the background of their history of formulation. Then we will discuss at length the unique medicinal character of Oriental penal laws. Secondly we evaluate the canons on the sacrament of penance from a salvific viewpoint. The emphasis on the principles of mercy and divine justice in the sacrament of penance is also dealt with. Then we examine the medicinal character of the sacrament and salvific role of the confessor. As the final section of this chapter we will see some other canonical principles of CCEO, which have an implicit salvific dimension.

4.1 The Salvific Character of the Oriental Penal Laws

The Church is a community that proclaims itself to be of divine origin; its members are those who profess to love God, a love that is consequently realized in their love for humanity. Despite the divine nature of the Church and the spiritual calling of its members, the individual members, regardless of the place in the Church, can and do commit sinful acts. Some of these sinful acts are declared criminal. While the Church is called to be merciful and must always be prepared to forgive, it is also called to protect the weak and serve justice. Finally, the teaching responsibility of the Church demands that it cannot remain silent and unresponsive to error. In order to fulfill these tasks, there is a need for the Church to exercise coercive authority over its members and, therefore, a need for penal

Salvific Law

law so that this authority can be exercised with justice and equity.¹

Penal law is the response on the part of society to such activities, which the society considers criminal. This may seem to be obvious, but it is important to make a distinction between criminal and sinful or immoral behavior. All criminal acts are sinful but all sinful acts are not declared as criminal. The penal law of a society delineates those actions for which a person can expect to be punished.² The Latin Code begins with a vindication of the penal competency of the Church, its right to punish its members. CIC. 1311 states that “The Church has an innate and proper right to coerce offending members of the Christian faithful by means of penal sanctions.” Reflecting a view of the Church as a “perfect society”, the Latin Code, with the phrase “innate and proper right” indicates that this coercive power pertains to the Church and is not a concession of any civil authority. Whereas, the Oriental Code definitively asserts in can. 1401 the necessity and purpose of penal laws which aim at cure and conversion of the offender. In the past the Church sometimes made recourse to the secular authorities to impose penalties or even implemented secular penal discipline on behalf of civil authorities. The clear distinction at the outset permits the penal law of the Church to be structured primarily on the basis of theological considerations and not simply a counterpart or complement to civil penal law: ecclesiastical penal law has *salus animarum* as its primary goal.³

4.1.1 The History of the drafting of Oriental Penal Laws

In the primitive law of almost all the races there are vestiges of the archaic notion of punishment. And the development of the criminal law was universally hastened by two causes, the

1. FARIS, “Penal Law” 5.

2. FARIS, “Penal Law” 5-6

3. FARIS, “Penal Law”, 8.

The Implicit Salvific Character of CCEO

memory of the Roman Empire and the influence of the Church. “On the one hand traditions of the majesty of the Caesars, perpetuated by the temporary ascendancy of the House of Charlemagne, ... were communicating to the pettiest feudal potentate the character of guardian of society and representative of the State. On the other hand, the Church in its anxiety to put a curb on sanguinary ferocity, sought about for authority to punish graver misdeeds, and found it in those passages of Scripture which speak with approval of the powers of punishment committed to the civil magistrate.”⁴ However, the Roman system of penalties was structured upon the conception that punishment was of an expiatory and vindictive nature. It had to serve as a deterrent measure; correction of the criminal was not taken in to consideration.⁵

We can find penal laws even in the very early legislation of the Church. The Canons of the Apostles which were compiled in, about 400 AD., and trace their origin to *Didascalia* and *Didache* of the early second century, give certain penal canons.⁶ In the apostolic canons the penalties such as penal privation (c.27,29), minor excommunication (c.5,8-10 etc.), major excommunication (c.13,28,51,62) can be found.⁷ And the canons of the Synod of Ancyra (314), the Synod of Gangre (ca. 340), the Synod of Antiochea (341), the Synod of Sradica (343), the Synod of Carthage (419), the Synod of Laodicea (ca. 360), the First and Second Synods of Constantinople (861), the I Ecumenical Council of Nicea (325), the First Ecumenical Council of Constantinople (381), the Ecumenical Council of Calcedon (451), Council of Trullo (692), the Second Ecumenical Council of Nicea (787), the Fourth Ecumenical

4. MAINE, *Ancient Law*, 383-384

5. See, BERGER, *Encyclopedic Dictionary of Roman Law*, 633.

6. See, SALACHAS, *Primo Millenio*, 16.

7. See, SALACHAS, *Primo Millenio*, 325

Salvific Law

Council of Constantinople (869-871), St. Gregory of Neocesarea (270), St. Basil (379), St. Gregory of Nyssa (395), give early collections of the penal law of the Church.⁸

The complex of penal canons in the CCEO represent a canonical innovation the Oriental Churches, for this is the first time there has been a common penal legislation for the twenty two Oriental Churches *sui iuris* on which particular legislation can build.⁹ The commission for the Redaction of the Oriental Code was initially set up in 1935. One of the committees of this Commission was set apart for preparing the penal canons. And it prepared a draft of 241 canons on penal law. This draft was approved at the twenty-second plenary session of the Commission on 15 March 1946. Some further modifications of that draft were approved later in a meeting on 21 January 1948. There after the post-conciliar Oriental penal law coetus met only in 1974. The first session of the penal law coetus was held on 18-23 November 1974, which began the new drafting of the oriental penal laws on the basis of the teachings of Vatican II. The basic idea behind this drafting was that, “at times hierarchically organized people of God needed to impose canonical penalties but only for the building up of persons and not for their destruction (*ad aedificationem et non ad destructionem*) (2Cor. 13:10)”¹⁰.

The coetus judged that the *latae sententiae* penalties were to be abolished from the Oriental penal laws because, it was contrary to the Oriental Canonical tradition. And the coetus gave great attention to the imposition of a positive act as a penalty rather than the deprivation of some good. At the conclusion of the third meeting it approved a provisional schema which was divided in to two parts: part one- 38 canons on penal precepts, the application of penalties and the remission of penalties; part two- 25 canons on specific

8. See, SALACHAS, Primo Millenio, 13-23, 325-327.

9. See, GREEN, “Penal Law”, 411.

10. See, GREEN, “Penal Law”, 411

The Implicit Salvific Character of CCEO

delicts.¹¹ The original penal law schema has been undergone through certain revisions during 1977-1980 period.¹²

Then the original schema was sent to the eparchial bishops and other experts for observations on 30th September 1981. The *preanotanda* to the schema highlighted certain key features of the schema.¹³ Some of them emphasised the medicinal character of the Oriental penal law. Some others viewed that the *latae sententiae* penalties should be eliminated from the Oriental Code. On 17th October 1986 the schema of the Oriental Code was forwarded to the members of the Oriental Code commission. The material on penal law was included in two titles of the schema: title 27 on penal sanctions in general (Can. 1416-1482) and title 28 on the procedure for imposing penalties (Can. 1483-1502). After evaluating the reactions to the schema from the commission members and further reworking the text, the commission presented a modified schema to the second plenary session of the commission held on 3-14 November 1988. After some further modifications the proposed Oriental Code was presented to Holy Father Pope John Paul II for his appraisal on 20th January 1989. After a lengthy consultation with his advisors, Pope John Paul II promulgated the Oriental Code on 18th October 1990 to take effect on 1st October 1991.¹⁴ Thus the penal canons for the Oriental Catholic Churches came in to force in two titles: title XXVII (Can. 1401- 1467), title XXVIII (Can. 1468-1487).

When we take in to consideration the history of the

11. See, La schema-sanzioni penali, *Nuntia* 4 (1977) 76-96.

12. See, La nuova revisione, *Nuntia* 12 (1981), 37-77. See also Nota sull'operato del Coetus Specialis *Nuntia* 12 (1981) 78-84

13. See, Schema canonum de sanctionibus poenalibus, *Nuntia* 13(1981), 59-80.

14. See, GREEN, "Penal Law", 423-425.

Salvific Law

formation of the oriental penal laws we can understand that the spirit of the oriental the penal laws is not the condemnation of the culprit rather they aim at the conversion of the offender. We can see this aspect in the continued demand for the elimination of the *latae sententiae* penalties and the great emphasis given to the medicinal character of penalties.

4.1.2 Penance and Penalties

Latin canon law makes a distinction between penalties (*poenae*) as a deprivation of some goods (*privatio alicuius boni*), (the access to the sacraments, to remuneration from an office, etc.) and penances (*penitentiae*) as the imposition of positive works. Such a dichotomy is unknown in the Oriental tradition: At times “canonical penalties” were precisely “penances” while lists of “public penances” included deposition, degradation and suspension. This matter was addressed in the guidelines for the revision of the Oriental Code. Thus it was determined that the Oriental Code would not restrict the notion of canonical penalty to the deprivation of a good, but, with the intention of healing the perpetrator, a penance (which is identified as a penalty) could be imposed.¹⁵

This approach is reflected in the Oriental Code as follows: CCEO.1426 §1 “Unless another penalty is provided in the law, according to the ancient traditions of the Oriental Churches, penalties can be imposed which require some serious work of religion or piety or charity, such as certain prayers, a pious pilgrimage, a special fast, alms, spiritual retreats.

§ 2. Other penalties are to be imposed on one who is not disposed to accept these penalties.”

15. “Today, of course, similar public penances (can) be imposed. Still, the attempt should at least be made to envisage the possibility of introducing in to the penalties also a positive element which would better correspond to their character-the character, that is, which is practically the only that Christian East acknowledges in canonical punishments.” Guidelines, *Nuntia* 3 (1976) 24.

The Implicit Salvific Character of CCEO

The imposition of penalties in the form of works of religion, piety or charity serves as an alternative to the “traditional” forms of penalties; however, the guilty party has the option to reject them. The canon opens with a contingency clause: “Unless another penalty is provided in the law”, referring to those canons in which the penalty to be imposed is specified, technically known as preceptive laws. However, even in these cases, the Oriental Code allows for a hierarch to abstain from the penal process and the penalty: CCEO. 1403 § 1. “Even when it is a case of offences which carry by law an obligatory penalty, the hierarch can abstain from a penal process, and even abstain totally from imposing penalties, after having heard the promoter of justice, as long as in the judgement of the hierarch the following conditions simultaneously concur: the offender, who has not yet been brought to trial, moved by sincere repentance, has confessed his offence to the hierarch in the external forum, and adequate provision has been made to repair the scandal and the harm.”

§ 2. “However, the hierarch cannot do this when it is an offence which carries a penalty whose remission is reserved to a higher authority, until he has received permission from the same authority.”

Thus for cases within his competency, the hierarch can completely set aside the penal process and the penalty itself. But certain conditions must be met with:

- The hierarch must consult with the promoter of justice
- The offender has not been brought to trial
- In the judgment of the hierarch, the offender is sincerely repentant and has confessed in the external forum.
- Appropriate reparation for scandal and damages are

Salvific Law

addressed. The capacity of the Oriental hierarch to abstain from a penal process is not unlimited: he cannot set aside the penal process if the obligatory penalty is reserved to a higher authority unless he has received permission from the same authority.¹⁶ Here also we can see the spirit of the Oriental laws which aim at the salvation of all.

4.1.3 Penal Remedies

A series of penal remedies exist which include the following:

Warning- The fundamental purpose of penalty is to heal (see, CCEO. 1401) and is to be imposed only as a last resort (CIC. 1341). Both the Oriental and Western penal systems, therefore, include the institution of a warning as a possible deterrent and corrective measure.¹⁷ The Oriental Code takes a general approach by stating that if the nature of the offense permits it, a penalty cannot be imposed unless the offender has been warned at least once in advance with adequate time for reconsideration. And according to CCEO. 1407§ 1-If, in the judgment of the hierarch who can inflict a penalty, the nature of the offense permits it, the penalty cannot be imposed unless the offender has been warned at least once in advance to desist from the offense, with adequate time given for reconsideration. The Oriental Code takes a realistic approach that a warning is to be given to the offender with an opportunity to repent (CCEO. 1436-8).¹⁸

Public Reprimand- Similar to the Latin Code institute of reproof, the Oriental Code provides for a public reprimand of a person. In CCEO.1427 § 1. we read, “Without prejudice to particular law, a public reprimand is to be administered either before a notary or two witnesses or by letter, but in such a way

16. FARIS, “Penal Law”, 11

17. *Guidelines, Nuntia* 3 (1976) 24.

18. FARIS, “Penal Law” 12.

that the reception and the contents of the letter are provable through some document.”

§ 2. “Care must be taken that the public reprimand does not occasion more than normal loss of the good name of the guilty party.” The reprimand is to be administered before a notary or two witnesses or by a letter. And the precaution must be taken that reprimand does not result in an inappropriate disgrace of the person.

Vigilance- If seriousness of the case warrants it and especially in the case of recidivists, the hierarch can issue an administrative decree that will address the issue of vigilance over the offender. CCEO. 1428 “If the seriousness of the case demands it and especially if it concerns recidivists, the hierarch can, in addition to the penalties imposed by a sentence according to the law, submit the offender to vigilance in the manner determined by an administrative decree.”¹⁹

4.1.4 Benign Interpretation and extension of penalties

CCEO. 1404 § 1 states, “In the matter of punishments, the more benign interpretation is to be made.”

§ 2.”It is not allowed to extend a penalty from one person to another, or from one case to another, although there is equal or even weightier reason.”

The issue of benign interpretation, incorporated into ecclesiastical law since 12th century is self - evident. The non-application of analogous cases in penal law is prohibited since it does not clearly allow a person to ascertain who is susceptible to punishment for what action. The Oriental code includes the norm that states that laws establishing a penalty or restricting the free exercise of rights are subject to strict interpretation. CCEO. 1500 states that, “Laws which establish a penalty or

19. See, FARIS, “Penal Law”, 18-19.

Salvific Law

restrict the free exercise of rights or which contain an exception to the law are subject to a strict interpretation.”

Human words used to express a legal concept hardly ever have the clarity and precision of mathematical terms. They have a certain elasticity. Their meaning can be broadened or narrowed, without taking away their original significance. It is universal linguistic phenomenon, we have the potential source for two types of interpretation of laws: broad and strict. Each interpretation retains the core meaning but in one case it is stretched out, and in the other case it is compressed. Broad interpretation represents the maximum that the term can honestly carry while strict interpretation represents the minimum that the term must honestly include. Both can speak the truth, in spite of the difference, because the original meaning of the term is not destroyed.

With regard to the canons on penalty this canon suggests that the legislator wants neither to impose a sanction on more persons nor to impose heavier penalties on any one than what is absolutely necessary to protect the peace of the community.²⁰

4.1.5 The Eucharistic Dimension of Penal Law

According to Prof. Salachas, the Oriental penal laws have an essential sacramental dimension too. He holds the view that the ecclesiastical penalty intends to awaken the conscience of the one who has committed precise transgressions of the laws of the Church to enable him to understand the gravity of his spiritual deviation and to purify him through the spiritual repentance, and make him again a healthy functional limb of the ecclesial body, in which he nourishes himself, grows and works through the common sacramental experience, and

20. CORDIEN., *The Code of Canon Law Text and Commentary*, 36

The Implicit Salvific Character of CCEO

especially through the Divine Eucharist.²¹ This Eucharist-centered character of the ecclesiastical punishment expresses the spiritual and soteriological content of the penal law of the Church. And we can see the different stages of the denial of the Eucharistic experience as the punishments of the Church, such as major excommunication, minor excommunication, suspension, loss of the proper see and deposition. Here what the church teaches is this, Church is a sacrament of salvation and one who inflicts the soteriological nature of the Church should be warned by a partial or full denial of the Eucharistic communion. CCEO 1401 states that - “since God employs every means to bring back the erring sheep, those who have received from Him the power of loosing and binding, are to treat appropriately the illness of those who have committed, offenses, by correcting, reproving, appealing, constantly teaching and never losing patience and are even to impose penalties in order to ensure that the wounds inflicted by the offence may receive a cure and to preclude the offender from being given to dissoluteness of life and contempt of the law.” By this penalty what the Church intends is not only the salvation of the individual offender but also the salvation of the ecclesial community as a whole.

4.1.6 The Medicinal Character of the Oriental Penal Laws

Penal laws were always and every where considered as means to keep peace and welfare in human society. When one historian speaks about the history of the early Roman penal law he gives the following account: “To avoid the injurious effects of private warfare upon families and upon the public peace, there exist along with it from ancient times the use of compositions. These made possible a reconciliation of the warring parties by a payment from the offender to the injured, who declared himself satisfied. It was thereafter unlawful to recommence hostilities, for all damage had been

21. See, SALACHAS, *Primo Millenio*, 328.

Salvific Law

indemnified and all offenses condoned.”²² The early penal laws were established in order to keep the peace in the community and to cure the wounds that a certain crime has caused in society. Although the Roman law made imprisonment a punishment for certain crimes, life imprisonment except in the form of penal servitude was not a punishment.²³

The Can. 12 of the First Ecumenical Council of Nicea (325), which is addressed to the pastors describes the penal behavior of the Church. According to it every case must be examined singularly, and according to the offender’s disposition to the conversion, the punishment to be inflicted is to be determined.²⁴ And here we see that even in the very early times of the Church, it gave much importance to the conversion of the offender before inflicting any penalty measures on him. Again in Can. 16 of the Ecumenical Council of Calcedonia (451) we get the following idea concerning the penal authority of the Bishop. Here it was stated that it is up to the power of the local Bishop to show a comprehension of mercy towards a particular offender.²⁵

“Any measures by which, the Church excludes somebody from the community, from the right to liturgical participation or from the exercise of an ecclesiastical office, can only be meant today as measures to maintain the community of worship and proclamation, first in actual fact, then also verbally as an authentic and credible sign in this world. The Church will

22. CALISSE, *A History of Italian Law*, 88.

23. See, SHERMAN, *Roman Law in the Modern World*, 472.

24. See, SALACHAS, *Primo Millenio*, 329. Thus goes Can. 12 of Nicea 1, “In every case, however their disposition and the nature of their penitence should be examined. For those who through their fear and tears and perseverance and good works give evidence of their conversion by deeds and not by outward show, when they have completed their appointed term as hearers, may properly take part in the prayers, and the bishop is competent to decide even more favorably in their regard.” The Council of Nicea, can.12, in TANNER, *Decrees* vol.1,12.

25. See, SALACHAS, *Primo Millenio*, 329.

The Implicit Salvific Character of CCEO

obviously hope that her judgment will bring possible transgressors to a change of heart, but this, too, must be wholly voluntary and not as the result of coercive discipline.”²⁶

Ladislas Örsy writes as follows, “The Christian community is composed of human beings who remain sinners and beset with weaknesses and limitations. At times some or many of them speak or act in a way that appears to be in contradiction with the faith they profess and the way of life they are expected to follow. They break their unity with the community and a clash with authority arises. There is nothing alarming in these situations. They are part of a human community. Therefore, it is wise to anticipate them even if we do not wish for them. History abundantly confirms such wisdom precisely because the occurrence of actions is foreseeable. The legislator must anticipate them and provide a legal framework that helps to restore the broken peace and find the lost harmony.”²⁷

The spiritual life and integrity both of the whole community and of the individual offender are preeminent finalities of ecclesiastical penalties.²⁸ According to Prof. Huizing, the penalty in the Church is not a matter of taking action against every expression of human weakness. Rather it is clearly a matter of not jeopardizing the basic unity in faith, communion and Christian life of the Church and thereby compromising its manifold service of man.²⁹ Professor Arias sees penalties as particularly indicative of the Church’s concern to protect the basic rights of members of the community. A principal objective of governing power must be the protection of personal salvific interests and the enabling of the community

26. HUIZING, “Crime and Punishment in the Church”, 115-116

27. Ladislas M. Örsy, Unpublished Notes, quoted in GREEN, “The Future of Penal Law”, 216.

28. See, GREEN, “The Future of Penal Law” 217.

29. HUIZING, “Crime and Punishment in the Church”, 114.

Salvific Law

to pursue the varied aspects of its mission without encumbrance.³⁰ Barbarena views that a primary concern of penal discipline has always been the integral exercise of the Church's sacramental function and the restoration of order among the members of the community. Ever since the Pauline preoccupation with the possibly detrimental influence of unevangelical behavior (1Cor. 5) there has been a traditional effort to protect the community against its wayward members. Yet there is a strong thrust as well towards facilitating the offender's return to the integrity of faith in freedom and love. Proper ecclesial penalties should be so structured as, to be geared to the integration of the offending member within the community. A proper Christian penal policy should create the conditions for the offender's reassuming his Christian responsibilities and participating once again in the Church's mission.³¹

During the period of the formulation of the oriental penal laws after a careful study of the penal issues in both the Latin and Oriental traditions, the *relator* of the special *coetus* which worked to formulate the Oriental penal laws affirmed that the observations on the emphasis on the medicinal character of penalties mentioned in the *praenotanda* were valid. The foundation of penal authority's right to punish is the societal need to vindicate and expiate the delict in order to restore justice. This entails an authoritative duty to eliminate the scandal and societal damage resulting from the delict. Because of the Church's salvific character there is also a need to foster the conversion and salvation of the offender. In short there needs to be a healing of the scandal, the societal damage and the offender (*sanatio scandali, damni et delinquentis*).³²

30. Juan Arias, in GREEN, "The Future of Penal Law" 217

31. Barbarena, quoted in GREEN, "The Future of Penal Law" 218.

32. See, GREEN, "The Future of Penal Law", 420.

The Implicit Salvific Character of CCEO

All penalties are fundamentally only partly expiatory of the delict since the complete expiation of ecclesiastical delicts does not seem possible in this world. However, according to can. 102 of the Council in Trullo and can. 1 of the schema, all such penalties are entirely medicinal in the sense of being oriented to heal the effects of the delict not simply on those whose rights are violated but also on the offender.³³

If there is to be a distinction of penalties (i.e., between censures and expiatory penalties), it should be articulated solely in terms of the modality of their remission, that is, whether the offender has a right to remission. Even here it is difficult to speak precisely of a right to remission since every penalty is expiatory of its very nature. Yet the Church is disposed to forgive the offender when all the damage has been repaired and the offender is totally reformed. The concerns of the consultative organ were to be taken in to account by a sharper stress in the first canon on the vindication of the ecclesiastical order as a purpose of penal law.³⁴

The Oriental Code is silent regarding the right of the Church to exercise coercive authority and instead it opens its penal canons with a biblical, theological purpose of penal law: CCEO. 1401 states that, “ - Whereas it is in God’s plan to use every means to lead back the erring sheep, those who have received from Him the power to loose and to bind are to use argument, reproof and appeal, never failing in patience and in teaching, so as to apply suitable medicine to the sickness of

33. See, GREEN, “The Future of Penal Law” 420-421. Can.102 of the Council of Trullo reads as follows, “That one must consider the disposition of the sinner and the peculiar nature of the sin. Those who have received from God the power to loose and to bind (cf.Mt.16,19) must consider the peculiar nature of the sin and the readiness of the sinner for amendment, and thus apply a suitable remedy to the illness, lest, exceeding the mark in one or the other sense, he should fail in obtaining the salvation of the one afflicted” See, NEDUNGATT, *The Council in Trullo Revisited*, 183.

34. GREEN, “The Future of Penal Law”, 421.

Salvific Law

those who have offended. Indeed they are even to impose punishments with a view to healing the wounds caused by the offence, so that on the one hand the offenders are not driven to the precipice of despair nor on the other hand is loose rein given unto dissoluteness of life and contempt of the law.”

The canon employs the biblical image of the lost sheep (Lk. 15,1-7) and the advice of the apostle Paul to Timothy, “...to convince, rebuke and encourage, with utmost patience in teaching” (Tim. 4,2).³⁵ The canon establishes that the authority, to give punishment for the delicts, in the Church is of divine origin. And here the offender is viewed as a spiritually sick person. The offense is considered as a spiritual disease. The judicial process must be the one, which aims at a thorough examination spiritual disease and at the same time the diagnosis of the delinquent personality. In this process, both the observance of commandments, *akribeia* and the principle of mercy, *oikonomia* are to be respected.³⁶

In fact the theological, biblical approach of the opening canon of penal laws in the Oriental Code is not superior to the assertion of the competency of its counterpart in the Latin Code. In fact, the two approaches are complementary. The coercive authority of the Church is presumed by the Oriental Code, otherwise, the law would not exist. On the other hand, the medicinal element of penal law is implicitly found in the Latin Code in its assertion that penal sanctions are to be imposed only as a last resort when other methods have failed.³⁷ The medicinal character of penal law also finds expression in

35. See also c.102 of the Council of Trullo

36. See, SALACHAS, *Primo Milleno*, 330

37. See, CIC.1341- “An ordinary is to take care to initiate a judicial or administrative process or to impose or declare penalties only after he has ascertained that fraternal correction or rebuke or other means of pastoral solicitude cannot sufficiently repair the scandal, restore justice, reform the offender.”

both codes in the discretionary power of a judge to postpone a penalty, refrain from imposing or substitute a lighter penalty, or suspend the obligation of observing penalty (CCE0.1409; CIC. 1344).³⁸

4.1.7 Elimination of *latae sententiae* penalties

Latae Sententiae is a Latin term which literally means given (laid down) sentence. A *latae sententiae* penalty follows automatically by force of the law itself, when the law is contravened. A detailed study of the Latin and Oriental penal traditions preceded the discussion of the issue on *latae sententiae penalties* on 2 December 1982. This study indicated that 8 *latae sententiae* penalties were operative in the Oriental Churches and 16 in the Latin Church.³⁹ To bring the Oriental Code in to conformity with the Latin Code (as requested by one consultative organ) would require doubling the number of *latae sententiae* penalties already present in the Oriental *ius vigens*. The special *coetus* rejected such a proposal in view of fidelity to Oriental penal traditions. The sole motive of ensuring conformity with the Latin Church was not viewed as persuasive.⁴⁰

After referring to a couple of different perspectives on *latae sententiae* penalties expressed by the consultative organs, the special *coetus* indicated that it did not think that such penalties constituted the only real deterrent to certain delicts. Further more they were not particularly appropriate in fostering the reform of the offender, especially given the relative ease in obtaining their remission.

38. FARIS, "Penal Law", 9.

39. See, *Latae Sententiae*, www.wikipedia.org, 31.3.08. While the Latin Code had not yet been promulgated officially, it was nearly the end of the papal consultation process; and apparently the study in the question referred to the soon to be promulgated Latin Code and not to the 1917 Code which contained far more *Latae Sententiae Penalties*. See, *Schema canonum de sanctionibus poenalibus*, *Nuntia* 20 (1985/1) 3-58, especially page 9.

40. GREEN, "The Future of Penal Law", 421-422.

Salvific Law

In short, the special *coetus* decided not to ask the commission members to rethink their 1974 decision to abolish all *latae sententiae* penalties.

However, in light of the aforementioned discussion, it was decided to suggest the introduction in the canons on penance of a provision for the possible reservation of certain particularly serious or frequent sins, e.g., abortion or the Latin Code offenses whose remission is reserved to the Holy See.⁴¹

4.2 The Implicit Salvific Dimension of the Sacrament of Penance

CCEO. 718 states that, “In the sacrament of penance Christian faithful turn to God in their hearts under the leading of the Holy Spirit from the sins committed after baptism. Moved by sorrow for their sins they resolve to lead a new life. Through the ministry of the priest, to whom they make confession and from whom they accept a deserving penance, they obtain forgiveness from God and at the same time are reconciled with the Church, which they have wounded through sin. Thus this sacrament contributes greatly to the fostering of Christian life and disposes Christian faithful for the reception of the Divine Eucharist.”⁴²

Three essential elements of the sacrament of penance, mentioned in Can. 718 are the following:

1. The contrition for the sins committed, which involves the conversion of heart, the repudiation of the sins and the pain for the sins committed.

41. GREEN, “The Future of Penal Law”, 422.

42. The General juridical Sources on the Sacrament of Penance are the following; LG.11, SC.72 of Vat.II, See also, *Reconciliazionem*, 2673- 2674. *Praen. Misericordiam Suam*, 2675-2729. *Sacramentum paenitentiae*, 1653-1667. John Paul II, *Reconciliatio et Paenitentia*, 1075-1207. See, SALACHAS, *Sacramenti*, 219, foot note, 1.

The Implicit Salvific Character of CCEO

Through the conversion the man, moved by the faith, returns spiritually toward God. This is the sense of the verb *metanoein*.⁴³

2. The intention of a new life.
3. The confession of the sins committed, to the priest, and the absolution imparted by the same minister.⁴⁴

CCEO Can. 718 reassume the meaning of the penitence and the penitential orientation that permeates the Christian cult. The oriental theology, following the teaching of the fathers of the Church, underlines the action of the Holy Spirit operative in the celebration of the divine cult and especially of the sacraments. In the sacrament of penance, the divine mercy is revealed toward the sinner. The Christian faithful, having committed grave sins after the baptism, have been induced to this sacrament by the Holy Spirit, and the ministers of this sacrament, who have, in virtue of the Holy Order, the power to forgive all the sins, acts “in the name of the Father and the Son and of the Holy Spirit.”⁴⁵

At the end, the Can. 718 emphasizes the bond between the sacrament of the penance and the divine Eucharist. The penitent, reconciled with God and with the Church, is disposed and prepared to receive the divine Eucharist. The true completion of the sacrament of the penance is in the participation in the divine Eucharist, because here the true union with God is regained.⁴⁶

4.2.1 The Medicinal Nature of the Sacrament of Penance

CCEO. 732 § 1 states that, “The confessor is to offer a fitting cure for the illness by imposing appropriate works of penance

43. See, Act.3, 19. See, SALCHAS, *Sacramenti*, 220

44. See, SALACHAS, *Sacramenti*, 220

45. See, SALACHAS, *Sacramenti*, 221.

46. See, SALACHAS, *Sacramenti*, 221.

Salvific Law

in keeping with the quality, seriousness and number of the sins, and considering the condition of the penitent as well as his or her disposition for conversion.”

§ 2. “The priest is to remember that he is placed by God as a minister of divine justice and mercy; as a spiritual father he should also offer appropriate counsel so that the penitent might progress in his or her vocation to sanctity.”

In order to exercise his office, the confessor has to know how to distinguish the illnesses of the soul and to bring the proper remedies for the spiritual disease, and to practice with wisdom his assignment as the judge; besides he must do an assiduous study, under the guidance of the magisterium of the Church, and above all with the prayer, in order to get the wisdom and the prudence necessary to this purpose. The discernment of the spirits is the intimate knowledge of the work of God in the heart of the men. It is a gift of the Holy Spirit and a fruit of charity. In receiving the penitent sinner and in guiding him to the light of the truth, the confessor must show a fatherly care, because it reveals to the people the heart of the Father, and it personifies the image of Christ, the Good Shepherd. He must therefore remember that his office is the same as that of Christ, who in order to save the mankind has worked in mercy for their redemption, who is present with his divine virtues in the sacraments.⁴⁷

Therefore, in the sacrament of the penance, the priest like a spiritual father, is minister of the divine justice and mercy. Like a physician he points out the necessary medicines, the works of penance like fasting, almsgiving, prayer etc. All these help the penitent to achieve the spirit of conversion and to educate himself about the necessity of the change of life. But these works of penance are neither the exchange nor the price

47. See, *Misericordiam suam*, par.10 quoted in SALACHAS, *Sacramenti*, 249.

The Implicit Salvific Character of CCEO

for the forgiveness of the sins. The penitent receives the forgiveness, just because of the endless mercy of God and of the Sacrifice of the Son of God, which is merited for the sinners with the death on the cross.⁴⁸

In the oriental tradition we can see a very ancient notion of the medicinal nature of the sacrament of penance. The Synod of Laodicea (343-381) establishes that, “When those who, commit different guilts, seek the prayer of confession and penitence persistently, and they convert themselves completely from the evil, the occasion to do penance, according to the gravity of the sins committed, must be given to them, so as they to be admitted to the Eucharistic communion again, thanks to the mercy and the goodness of God.”⁴⁹

The same view of the sacrament of penance can be found in the canons of the Synod of Cartage (419 Can.43) and the Council of Trullo (691).⁵⁰ The Council of Trullo very clearly asserts that the sinner is to be viewed as a spiritually sick person.⁵¹ The sin is a disease or a wound. Therefore, the sacred minister, like a physician must examine the gravity of the disease as well as the disposition of the sinner towards conversion. Only after such a very clear examination he can suggest the appropriate medicine for the spiritual disease. The Council teaches that, here both the principle of *akribeia* (strict

48. See, SALACHAS, *Sacramenti*, p.249

49. “*De his qui in diversis facinoribus peccaverunt et preserverantes in oratione confessionis et paenitentiae conversionem a malis habuere perfectum, pro qualitate delicti talibus paenitentiae tempore inperdito, propter clementiam et bonitatem dei communio concedatur.*” *Fonti*, series 1, fasc.IX.t.1,2, 131.

50. See, SALACHAS, *Sacramenti*, 250-251.

51. “*Oportet autem eos qui solvendi et ligandi potestatem a deo accepere, peccati qualitatem considerare et eius qui peccaverit promptum ad conversionem studium, et sic morbo conversionem studium, et sic morbo convenientem afferre medicinam, ne, si in utroque immoderatione utatur, a slute morbo laborantis excidat.*” Here it is noteworthy that the Greek version of the text employs the word *soteria*. See, *Fonti*, series 1, fasc. IX, t.1,1,239-241.

Salvific Law

observance of the commandments) and that of *oikonomia* (condiscendence) are to be made use of.⁵²

Like the illness of the body, that of the soul, caused by sin is not so simple in its nature, rather it is complex and it varies in different degrees. It is the germination of the numerous ramifications of the evil; and because of this the evil progresses and is further extended. The spreading of the disease or wound can be stopped only at the moment the sick person gets a proper treatment for the disease. For this he needs the assistance of a good physician.⁵³

A confessor as an intermediary can handle various situations that arise in his confessional practice in such a way as to lead the penitent to the greater spiritual good.⁵⁴ “He should feel bound to save those who come to him for his help. It is in expressing this concern towards his penitents that the confessor manifests the love and generosity of God Himself, a love expressed in an utmost fashion in Jesus Christ, ‘whose name is Emmanuel, God is with us’ (Mt. 1,23).⁵⁵

4.2.2 The Salvific Role of the Confessor

Christ’s encounter with the sinners was very consoling. Salvation in this context is to be understood as to feel for the spiritually sick person and to intervene as opportune. Here the confessor has to find out the means by which he can make the life of the penitent more deeply inspired by love of Christ.⁵⁶ CCEO. 732 speaks explicitly about this role of the confessor. As a pastor of the souls the confessor should use all possible knowledge and skill at the disposal of his penitents. He should

52. See, SALACHAS, *Sacramenti*, 251.

53. See, SALACHAS, *Sacramenti*, 252

54. See, OJIAKO, *The Role of the Confessor*.18.

55. OJIAKO, *The Role of the Confessor*.18

56. See, OJIAKO, *The Role of the Confessor*, 19.

The Implicit Salvific Character of CCEO

follow the attitude of Christ in order to lead his penitents to further progress in spiritual life so as to restore them from the state of sin. Thus the confessor can guide the souls towards the path of salvation.

The salvific role of the confessor is to be understood as a role of hearing and of understanding. The confession demands from the confessor an absolute responsibility to save the penitents. The confessor should always be willing to explain and not to be imposing. He should have a deep attitude of understanding and acceptance of the penitent's frame of mind.⁵⁷ About the role of the pastors the Second Vatican Council speaks as follows, "Let them, as fathers in Christ, take care of the faithful whom they have begotten by baptism and their teaching. Becoming from the heart a pattern to the flock, let them so lead and serve their local community that it may worthily be called by that name, by which the one and entire people of God is signed, namely, the Church of God." (LG. 28).

When the Oriental Code speaks about the role of the confessor Can. 732 explains that how prudently he must guide the flock to the path of holiness and salvation. Here he is not to condemn the penitent, because the confessor has no "trustworthy way of knowing how his (penitent's) conscience stands before God."⁵⁸

4.2.3 The Salvific Dimension of the Sacrament of Penance and the Concepts of Divine Justice and Mercy

In CCEO. 732 § 2 we read as follows, "The priest (the confessor) is to remember that he is placed by God as a minister of divine justice and mercy." According to this clause of the canon the confessor is endowed with the authority to execute the divine

57. See, OJIAKO, *The Role of the Confessor*, 19

58. See, OJIAKO, *The Role of the Confessor*, 19.

Salvific Law

justice too. Here we have to bear in mind the concept of divine justice and mercy.

The Old Testament concept of divine justice is highly salvific. It is the expression of God's covenantal commitment to Israel. The Old Testament conceived God as the Just One, in His fidelity to the promises of salvation. We can find that the terms such as justice of God, salvation, fidelity are used in the Old Testament with an interchangeable sense of meaning (Ps. 98, 2-3). In the book of Isaiah we read, "I am bringing on my justice and it is not far off, my salvation shall not tarry" (Is. 42, 21; 46, 13). God's justice is also conceived as something associated with salvation (Is. 51, 5).⁵⁹

Whereas, in the New Testament, Christ is depicted as the realisation of the justice of God. And this realisation took place in the salvific activity of Christ. As a priest Christ stood as a mediator between God the father and the humanity.

Christ sacrificed himself on the cross in order to execute the justice of God and to save the mankind. The Second Vatican Council declared, "In Christ Jesus... Who was crucified and rose again to break the strangle hold of personified evil, so that the world might be fashioned anew according to God's design and reach its fulfillment," (GS 2). God manifested His justice.

All the races of humanity are justified through the free gift of grace which, was merited by the redemptive activity of Christ. "He was appointed by God to sacrifice his life so as to win reconciliation through faith. In this way, God makes his justice known, first for the past when sin went unpunished because he held his hand for the present age by showing positively that he is just and that he justifies every one who believes in Jesus (Rom. 3,

59. See, OJIAKO, *The Role of the Confessor*, 24.

60. OJIAKO, *The Role of the Confessor*, 24. For this idea of salvific meaning of divine justice Ojiako refers to the Second Vatican Council documents. See, GS. 37;LG48.

The Implicit Salvific Character of CCEO

23-26) for in him we find the tremendous Mystery of love in which the creation is renewed.”⁶⁰ Jesus Christ was put to death for our sins and was raised to life to justify us (Rom. 4, 25). And the Church wants to continue this redemptive activity through its ministers of the sacrament of penance.⁶¹

Again we can find the concept of divine mercy in the mission of the minister of the sacrament of penance. This concept of Divine mercy presupposes the idea of divine compassion and kindness. It expresses God’s patience with sinners and his readiness to forgive them without abandoning them. Prof. Bernard Häring writes, “Lord Jesus when you met sinners you offered them trust, you corrected the Apostles their fault, but in a way that they felt your friendship even more and desired to become worth as kind of helpful correction and encouragement.”⁶²

God has saved man often from different dangers and failures. God does this not because of man’s merit, but just because of the infinite mercy of God. So the same attitude is expected of the confessor with penitents who by their sinful life of this world needs forgiveness through the sacrament of penance. For it is the mind of the Second Vatican Council when it says “to make the family of man and its history more human” which is the mission of the Church in the modern world.⁶³

Therefore the minister of the sacrament of penance has to act in the name of Christ who came to save man from sin. The penitents expect such an attitude from the minister. He should be able to express himself in a fatherly image after the model of

61. “Since the Church is in Christ like a sacrament or as a sign and instrument both of a very closely knit union with God and of the unity of the whole human race, it desires now to unfold more fully to the faithful of the Church and to the whole world its own inner nature and universal mission.” See, *LG*.1

62. HÄRING, *Discovering God’s Mercy*, 18, quoted in OJIAKO, *The Role of the Confessor*, 34.

63. See, OJIAKO, *The Role of the Confessor* 35. See also, GS.40

Salvific Law

Christ, the eternal priest and reveal to the penitents “the heart of the father who is ready to forgive.”⁶⁴ Ojiako writes, “Mercy abounds where sin is found especially when our intention is to save and not to condemn, taking in to consideration the condition of man.”⁶⁵

4.2.4 The Absolution of all the Sins at the Danger of Death

CCEO. 725 states, “Any priest can validly and licitly absolve from any sins any penitents who are in danger of death, even if another priest is present who is endowed with the faculty to administer the sacrament of penance.”

Normally the priest, who is endowed with the proper faculty to absolve sins, alone can give absolution to the concerned penitents. But in case of danger of death⁶⁶ any priest can give absolution from any sins to any penitents, who are actually in danger of death. Here we have to notice that in the Code, how much stress is given to the salvation of the soul of the penitent. The penitent can choose even a priest who does not have the particular faculty to absolve his (the penitent’s) sins. And the penitent can make this choice even at the presence of another priest who is endowed with the proper faculty to absolve his sins.⁶⁷ Again in CCEO. 395 we read that, “A cleric who loses the clerical state according to the norm of law, loses with it the rights proper to the clerical state, nor is he further bound by the obligations of the clerical state, without prejudice however to canon 396; he is forbidden to exercise the power of order, without prejudice to Can. 725 and 735 § 2; he is *ipso iure* deprived of all offices, ministries, functions and any delegated power.” Even the priest,

64. See, OJIAKO, *The Role of the Confessor*.37.

65. OJIAKO, *The Role of the Confessor*, 37.

66. See, *Canoni sulla Penitenza*, *Nuntia*, 6 (1978) 59. The different causes of the danger of death may be incurable and grave disease, old age, grave surgical operation, condemnation to death, war, accidents etc. See, SALACHAS, *Sacramenti*, 246, foot note 11.

67. See, SALACHAS, *Sacramenti*, 246

who lost the clerical state according to the norms of the Church can absolve a penitent, who is at the danger of death, from all the sins.⁶⁸ And in CIC we can see the provision to meet with a situation when a penitent who was in such a danger of death survives after the absolution of such sins, whose absolution is reserved to a superior authority, by an ordinary cleric, at the danger of death (CIC. 1357 §3).⁶⁹ But Oriental Code lacks with this provision. And when we take in to consideration the spirit of the Oriental Code as a whole, we can understand that the absence of this canonical provision is not happened accidentally. Rather it emphasizes the salvific nature of the Oriental laws. Here we can see the spirit of the law which stands far beyond the mere rigidity of letters of the laws, and aims at the ultimate salvation of every human soul.

4.3 Some Canonical Principles with an Implicit Salvific Character

A few canonical principles of CCEO which have an implicit salvific dimension are examined here. This section of the book chiefly deal with the salvific dimension of CCEO, which is similar to the idea of *Oikonomia* in Orthodox theology, and is implied in certain canonical principles of the Oriental Code. For, Prof. Ivan • u•ek considers *Oikonomia* as a theological concept, which aims at a plan of salvation for the whole humanity.⁷⁰ “*Oikonomia* is indeed more than what the law can offer. It cannot ever be summed up in a legal maxim nor can a precise description be given as to how it operates. It is rooted in the power of Christ, which is present in the community, and which never can adequately be defined by laws. This power cannot be invoked by any one else than a sacramentally ordained bishop or possibly by a synod of bishops.

68. See, SALACHAS, *Sacramenti*, 245.

69. See, SALACHAS, *Sacramenti*, 245-246.

70. “L’oikonomia est un concept theologique qui designe le plan de salut pour tous less hommes, l’oeuvre de la divine Sagesse.” See, • U• EK, “L’economie”, 90.

Salvific Law

The bishop is the trustee of the forgiving and healing strength of Christ in the Church.”⁷¹ Thus the principle of *Oikonomia* definitely carries with it the idea of salvation and healing. According to Prof. • u•ek, some canonical principles of CCEO conveys a certain idea of *Oikonomia*.⁷² Here we evaluate the canons on dispensation, privilege and radical sanation.

4.3.1 Dispensation

Dispensation is an exemption from some laws; a permission to do something forbidden; an allowance to omit something commanded; a relaxation of law for the benefit or advantage of an individual.⁷³ Can. 1536 of CCEO states that § 1. “A dispensation, that is, the relaxation of a merely ecclesiastical law in a particular case, can be granted only for a just and reasonable cause, taking into consideration the circumstances of the case and the gravity of the law from which the dispensation is to be given; otherwise the dispensation is illicit and, unless it is given by the legislator himself or by an authority superior to him, it is also invalid.”

§ 2. “The spiritual good of the Christian faithful is a just and reasonable cause.”

§ 3. “When there is a doubt about the sufficiency of the cause, the dispensation is granted licitly and validly.”

Dispensation is a relaxation of the law. It aims at making somebody free from a certain legal obligation. It is granted only when a just and a reasonable cause require it. Certain canonists refer to dispensation as a *vulnus legis*, that is a “wounding of the

71. See CORDIEN,, *The Code of Canon Law Text and Commentary*, 44

72. See, • U• EK, “L’economic” 70-92. See also, WIJLENS, “Salus Animarum Suprema Lex.”, 566.

73. See, BLACK, *Black’s Law Dictionary*, 470-471.

The Implicit Salvific Character of CCEO

law.”⁷⁴ A commentary of the Latin Code on the canon (CIC. 85), that deals with the concept of dispensation states that, “If the law is given to ensure the common good, then dispensation looks very much like an exception to the law.”⁷⁵ Not surprisingly, then it requires a strict interpretation according to cc. 18; 36 §1; and 92. Still, the 1983 code uses the concept of dispensation more broadly than this canon would suggest.”⁷⁶

The emphasis on the idea of “just and reasonable cause” is noteworthy. The Oriental Code adds this canonical clause in the very same canon, which deals with dispensation. Where as in the Latin Code we find the reference about this requirement of dispensation in another canon.⁷⁷ Again the Code definitely says that the spiritual good of the Christian faithful is a just and reasonable cause. Here we have to seek again for the canonical idea of the so-called “spiritual good.” As we have seen in the first chapter of this book it is the good of the whole person.⁷⁸ Thus the canonical principle of dispensation ultimately aims at the salvation of a human person.⁷⁹

4.3.2 Privilege

Privilege is a particular and peculiar benefit or advantage enjoyed by a person, company or class beyond the common advantages of other citizens.⁸⁰ CCEO. 1531 § 1 states that. “A privilege is a favour granted by a special act for the benefit of certain persons, either physical or juridical. It can be granted by the legislator, and by the one to whom the legislator has granted this power.” Privilege, being a favor is an act either against law

74. See, BEAL, *The New Commentary*, 129.

75. Here the Commentator refers to CCEO. 1536 §1. The rest of the canon numbers referred in this quotation are of CIC 1983.

76. BEAL, *The New Commentary*, 129. See also, De PAOLIS, “Laws, Customs and Administrative Acts,” 1191-1194.

77. See, CIC. 85 and 90§1

78. See, section 1.1.3 of this book.

79. WIJLENS, “Salus Animarum Suprema Lex”, 566. See also, BEAL, *The New Commentary*, 129.

80. See, BLACK, *Black's Law Dictionary*, 1197

Salvific Law

(*contra legem*) or apart from law (*praeter legem*). The privileges constitute an objective norm conferred upon an individual person either physical or juridic. Still it retains a certain legal character.⁸¹ Thus goes CCEO 1512 states that § 3 “In privileges, the interpretation must always be such that the person to whom the privilege has been granted does in fact receive some favour.” Thus as a *lex favorabilis privata*, a privilege must positively concede some favor for individual persons.⁸² CCEO. 1534 “A privilege which is not burdensome for others does not cease through non-use or contrary use. If, however, the privilege causes inconvenience to others, it is lost if lawful prescription intervenes or tacit renunciation.” Here also we see spirit of the ecclesiastical law, which ultimately aims at the whole welfare the ecclesial community.

4.3.3 Radical Sanation

CCEO. 1302 - “If it is a case concerning only private persons, the nullity of acts which is established by law and which, although known to the party making the complaint, was not raised with the judge before the sentence, is sanated by the sentence itself, without prejudice to cann. 1303 and 1304.”

The commentator comments on the parallel CIC. 1619 as follows, “The important values of assuring that justice is not thwarted by insignificant errors or dilatory tactics and of preserving the security of judicial decisions motivate the provision for the sanation (healing) of some procedural irregularities by the sentence itself.”⁸³ Here what is revealed is the spirit of the law to keep the Christian faithful always in a condition of welfare and health. The legislator always has in mind the welfare of those over whom the law has force.

In the case of the convalidation of a marriage the Code gives even the chance of a radical sanation of an invalid marriage.

81. See, De PAOLIS, “De Legge, De consuetudine et De Actibus Administrativis”, 1189-1191. See also, BEAL, *The New Commentary*, 123

82. See, BEAL., *The New Commentary*, 123. See also LLOBELL, “The contentious Trial”, 760-764

83. BEAL, *The New Commentary*, 1726.

CCEO. 848§1 states. “The radical sanation of an invalid marriage is its convalidation without the renewal of consent, granted by competent authority and including a dispensation from an impediment, if there was one, and from the form for the celebration of marriage required by law, if it was not observed, and the retroactivity in to the past of canonical effects.” A radical sanation is a fiction of law by which competent ecclesiastical authority renders retroactively valid a marriage which was invalid from its origin without the renewal of consent by both the parties. Here the law presupposes one essential condition. Both parties gave naturally sufficient but juridically inefficacious consent to marriage in the past and that this consent continues in to present. Moreover, the obstacle to the juridical efficacy of the parties’ consent must be removed either by its dispensation or by its cessation. The definition of radical sanation itself entails a dispensation from any impediment of ecclesiastical law that may have caused the invalidity of marriage and from the parties’ obligation to renew consent. Therefore, the rescript granting the sanation need not explicitly mention these dispensations, provided the one who grants the dispensations is competent enough to do so.⁸⁴ Here also what the Code intends is the good of the Christian faithful, which is ultimately aiming the eternal salvation of the human person.

4.4 Conclusion

The Oriental Code has also an implicit salvific character. In order to show this dimension of the code we have examined the penal laws of the Code. When we analysed the different aspects of these penal laws we came to know that, the laws on penalty are ultimately aiming not at the destruction of any one. Rather the final target of these laws is the conversion of the offender and regaining of peace in the community. Then we have taken in to consideration the canons on the sacrament of penance. We found that the role of the confessor is a salvific one. The canonical principles such as dispensation, privilege, radical sanation also communicate the salvific character of CCEO.

84. See, BEAL, The New Commentary, 1388.

CONCLUSION

The Biblical concept of salvation gives the idea of both an earthly and an otherworldly deliverance. It is noteworthy that both the Old and New Testaments employ the concept of salvation in a certain juridical and judiciary contexts. We can find such a usage of the term *soteria* in the contemporary Jewish and Greek literature also. The fathers of the Church use the term to mean the salvation perfected in Christ because of his relationship both to God the Father and to humanity. It is understood as a gift acquired from God. The fathers employ this term to mean the salvation promoted by the humanity too. The Catholic Church teaches that there is an absolute unity between grace and salvation. Consequently there is a close relation between grace and freedom of man as the fulfillment of man's freedom the fulfillment of law.

The exodus from Egypt and the ultimate entry into the Promised Land formed the core of the idea of salvation in the Old Testament. This understanding of salvation remained the basis of Israel's faith. The Israelites envisioned the distress, from which deliverance needed, as primarily external. Here it is noteworthy that, the first 'law giver' of Israel, Moses was primarily 'a leader of liberation'. It is the liberation event of exodus that leads Israel to the event of Divine Legislation. Just before the Ten Commandments are given to Moses the Lord says to Israel, "I am the Lord your God, who brought you out of the land of Egypt, out of the house of slavery" (Ex. 20, 2).

According to the New Testament the salvation history affects the whole of mankind not Israel alone. However this experience of salvation varies according to each one's relationship to God, and an emphasis on the individual human person and his personal needs is also developed. Healing is frequently said to have resulted from faith, and is associated with the forgiveness of sins, which

Conclusion

in itself is salvation. Here we see the early Christian idea of salvation, which is coupled with the well-being of the whole human person.

The purpose of apostolic succession is nothing else than to preach the good news and lead the whole mankind to the salvation brought by Jesus Christ. The Second Vatican Council establishes that the very reality of the visible structures of the Church has no other purpose than to lead the whole universe to that experience of being one with the Saviour Jesus Christ. The real mission of the visible Church is therefore strictly salvific. The ultimate purpose of the revelation was the salvation of the whole human race through the Church. Jesus Christ founded the Church, with the dual dimension of the visibility and the invisibility. These two aspects of the ecclesial existence have only one purpose - the salvation of the whole of mankind. And here we see the salvific meaning of visible structures of the Church, especially of its laws.

We understand the concept of law in its soteriological context. In this book soteriology is understood in the broader perspective of universal salvation. The laws, destined to guide a community are complex by their very nature. Even though they should bring stability to the social body, they should evolve in a progressive manner with the same society. The law nevertheless can be defined as a rule of reason, promulgated by the competent authority, for the common good of those over whom it has the binding force. The common good is the source of every juridical order; we can therefore, go forward and say that the very same common good is the source of legislation and law too. In Church this common good is salvation.

Is there a philosophical basis for the laws in the Church? Men, living in society, feel a psychological need for security. It can be obtained only when all the members of the particular society adhere to some common norms of individual conduct, thus social

Salvific Law

life becomes somewhat predictable. The communities of the early Church also met with such situations. The rules adopted by custom and guided by philosophical-religious principles direct the members of the society in activating the goals of the Church and regulating their lives. Law has a transcendental meaning and plays a role within the design of the universe. Law is to aid the society in the achievement of its goals; it is to express the means to the end and to facilitate the attainment of that end. It is to provide good order, reliable procedures and predictable outcomes, that is, to afford a reasonable stability in the society. It is supposed to protect personal rights, to provide avenues of recourse, methods for resolution of conflicts, and redress of grievances. It ought to educate the community by constant reminders of the community's own values, norms and standards. It is to help the society in such a way that, the persons, actions and relations are characterized by the law in specific ways. The Church being the sacrament of salvation these specific characterizations have one and only end, that is salvation of all.

Pope Leo XIII wrote, "In social life the true essence of liberty does not consist in the fact that every man may do as he pleases; such liberty would tend to complete turmoil and the overthrow of the organized community. Rather, true liberty consists in this, that the regime of civil law gives every man fuller freedom to live according to the precepts of eternal law. Human laws must get their force from the fact that they are understood to follow the eternal law and to sanction nothing which is not contained in it as the principle of all laws."¹ This eternal law is the law of love. The Biblical idea of law can be summed up in the new covenant of love. In the early Christian communities this new covenant of love was the chief guiding principle of life. Here this law was attributed with a certain salvific meaning. Thus law can be understood as a means that brings salvation to man and light to life.

1. LEO XIII, *Libertas*, n.102.

Conclusion

The advent of the *Code of Canons of the Oriental Churches* (CCEO) marked an historical event in ecclesial life. The CCEO in fidelity with the ancient canons and other sources drew up a design for an oriental ecclesial life within the catholicity of the universal Church, being always in accordance with the *oikonamia* of the Almighty. Through its communion ecclesiology, the CCEO can truly claim to be a *vehiculum caritatis* in the history of the universal Church. The CCEO gives great emphasis on the Eucharistic spirituality. We can say that the spirituality of the CCEO is centered on the salvific sacrament of the Holy Eucharist. The Code also highlights the healing dimension of the Holy Eucharist. The CCEO upholds that the principle that holiness is the ultimate purpose of the divine sacrifice. The Oriental Code uses the terminologies *salus*, and *salus animarum*. We have analysed these concepts in the different contexts in which they were found. And we came to the conclusion that that these terms convey almost the same salvific meaning of the Latin word *salus* as it is used in the scripture and tradition. Here the duty of every Christian faithful to preach the mystery of salvation is emphasized. The Code understands salvation as the final destiny of the whole universe. At the same time, the CCEO gives great emphasis on the salvation of the soul in the pastoral and judicial contexts. Equity is another principle of law employed in to the CCEO to ensure justice and the salvation of the soul. Thus the CCEO manifests a salvific character in an explicit manner.

When we study the penal laws of the CCEO we can understand that the conversion of the offender is the chief motive of oriental penal laws. In this respect we can recognize the medicinal character of Oriental penal laws. The fact that the *Latae Sententiae* Penalties are eliminated from the CCEO implicitly tells us that the Code has an implicit salvific character. Again the canons on the sacrament of penance also vivify the implicit salvific character of the Oriental Code. The code clearly tells that when the confessor

Salvific Law

exercises his role he is guiding the souls to salvation. Through the sacrament of penance we can experience the divine justice and mercy. Again, the code expresses its special care for the souls in its canons on dispensation, privilege and radical sanation. The CCEO implicitly underlines fact that the salvation of the soul is the supreme aim of law.

The Catholic Church understands that law can be a means of charity as well. According to the Church, law is an instrument that enables man to achieve his final goal, the salvation brought by Jesus Christ. The supreme function of Canon Law is to help the Christian faithful live in a way that is oriented towards the ultimate communion with God. This idea of law has always occupied the principal position in the teachings of the Church on its laws. That is why the Church emphatically established the principle within its code of laws, “*Salus animarum suprema lex.*” May this thought enlighten the Legislators, Judges and followers of ecclesiastical laws.

ABBREVIATIONS

AAS	<i>Acta Apostolicae Sedis</i>
Arm.	Aramaic
Apost.Const.	Apostolic Constitution
Alloc.	<i>Allocution</i>
ASS	<i>Acta Sancta Sedis</i>
Can.	Canon
CCEO	<i>Code of Canons of the Oriental Churches</i>
Ch.	Chapter
CICO	<i>Codex Iuris Canonici Orientalis</i>
CIC	<i>Code of Canon Law</i>
CLD	Canon Law Digest
CLSA	Canon Law Society of America
CLST	The Canon Law Society Trust
COD	<i>Conciliorum Oecumenicorum Decreta</i>
CSCO	UCAUCL, <i>Corpus Scriptorum Christianorum Orientalium</i> , Louvain.
Decr.	<i>Decretum</i>
ed.	Edited
EDB	Edizione Dehoniane Bologna
Ency.	Encyclical Letter
Eng.	English
EV	<i>Enchiridion Vaticanum</i>
Fasc.	<i>Fascicolo</i>
FFB	Faith and Facts Books
Fr.	French
Ger.	German
Gk.	Greek
Hbr.	Hebrew
ISRB	Istituto per le scienze religiose di Bologna
It.	Italian

Salvific Law

Kan.	Kanon
Lat.	Latin
LXX	Septuagint
Mal.	Malayalam
Mp.	<i>Motu Proprio</i>
n.	Number
NCE	<i>New Catholic Encyclopedia</i>
NT	New Testamet
OT	Old Testament
par.	Paragraph
PCCICOR	<i>Pontificia Commissio Codici Iuris Canonici Orientalis Recognescendo</i>
PCLTI	Pontificium Consilium de Legum Textibus Interpretandis
Per	Persian
PIO	Pontificio Istituto Orientale
Praen.	<i>Praenotanda</i>
Rus.	Russian
San.	Sanskrit
SCOC	Sacred Congregation for the Oriental Churches
SCR	<i>Sacra Congregatio Ritum</i>
Schr.	<i>Sources chretiennes</i>
SMC	The Syro-Malankara Church
Span.	Spanish
SSCD	<i>Sacra Congregatio pro Cultu Divino</i>
SSDF	<i>Sacra Congregatio pro Doctrina Fidei</i>
Syr.	Syriac
trans.	Translated
UCAUCL	Universitatis Catholicae Americae et Universitatis Catholicae Lovaniensis
vol. , vols.	volume, volumes

BIBLIOGRAPHY

1 Sources

1.1 Canon Law : Text

CCEO=*Codex Canonum Ecclesiarum Orientalium*: AAS 82 (1990) 1033-1363; PCLTI, *Codex Canonum Ecclesiarum Orientalium, Fontium Annotatione Auctus*, Cita del Vaticano, 1995; CLSA, *Code of Canons of the Eastern Churches*, Latin-English Edition, Washington, 1992; EDB, *Codice dei canoni delle Chiese orientali*, EV. 12, Bologna, 1990.

CIC=*Codex Iuris Canonici*: AAS 75 (1983/II) 1-301; CLST, *The Code of Canon Law*, Latin- English Edition, London, 1988.

Indice generale della Collana Nuntia = PCCICOR, *Indice generale della Collana Nuntia*, Nuntia 31 (1990) 46-70.

• U• EK, *Index Analyticus* = I. • U• EK, *Index Analyticus Codicis Canonum Ecclesiarum Orientalium*, Kan.2, Roma, 1992.

1.2 Canon Law: Commentaries and Juridical Sources

ALWAN, “De obligationibus iudicum et aliorum administratorum tribunalium”=H. ALWAN, “De obligationibus iudicum et aliorum administratorum tribunalium”, in P.V.Pinto,ed., *Commento al Codice dei Canoni delle Chiese Orientali*, Cita del Vaticano, 2001, 1103-1116.

ALWAN, “De sacramentalibus, de locis et de temporibus sacris” = H. ALWAN, “De sacramentalibus, de locis et de temporibus sacris, de cultu Sanctorum, de voto et de iureiurando”, in P. V. Pinto, ed., *Commento al Codice dei Canoni delle Chiese Orientali*, Città del Vaticano, 2001, 747 - 772.

ASSEMBANI, *Bibliotheca Iuris Orientalis Canonici et Civilis*=G.ASSEMBANI *Bibliotheca Iuris Orientalis Canonici et Civilis*, 5 vols., Darmstadt, 1969.

Salvific Law

BERTONE, “De ecclesiae munere docendi in genere” = T. BERTONE, “De ecclesiae munere docendi in genere”, in P. V. Pinto, ed., *Commento al Codice dei Canonici delle Chiese Orientali*, Città del Vaticano, 2001, 485- 496.

Canonici sulla Penitenza, Nuntia, 6 = PCCICOR, *I Canonici sulla Penitenza e ,sull’Unzione degli infermi, Nuntia,, 6 (1978) 56-65.*

COUSSA, *Epitome praelectionum* = A.COUSSA, *Epitome praelectionum de iure ecclesiastico orientali*, vol.1,2nd edition, Roma, 1948.

Communicationes 14 (1982)

De Divina Eucharistia, Nuntia = PCCICOR, *Breve esposizione dei lavori sui Canonici De Divina Eucharistia, Nuntia*, (1977) 29-40.

De PAOLIS, “De Legge, De consuetudine et De Actibus Administrativis” = V.DePAOLIS, “De Legge, De consuetudine et De Actibus Administrativis”, in P.V.Pinto, ed., *Commento al Codice dei Canonici delle Chiese Orientali*, Città del Vaticano, 2001, 1164 - 1194.

De PAOLIS, “Laws, Customs, Administrative Acts”= De PAOLIS, “Laws, Customs, Administrative Acts”, in G.Nedungatt, ed. *A Guide to the Eastern Code*, Rome 2002, 809-842.

FARIS, *Constitution and Governance* = J.D.FARIS, *Eastern Catholic Churches : Constitution and Governance*, New York, 1992.

FELICIANI, “Christian Faithful” = GFELICIANI, “Christian Faithful. Their Rights and Obligations” in G.Nedungatt, ed. *A Guide to the Eastern Code, Rome*, 2002, 81-98.

Fonti, Series 1, fasc.IX, t.1,1=P.P.JOANNOU, *Les canons des conciles oecumeniques*, Grottaferatta, Roma, 1962.

Fonti, series 1, fasc IX, t 1,2=P.P.JOANNOU, *Les canons des Synodes Particuliers*, Grottaferatta, Roma, 1962.

Bibliography

- GROCHOLEWSKI, “De Recursibus adversus Decreta Administrativa” = Z. GROCHOLEWSKI, “De Recursibus adversus Decreta Administrativa” in P.V.Pinto, ed., *Commento al Codice dei Canonici delle Chiese Orientali*, Città del Vaticano, 2001, 836 - 843.
- GROCHOLEWSKI, “Certain Special Processes” = Z. GROCHOLEWSKI, “Certain Special Processes,” in G.Nedungatt, ed. *A Guide to the Eastern Code*, Rome, 2002, 771-786.
- Guidelines, Nuntia*, 3=PCCICOR, *Guidelines for the Revision of the Code of Oriental Canon Law, Nuntia* 3 (1976) 18-24.
- Istituzione, Nuntia* 1 = PCCICOR, *Istituzione, Composizione e Prospetto dell’organizzazione dei Lavori, Nuntia* 1 (1975) 10-19.
- Les Textes, Nuntia* 1=PCCICOR, *Les Textes non publiés du Code de Droit Canon Oriental, Nuntia* 1 (1975) 23-31.
- LLOBELL, “The Contentions Trial” = LLOBELL, “The Contentions Trial”, in G.Nedungatt, ed. *A Guide to the Eastern Code*, Rome, 2002, 745-770.
- NEDUNGATT, “Ecclesiastical Magisterium” = G. NEDUNGATT, “Ecclesiastical Magisterium” in G.Nedungatt, ed. *A Guide to the Eastern Code*, Rome, 2002, 431-492.
- Nota sull’operato del Coetus Specialis, Nuntia* 12 = PCCICOR, *Nota sull’operato del Coetus Specialis di novembre-dicembre 1980 riguardante lo schema “De sanctionibus poenalibus in Ecclesia, Nuntia*, 12 (1981) 78- 84.
- Nuova revisione, Nuntia* 12=PCICOR, *La nuova revisione dei canonici riguardanti le sanzioni penali nelle Chiese Orientali Catholiche, Nuntia* 12(1981) 37-77.

Salvific Law

PAPP-SZILÁGYI, *Enchiridion* = J. PAPP-SZILÁGYI, *Enchiridion Juris Ecclesiae Orientalis Catholicae*, M-Varadini, 1862.

PINTO, “Recourse Against Administrative Decrees”=P.V.PINTO, “Recourse Against Administrative Decrees”, in G.Nedungatt, ed. *A Guide to the Eastern Code, Rome*, 2002, 675-688.

PITRA, *Iuris Ecclesiastici Graecorum Historia et Monumenta* = J.B.Pitra, *Iuris Ecclesiastici Graecorum Historia et Monumenta*, 2 vols., Rome, 1866-1868.

PLACIDIUS, De Fontibus=PLACIDIUS A.S.Ioseph, T.O.C.D., *De Fontibus Juris ecclesiastici Syro-Malankarensium commentarius historioco-canonicus*, Roma, 1937.

PLACIDIUS, Fontes Iuris=PLACIDIUS A.S. Ioseph T.O.C.D., *Fontes Iuris Canonici Syro-Malankarensium*, Roma, 1939.

Principi Direttivi, Nuntia, 3 =PCCICOR, *Principi direttivi per la rivisione del Codice di Diritto Canonico Orientale (Testo Originale)*, Nuntia,3 (1976) 3-9.

Principia quae Codicis Iuris Canonici, Communicationes, 1=*Principia quae Codicis Iuris Canonici recognitionem dirigunt Communicationes*, 1 (1969) 67-82.

Relatio de statu laborum Commissionis, Nuntia, 11 = PCCICOR, *Relatio de statu laborum Commissionis Synodo Episcoporum anni 1980 proposita, Nuntia*, 11 (1980) 83-87.

Relazione sulla stampa della serie III, Nuntia 3 =PCCICOR, *Relazione sulla stampa della serie III delle Fonti della Codificazione Orientale, Nuntia*, 10 (1980) 119-128.

Revision, Nuntia 10 = PCCICOR, *Revision des Canons De normis generalibus, Nuntia* 10 (1980) 87-118.

Risposte, Nuntia, 28 = PCCICOR, *Risposte alle osservazioni particolari, Nuntia*, 28 (1980) 13-138.

SABBARESE, “De Eparchis et De Episcopis”=L.SABBARESE, “De Eparchis et De Episcopis” in P.V.Pinto, ed., *Commento*

Bibliography

al Codice dei Canoni delle Chiese Orientali, Città del Vaticano, 2001, 163-275.

SALACHAS, “Canones Preliminares” = D.SALACHAS, “Canones Preliminares”, in P.V.Pinto, ed., *Commento al Codice dei Canoni delle Chiese Orientali*, Città del Vaticano, 2001, 1-12.

SALACHAS, “Divine Worship, Especially the Sacraments”=D.SALACHAS, “Divine Worship, Especially the Sacraments”, in G.Nedungatt, ed. *A Guide to the Eastern Code*, Rome, 2002, 493-540.

SALACHAS, “De crismatione sancti Myri”= SALACHAS, “De crismatione sancti Myri”, in P.V.Pinto, ed., *Commento al Codice dei Canoni delle Chiese Orientali*, Città del Vaticano, 2001, 577-584.

SALACHAS, “De Christifidelibus”=D.SALACHAS, “De Chrisrifidelibus Eorumque Omnium Iuribus et Obligationibus”, in P.V.Pinto, ed., *Commento al Codice dei Canoni delle Chiese Orientali*, Città del Vaticano, 2001, 13,35.

SALACHAS, “De Sacramento paenitentiae”=D.SALACHAS. “De Sacramento paenitentiae”, in P.V. Pinto, ed., *Commento al Codice dei Canoni delle Chiese Orientali*, Città del Vaticano, 2001, 603-618.

Schema- sanzioni penali, Nuntia 4 =PCCICOR, *La schema dei canoni riguardanti le sanzioni penali nelle Chiese Orientali Catholice*, Nuntia 4 (1977) 72-96.

Schema canonum de sanctionibus poenalibus, Nuntia 13 =PCCICOR, *Schema canonum de sanctionibus poenalibus in Ecclesia*, Nuntia 13 (1981) 59-80.

Schema canonum de sanctionibus poenalibus, Nuntia 20=PCCICOR, *Schema canonum de sanctionibus poenalibus in Ecclesia nella nuova revisione*, Nuntia 20 (1985) 3-58.

Salvific Law

Schema de *magisterio*, *Nuntia* 10 =PCCICOR, *The Schema de magisterio ecclesiastico I*,*Nuntia* 10 (1980) 65-86.

- U• EK, “Foreword” = I. • U• EK, “Foreowrd” in G.Nedungatt, ed. *A Guide to the Eastern Code*, Rome 2002, 31-37.

1.3 Church Documents

1.3.1 Conciliar Documents

AG = *Ad gentes divinitus*, Decree on the Church’s Missionary Activity: *AAS* 58 (1966) 947-990.

CD = *Christus dominus*, Decree on the Bishop’s Pastoral Office in the Church: *AAS* 58 (1966) 673-696.

GE = *Gravissimum educationis*, Declaration on Christian Education:*AAS* 58 (1966) 728-739.

GS = *Gaudium et Spes*, Pastoral Constitution on the Church in the Modern World: *AAS* 58 (1966) 1025- 1115.

LG = *Lumen gentium*, Dogmatic Constitution on the Church: *AAS* 57 (1965) 5-67.

OE = *Orientalium Ecclesiarum*, Decree on the Catholic Oriental Churches: *AAS* 57 (1965) 76-85.

OP. Tot. = *Optatam Totius*, Decree on training of Priests, *AAS*, 58 (1966) 713-727

Primum Schema = *Primum Schema* of the Vatican Council 1, Constitution on the Church in *collectio Lacensis, Freiburg, 1890*.

SC = *Sacrosanctum concilium*, Constitution on the sacred liturgy: *AAS* 56 (1964) 97-144.

UR = *Unitatis Redintegratio*, Decree on Ecumenism *AAS* 57 (1965) 90-112.

ALBERIGO, *COD*=G.ALBERIGO, et.al.,ed., *Conciliarum Oecumenicorum Decreta*, 3rd. ed., Bologna, 1973.

FLANNERY, *Vatican Council II* = A.FLANNERY ed., *Vatican Council II, The Conciliar and Post Conciliar Documents*, Bombay, 1992.

Bibliography

MANSI = J.D.MANSI, ed., *Sacrorum Conciliorum nova et amplissima collectio*, 53 vols. Paris-Leipzig, 1901-1927.

NEDUNGATT, *The Council in Trullo Revisited* = G.NEDUNGATT and M.FEATHERSTONE, eds., *The Council in Trullo Revisited*, Kan.6, Rome, 1995.

TANNER, *Decrees* = N.P.TANNER SJ, ed., *Decrees of the Ecumenical Councils*, 2vols., London, 1990.

WATERWORTH, *Council of Trent* = J.WATERWORTH, *The Canons and Decrees of the Sacred and Oecumenical Council of Trent celebrated under the Sovereign Pontiffs, Paul III., Julius III., and Pius IV. To which are prefixed Essays on the External and Internal history of the Council*, London, 1848.

1.3.2 Papal Documents

BENEDICT XV, *Providentissima mater ecclesia* = BENEDICT XV, Apost. Const. *Providentissima Mater Ecclesia*, AAS 9 (1917) Pars II, 5-10.

BENEDICT XV, *Dei providentis* = BENEDICT XV, *Mp. Dei providentis*, AAS 9 (1917) 529 - 531.

BENEDICT XV, *Orientis catholici* = BENEDICT XV. *Mp. Orientis catholici*, AAS 9 (1917) 531-533.

BENEDICT XVI, "Message for the World Peace Day 2008" = BENEDICT XVI, "Message for the World Peace Day 2008", www.radiovaticana.org.

JOHN XXIII, *Pacem in terris* = JOHN XXIII, Ency., *Pacem in terris*, AAS 55 (1963) 257-304.

JOHN XXIII, *Solemnis Allocutio* = JOHN XXIII, *Solemnis Allocutio*, AAS 51 (1959) 65-69

JOHN PAUL II, *Alloc. to the Roman Curia* = JOHN PAUL II, *Alloc. to the Roman Curia*, AAS 79 (1987) 189 -200.

JOHN PAUL II, *Catechism*=JOHNPAUL II, *Catechismo della Chiesa Cattolica*, Città del Vaticano, 1992.

Salvific Law

JOHN PAUL II, *PB* = JOHN PAUL II, *Apost. Const. Pator Bonus*, AAS 80 (1988) 841-934.

JOHN PAUL II, *Sacri canones* = JOHN PAUL II, *Apost. Const Sacri canones*: AAS 82 (1990) 1033- 1044.

JOHN PAUL II, *Sacrae disciplinae leges* = JOHN PAUL II, *Apost. Const. Sacrae disciplinae leges*: AAS 75 (1983) vii-xiv.

JOHN PAUL II, *Reconciliato et Paenitentia* = JOHN PAUL II. *Apost.Ex., Reconciliato et Paenitentia*, EV.9, par., 1004-1369.

LEO XIII, *Sapientiae Christianae* = LEO XIII, *Ency., Sapientiae Christianae*, AAS.22 (1889-1890) 385-404.

PAUL VI, *Alloc.1* = PAUL VI, *Allocution to the Roman Rotta*: AAS, 66 (1974) 84-88.

PAUL VI, *Alloc.2* = PAUL VI, *Allocution, PCCICOR*, AAS, 66 (1974) 243-249.

PAUL VII, *Alloc.3* = PAUL VI, *Allocution on November 9, 1974*, AAS 66 (1974) 644-652.

PAUL VI, *Alloc.4*= PAUL VI, *Allocution Die 19 mensis februarrii a. 1977*: AAS 69 (1977) 208-212.

PAUL VI, *Alloc.5*=PAUL VI, *Allocution to Roman Rota*: AAS, 65 (1973) 95-103.

PAUL VI, *Ecclesiae sanctae*=PAUL VI.*Mp.Ecclesiae sanctae*, August 6, 1966

PIUS IX, *Acta*=PIUS IX, *Acta* 1,3, Roma, 1864

PIUS XII, *Alloc.1* = PIUS XII, *Allocution*, AAS 27 (1935) 306-308.

PIUS XII, *Alloc.2* = PIUS XII, *Alloc. Ad Praelatos Auditores ceteresque Officiales et Administros Tribunalis S.Romanae Rotae necnon Eiusdem Tribunalis Advocatos et Procuratores, Habita die 29 mensis Octobris a. 1947*, AAS 39 (1947) 493-498.

Bibliography

- PIUS XII, *Alloc.3* = PIUS XII, *Alloc. Adstantibus E.mo P.D.Cardinali Magno Cancellario, Revmis Moderatoribus ac Doctoribus Pontificiae Gregorianae Studiorum Universitatis ceterisque praeclaris viris atque olim alumni, qui convenerant ad celebrandum quarum expletum saeculum ab eadem Universitate codita, Habita die 17 Octobris mensis a. 1953, AAS 45 (1953) 682-690.*
- PIUS XII, *Alloc. 4* = PIUS XII, *Alloc. Ad Praelatos Auditores ceteresque Officiales et Administros Tribunalis S.Romanae Rotae necnon Eiusdem Tribunalis Advocatos et Procuratores, Habita die 13 mensis Novembris a. 1949, AAS 41 (1947) 604-608.*
- PIUS XII, *CA* = PIUS XII, *Mp. Crebrae allatae, AAS 41 (1949) 89-119.*
- PIUS XII, *SN*=PIUS XII, *Mp. Sollicitudinem Nostram, AAS 42 (1950) 5-120.*
- PIUS XII, *PA*=PIUS XII, *Mp. Postquam Apostolicis, AAS44 (1952) (1952) 65-152.*
- PIUS XII, *CS*=PIUS XII, *Mp. Cleri sanctitati, AAS 49 (1957) 430-603.*
- PIUS XII, *Humani generis* = PIUS XII, *Ency. Humani generis, AAS 42 (1950) 561-578.*
- PIUS XII, *Mystici Corporis* = PIUS XII, *Ency., Mystici Corporis, AAS 35 (1943) 193-296.*
- PIUS XII, *Apost. Const. The Eucharistic Fast*=PIUS XII, *Apost. Const. The Discipline to be observed with respect to The Eucharistic Fast, AAS 45 (1953) 25-32; also in The Jurist 13 (1953) 110-118.*
- CARLEN, *Papal Encyclicals 1878- 1903*= C. CARLEN IHM, *The Papal Encyclicals 1878-1903, Raleigh, 1981.*
- WOESTMAN, *Papal Allocutions* =W.H.WOESTMAN, *Papal Allocutions to the Roman Rota, Ottawa, 1994.*

Salvific Law

1.3.3 Documents of Roman Curia

Eucheristicum Mysterium=SCR., *Eucharisticum Mysterium*, AAS 59 (1967) 539-573.

Misericordiam suam=SCCD., *Praen.*, *Misericordiam suam*, EV., 4, par.2675-2729.

Reconciliazionem= SCCD., *Decr.*, *Reconciliazionem*, EV.4, par. 2673-2674.

Sacramentum Paenitentiae = SSDF, *Sacramentum Paenitentiae*, EV.4, par.1653-1667.

SCOC, *Notification*=SCOC., *Notification*, AAS 21 (1929) 669.

SCHO, *Instruction on the Eucharistic Fast*=The Supreme Sacred Congregation of the Holy Office, *An Instruction on the Discipline to be observed with Reference to the Eucharistic Fast*, AAS 45 (1953) 47-51; also in *The Jurist*, 13 (1953) 119-123.

2. Other Works Consulted

2.1. Works on Law

ALEGRIA, "Rule of Law"=J.D.ALEGRIA, "Law, III. Rule of Law" in K.Rahner, et.al., ed., *Sacramentum Mundi*, vol.3, Banglore, 1978, 287-289.

ALEXANDROWICZ, *Kautilyan Principles* = C.H.ALEXANDROWICZ, *Kautilyan Principles and the Law of Nations*, (Reprinted from the British Book of International Law), 1965.

ALLEN, *Law in the Making* = C.K.ALLEN, *Law in the Making*, 5th ed., Oxford, 1951.

AMEN, "Canonical Equity before the Code"=M.AMEN, "Canonical equity before the Code" *The Jurist*, 33 (1973) 1-24.

Bibliography

- ARCHONDONIS, “Oikonomia Today”=B.ARCHONDONIS, “The Problem of Oikonomia Today”, *Kanon*, VI (1983) 39-55.
- BAR HEBREUS, *Nomo Canon* = G.BAR HEBREUS, *Nomo Canon*, Assemano, I.A., Lat.trans. in A.Mai, SVNC, t.X,1838; *Le Nomocanon*, P.Bedjan, Fr.tr., Paris, 1898; *Hudaya Canon*, Y.Mor Julius, Mal.tr., Mulanthuruthy, 1994
- BASSIOUNI, “Freedom of Religion” = M.C.BASSIOUNI, “Freedom of Religion in Egypt: The Baha’is’ Case”, in de La Cuesta, J.L., et.al.,ed., *Criminologia Y Derecho Penal Al Servicio de la Persona*, Denostia, 1989.
- BEAL, *The New Commentary* = J.P.BEAL, et.al.,ed., *The New Commentary on the Code of Canon Law*, New York, 2000.
- BEDJAN, *Gregorii Barhebraei* = P.BEDJAN, *Gregorii Barhebraei Chronicon Syriacum*, Paris, 1890.
- BERGER, *The Encyclopedic Dictionary of Roman Law* = A.BERGER, *The Encyclopedic Dictionary of Roman Law*, Philadelphia, 1953.
- BERGER, “Law, I Biblical” = K.BERGER, “Law, I Biblical”, in K.Rahner, et.al.,ed., *Sacramentum Mundi*, vol.3, Bangalore, 1978, 276-283.
- BERMAN, “Law and Morality”=S.BERMAN, “Law and Morality”, *Encyclopedia Judaica*, Vol.10, Jerusalem, 1971, 1480-1484.
- BHARANIKULANGARA, “ecclesiology and Contents” = BHARANIKULANGARA, “An Inroduction to the Ecclesiology and Contents of the Oriental Code”, in J. Chiramel et.al.ed., *The Code of Canons of the Eastern Churches, A study and Interpretation*, Alwaye, 1992, 11-38.
- BLACK, *Black’s Law Dictionary*=H.C.BLACK, *Black’s Law Dictionary*, 6thed., London, 1990.

Salvific Law

- BOGDANOR, “Law” = V.BOGDANOR, “Law”, *The Blackwell Encyclopedia of Political Institutions*, New York, 1987.
- BORI, “La Chiesa come mistero” = P.C.BORI, “La Chiesa come mistero e il progetto di Lex ecclesiae fundamentalis”, in ISRB, *Legge e Vangelo*, Brescia, 1972, 49-64.
- BROGI, “Codificazione del Diritto Commune delle Chiese Orientali Cattoliche” = M.BROGI, “Codificazione del Diritto Commune delle Chiese Orientali Cattoliche”, *Revista Espanola de Derecho Canonico* 45 (1988) 7-30
- BUCCI, “Diritto Persiano” = O.BUCCI, “Giustizia e legge nel diritto persiano antico”, *Apollinaris*, 45 (1972) 157-172.
- BUCKLEY, “Canon Law” = BUCKLEY, “Canon Law”, in *NCE*, vol. 3, Washington, 1967, 29-34.
- BUNN, “A Transcendental View of Law” = E.B.BUNN, “A Transcendental View of Law”, *The Jurist*, 23 (1963) 320-326.
- CALISSE, *A History of Italian Law* = C.CALISSE, *A History of Italian Law*, Eng. trans., Layton B.Register, New York, 1928.
- CAPRILE, “Il nuovo Codice dei Canoni delle Chiese Orientali” = G.CAPRILE, “Il nuovo Codice dei Canoni delle Chiese Orientali”, *La Civiltà Cattolica*, January (1991) 171-177. This is an interview with Mons. Emilio Eid, the Vice President of PCCICOR, made soon after the promulgation of CCEO.
- CAPROS, *Code of Canon Law Annotated* = E.CAPROS, M.THERIAULT, J.THORN, *Code of Canon Law Annotated*, Montreal, 1993.
- CECCARELLI-MOROLLI, “Uso ‘giuridico’” = CECCARELLI-MOROLLI, “Uso ‘giuridico’ dell’argento nel mondo mesopotamico”, *Apollinaris*, 73 (2000) 432-445.
- CICOGNANI, *Canon Law* = A.G.CICOGNANI, *Canon Law*, trans.J.M.O’hara et.al., Philadelphia, 1934.

Bibliography

- CICOGNANI, “De Codificatione Canonica Orientali” =H. I. CICOGNANI, “De Codificatione Canonica Orientali”, *Apollinaris* 5 (1932) 86-95
- CLSA, “Preface to the Latin Edition”=CLSA, “Preface to the Latin Edition” in *Code of Canons of the Eastern churches*, Latin-English Edition, Washington, 1992, xxi-xxxiv
- CONWAY, “Reform of Canon Law”=J.D.CONWAY, “Reform of Canon Law an Ecumenical problem”, *The Jurist*, 26 (1966) 395-412.
- COUGHLIN, “Canonical Equity” = J. COUGHLIN, “Canonical Equity”, *Studia Canonica*, 30 (1996) 422-436.
- CORDIEN, *The Code of Canon Law Text and Commentary*-J.A.CORDIEN et.al., ed., *The Code of Canon Law Text and Commentary*, New York, 1985.
- COUSSA, Codificazione canonica orientale” A. COUSSA, “Codificazione Canonica orientale” in SCCO, *Oriente Catolico - Cenni storici e statistiche*, Città del Vaticano, 1962, 35-61.
- CUSHING, “The Fullness of the Law is Love” =R.J.CUSHING, “The Fullness of the Law is Love” *The Jurist*, 15 (1955) 4-10
- DAOUD, “Presentazione” = I.M. DAOUD, “Presentazione” in P.V.Pinto, ed., *Commento al Codice dei Canonici delle Chiese Orientali*, Città del Vaticano, 2001, Xiii-xvi.
- DAVID, *Major Legal Systems* = R.DAVID, *Major Legal Systems in the World Today*, London, 1985.
- DELLA ROCCA, *Manual of Canon Law*=F.DELLA ROCCA, *Manual of Canon Law*, trans. A Thatcher, Milwaukee, 59.
- De VAUX, *Le Istituzioni dell’Antico Testamento*=R.De VAUX, *Le Istituzioni dell’Antico Testamento*, Turin, 1977.
- EID, “The Nature and Structure” = E.EID, “The Nature and Structure of the Oriental Code”, Eng.trans.E.Thottan in C.

Salvific Law

Gallagher, ed., *The Code of Canons of the Oriental Churches*, Rome, 1991, 25-39. This article is the speech delivered by His Excellency Emilio Eid, the Vice President of PCCICOR at the solemn Presentation of the Code to the Synod of Bishops on 25th October 1990. For the original It. text of the speech see, *L'osservatore Romano*, 27th October 1990, 7.

ERDO, "Law and the Theological Reality of the Church" = P.ERDO, "Law and the Theological Reality of the Church", *The Jurist*, 56 (1996) 128-160.

FALTIN, "La Codificazione del Diritto Canonico Orientale" = D.FALTIN, "La Codificazione del Diritto Canonico Orientale", in SCCO, *La Sacra Congregazione per le Chiese Orientali nel Cinquantesimo della Fondazione 1917-1967*, Roma, 121-137

FARIS, "Codification" = J.FARIS, "The Codification and Revision of Eastern Canon Law", *Studia Canonica* 17 (1983) 449-485.

FARIS, "Historical Introduction" = J.D.FARIS, "The Codification of Eastern Canon Law: Historical Introduction", in G.Nedungatt, ed. *A Guide to the Eastern Code*, Rome, 2002, 39-56.

FARIS, "Penal Law" = J.D.FARIS, "Penal Law in the Catholic Churches: A Comparative Overview", (an unpublished paper presented in a seminar conducted by Canon Law Society of India in 1999).

FARRUGIA, "Sources of Oriental Canon Law" = E.G. FARRUGIA, "Sources of Oriental Canon Law" in G.O'Collins and E.G.Farrugia, eds. *A Concise Dictionary of Theology*, New York, 1991, 30-31.

FERRANDO, "Autonomia privata" = G.FERRANDO, "Le unioni di fatto tra disciplina per legge e autonomia privata",

Bibliography

Quaderni di Diritto e Politica Ecclesiastica, 10(2002) 65-78.

GALLAGHER, “Diversity in Unity”=GALLAGHER, “Diversity in Unity, Approaches to Church Order in Rome and in Byzantium”, CLSGBI, *News Letter*, 125 (2001) 47-89. The Centre for Byzantine, Ottoman and Modern Greek Studies, University of Birmingham have published this long article in the form of a book with the title, *Church Law and Church Order in Rome and Byzantium: A Comparative Study*, in the Series ‘Byzantine and Ottoman Monographs’.

GIRLANDA, *Il Diritto nella Chiesa* = G.F.GIRLANDA, *Il Diritto nella Chiesa, Mistero di Comunione*, 3rd edition, Roma, 2000.

GREEN, “Penal Law”=T.J.GREEN, “Penal Law in the Code of Canon Law and in the Code of Canons of the Eastern Churches: Some Comparative Reflections”, *Studia Canonica*, 28 (1994) 407-451.

GREEN, “The Future of Penal Law”=T.J.GREEN, “The future of Penal Law in the Church”, *The Jurist*, 2/3(1975) 212-275.

GREEN, “The Revision”=T.J.GREEN, “The Revision of Canon Law: Theological Implications”, *Theological Studies*, 40 (1970) 593-680.

GROCHOLEWSKI, “Theological Aspects” = Z. GROCHOLEWSKI, “Theological Aspects of the Judicial Activity of the Church”, *The Jurist*, 46 (1986) 552-567.

HARRELSON, “Law in the OT” = W.J.HARRELSON, “Law in the OT”, *The InterPreter’s Dictionary of the Bible*, K-Q, New York, 1962.

HART, *The Concept of Law*=H.HART, *The Concept of Law*, Oxford, 1961.

Salvific Law

- HERRANZ, “Introduzione” = J.HERRANZ, “Introduzione alla lettura del Codice dei Canoni delle Chiese Orientali”, in P.V.Pinto, ed., *Commento al Codice dei Canoni delle Chiese Orientali*, Città del Vaticano, 2001, LIX-LXI.
- HUELS, “Introduction”=J.M.HUELS, OSM., “Introduction”, in J.P.Beal, et.al.eds. *New Commentary of the Code of Canon Law*, New York, 2000.
- HUELS, “Spirituality”=J.M.HUELS OSM., “Spirituality in the Canon Law”, *The New Dictionary of Catholic Spirituality*, ed., Michael Downey, New York, 1993, 111-115.
- HUIZING, “Crime and Punishment in the Church” = P.HUIZING, “Crime and Punishment in the Church”, *Concilium*, Eng.edition, 8 (1967) 57-64.
- HUIZING, “The Sacramental Structure”=P.J.HUIZING, “The Sacramental Structure of Church Order and its Implications”, *The Jurist*, 32 (1972) 479-493
- KASPER, “Law and Gospel”=W.KASPER, “Law and Gospel”, in K.Rahner, et.al., ed., *Sacramentum Mundi*, vol.3, Bangalore, 1978, 297-299.
- KAUTILYA, *Arthasastra* = KAUTILYA, *Arthasastra*, Mal.trans. K.V.M., Thrissur, 1935; Eng. trans. Rangarajan, New Delhi, 1992.
- KELLY, “The Law of the Catholic Church”= J.P.KELLY, “The Law of the Catholic Church”, *The Jurist*, 3 (1943) 539-544.
- KEMMEREN, “Recent Trends” = C.KEMMEREN, “Recent Trends in the Science of Canon Law: Towards a Theology of Canon Law”, *The Jurist*, 25 (1965) 24-45.
- KING, “The Acceptance of Law” = G.KING SJ, “The Acceptance of Law by the Community: A Study in the Writings of Canonists and Theologians, 1500- 1750”, *The Jurist*, 37 (1977) 233-266.

Bibliography

- KUTTNER, “The Code of Canon Law in Historical Perspective” = S.KUTTNER, “The Code of Canon Law in Historical Perspective”, *The Jurist*, 28 (1968) 129-148.
- KUTTNER, “The father of the Science of Canon Law”=S.KUTTNER, “The father of the Science of Canon Law”, *The Jurist*, 1 (1941) 2-19.
- KUTTNER, *The History of Ideas* = S. KUTTNER, *The History of Ideas and Doctrines of Canon Law in the Middle Ages*, London, 1980.
- KUZHINAPURATH, *Daivjanam* = KUZHINAPURATH, “Daivasasthra-Niyama Paarasparyam: Örsyan Chinthakal”, *Daivajanam*, Trivandrum,2000, 99-104.
- LeBRAS, *Historie du droit*=LeBRAS, *Historie du droit et des institutions de l’Eglise en occident* 1, Paris, 1955.
- LYNCH, “Canon Law” = J.E.LYNCH, “Canon Law”, *The New Dictionary of Theology*, Delaware, 1987, 149-156.
- LYNCH, “The Limits of *Communio* in the Pre-Consantinian Church”=J.E.LYNCH, “The Limits of *Communio* in the Pre-Consantinian Church”, *The Jurist*, 36 (1976) 159-189.
- MACDOWELL, “Athenian Laws” = D.MACKOWELL, “Athenian Laws”, *Revue Internationale des Droits De l’Antiquite*, 47 (2000) 13-27.
- MAINE, *Ancient Law*= H.S.MAINE, *Ancient Law, Its Connection with the early History of Society and its Relation to Modern Ideas*, (Third American Edition from the Fifth London Edition), New York, 1875.
- MARCIC, “Law, IV-Philosophy of Law” = R.MARCIC, “Law, IV Philosophy of Law”, in K.Rahner, et.al.,ed.,*Sacramentum Mundi*, vol.3, Banglore, 1978, 289-297.
- MAYNE, *Treatise on Hindu Law*= J.D.MAYNE, *Treatise on Hindu Law and Usage*, ed.C. Aiyer, Madras, 1950.

Salvific Law

McCOY, “Canonical Equity” = A.Mc COY, “Canonical Equity and the Proliferation of Dispensations and Privileges”, *The Jurist*, 26 (1966) 95-102.

McGINN, “Law, Roman” = T. McGINN, “Law, Roman”, in E.Ferguson, ed., *Encyclopedia of Early Christianity*, 2nd ed., vol.2, New York, 1997, 666-668.

McKENZIE, “Law in the NT” = J.L.MacKENZIE, “Law in the New Testament”, *The Jurist*, 26 (1966) 167-180.

McKENZIE, *Reading Cases and Materials in Canon Law*=J.L.McKENZIE, *Reading Cases and Materials in Canon Law*, Collegeville, MN.,1980.

McMANUS, “The Code of Canons of the Eastern Catholic Churches”=F.McMANUS, “The Code of Canons of the Eastern Catholic Churches”, *The Jurist*, 53 (1993) 22-61.

MENON, “Hindu Jurisprudence” = P.K.MENON, “The Role of Customs in Hindu Jurisprudence”, *The Jurist*, 26 (1966) 69-94.

METZ, *What is Canon Law?* = R.METZ. *What is Canon Law?*, FFB: 79, London, 1960.

MICHIELS, *Normae Generales* = MICHIELS, G., *Normae Generales Iuris Canonici*, Lublin, 1929

MINATTUR, *Indian Legal System*=J.MINATTUR, ed., *Indian Legal System*, Bombay, 1978.

MOLINSKI, “Law and Moral Theology”=MOLINSKI, “Canon Law, II. Law and Moral Theology” in K.Rahner, et.al., ed., *Sacramentum Mundi*, vol. 3, Banglore, 1978, 283-287.

MORIARTY, “New Regulations on the Eucharistic Fast”= E.J.MORIARTY, “New Regulations on the Eucharistic Fast”, *The Jurist*, 14 (1954) 1-31.

MÖRSDORF, *Lehrbuch des Kirchen Rechts* = K.M.ÖRSDORF, *Lehrbuch des Kirchen Rechts*, Paderborn, 1953.

Bibliography

- MOTRY, “Sacred Canons” = L.MOTRY, “The Connotative value of the ‘Sacred Canons’” *The Jurist* 1 (1941) 50-65.
- MURRAY, “Freedom, Authority, Community” = J.C.MURRAY, “Freedom, Authority, Community” in J.H.Provost, ed. *Code, Community and Ministry*, Washington, 1983, 139-145.
- MYERS, “Canon Law” = J.J.MYERS, “Canon Law” in R.Shaw, ed., *Our Sunday visitor’s Encyclopedia of Catholic Doctrine*, Indiana, 1997, 66-70.
- NEDUNGATT, *Companion* = G.NEDUNGATT, *A Companion to the Eastern Code*, Kan.5, Rome, 1994.
- NEDUNGATT, “I diritti umani” = NEDUNGATT, “I diritti umani nella costituzione del l’India” in G.Concetti, ed., *I diritti Umani. Dottrina e prassi*, Roma, 1982, 513-527.
- NEDUNGATT, “Secular State in India” = G.NEDUNGATT, “Christian Churches and the Secular State in India”, *Kanon*, 10 (1991) 223-251.
- NEDUNGATT, “The Title” = G.NEDUNGATT, “The Title of the New Canonical Legislation”, *Studia Canonica* 19 (1985) 61-79.
- O’BOYLE, “Liberty under Law” = O’BOYLE, “Liberty under Law” *The Jurist* 10 (1950) 1-34.
- O’DONNELL, “Law of the Church” = C.O’Donnell, “Law of the Church”, *Ecclesia, A Theological Encyclopedia of the Church*, Minnesota, 1996.
- OJIAKO, “*The Role of the Confessor*” = A.E.OJIAKO, *The Role of the Confessor according to the Code of Canon Law*, Roma, 1987.
- ÖRSY, “Fundamental Rights in the Church” = L. ÖRSY, “Fundamental Rights in the church”, *The Jurist*, 41 (1981) 177-188.

Salvific Law

ÖRSY, Theology and Canon Law=L.ÖRSY, *Theology and Canon Law: New Horizons for Legislation and Interpretation*, Minnesota, 1992.

ÖRSY, “The Life of the Church”=L.ÖRSY, “The Life of the Church and the Renewal of Canon Law”, *The Jurist*, 25 (1965) 46-65.

PANIKKAR, “*Super hanc petram*”=R.PANIKKAR, “*Super hanc petram*’ Due principi ecclesiologici: la roccia e le chiavi”, in ISRB, *Legge e Vangelo*, Brescia, 1972, 135-145.

PARECATTIL, “The Title of the Latin Canon Law” = J.PARECATTIL, “The Title of the Latin Canon Law”, *Studia Canonica* 19 (1985) 79-80. This is the speech made by Joseph Cardinal Parecatil, the President of PCCICOR on October 27, 1981 at the Plenary Session of the commission for the Revision of the Latin Code and was first published in *Ernakulam Missam*, 55 (1985) n. 4, 86-87, which was reproduced in *Studia Canonica* as an appendix to NEDUNGATT, “The Title”.

PCLTI, *Prefatio* = PCLTI, *Prefatio* in PCLTI, *Codex Canonum Ecclesiarum Orientalium, Fontium Annotatione Auctus*, Città del Vaticano, 1995.

POPTODOROV, “Economy” = R.POPTODOROV, “Economy in the Orthodox Tradition and Practice of the Slavic Churches”, *Kanon* 6 (1983) 51-55.

POSPISHIL, *Eastern Catholic Church Law*=V.J.POSPISHIL, *Eastern Catholic Church Law*, 2nd ed., New York, 1996.

PROVOST, “Structuring the Church as a *Communio*” = J.H.PROVOST, “*Structuring the Church as a Communio*”, *The Jurist*, 36 (1976) 191-245.

PUZZA, *Katholisches Kirchenrecht* = R.PUZZA, *Katholisches Kirchenrecht*, Heidelberg, 1986.

Bibliography

- RAHNER, “Canon Law”= K.RAHNER, “Canon Law” in K.Rahner and H.Vorgrimler, *Theological Dictionary*, ed. C.Ernst, trans.R.Stracham, New York, 1965, 64-65.
- REMIGUISZ, “Immutabilita e Storicita del diritto della Chiesa” = REMIGUISZ, “Immutabilita e Storicita del diritto della Chiesa: Diritto Divino e Diritto Umano”, (Unpublished paper).
- RIES, “Neue Perspektiven fur die Okumene im CCEO”=B.Ries, “Neue Perspektiven fur die Okumene im CCEO”, *Archiv für Katholisches Kirchenrecht*, 169 (2000) 492-502.
- ROHBAN, “Codification du Droit Canonique Oriental” =L.ROHBAN, “Codification du Droit Canonique Oriental”, *Appollinaris* 65 (1992) 237-298.
- SALACHAS, *Primo Millennio* = D.SALACHAS, *II Diritto Canonico delle Chiese orientali nel primo millennio*, Roma, 1997.
- SALACHAS, *Istituzioni* = D.SALACHAS, *Istituzioni di diritto canonico delle Chiese cattoliche orientali*, Roma, 1993.
- SALACHAS, *L’iniziazione cristiana* = D.SALACHAS, *L’iniziazione cristiana nei Codici orientale e latino*, Roma, 1991.
- SALACHAS, *Sacramenti* = D.SALACHAS, *Teologia e disciplina dei sacramenti nei Codici latino e orientale*, Bologna, 1999.
- SALACHAS, “Diritto Canonico Orientale” = D.SALACHAS, “Diritto Canonico Orientale” in E.G.Farrugia, ed., *Dizionario Enciclopedico Dell’Oriente Cristiano*, Roma, 2000, 237-238.
- SALACHAS, “Ecclesia universa et ecclesia sui iuris”=SALACHAS, “Ecclesia universa et ecclesia sui iuris nel Codice dei Canonici delle Chiese Orientali”, *Appollinaris*, 65(1992) 65-76.
- SALACHAS, “Implicanze ecumeniche” =D.SALACHAS, “Implicanze ecumeniche del ‘Codice dei Canonici delle Chiese

Salvific Law

Orientali' alla luce del nuovo Direttorio Ecumenico" in K.Bharanikulangara, ed., *Il Diritto Canonico Orientale nel'ordinamento ecclesiale*, Città del Vaticano, 1995.

SALACHAS, II Regno = D.SALACHAS, "II Codice delle chiese orientali", *II Regno*, 36 (1991) 49-59.

SAUNDERS, *Plato's Penal Code* =T.J.SAUNDERS, *Plato's Penal Code*, Oxford, 1994.

SELB, *Orientalisches Kirchenrecht*=W.SELB, *Orientalisches Kirchenrecht, Band I, Die Geschichte des Kirchenrechts der Nestorianer*, Wien, 1981.

SELB, *Sententiae Syriacae*=W.SELB, *Sententiae Syriacae*, Wien, 1990.

SHEERIN, "Liberty under the Law" = SHEERIN, "Liberty under the Law", *The Jurist*, 18 (1958) 7-11.

SHERMAN, *Roman Law in the Modern World*=C.P.SHERMAN, DCL., LL.D., *Roman Law in the Modern World*, 3rd ed., vol.II, 1937.

SMITH, "Law"=W.SMITH, "Law", in *A Dictionary of Christian Antiquities*, vol.1, Newyork, 1968, 639-647.

SOHM, *The Institutes* = R.SOHM, *The Institutes, A Textbook of History and System of Roman Private Law*, trans.J C Ledlie, 3rd ed., New York, 1970

SZENTIRMAI, "The Legal Language"=SZENTIRMAI, "The legal Language of the New Canon Law of the Eastern Churches", *The Jurist*, 22 (1962) 39-70.

TELLEGEN-COUPERUS, "Quintilian and Roman Law"=O.TELLEGEN -COUPERUS, "Quintilian and Roman Law", *Revue Internationale des Droits De l'Antiquite*, 47 (2000) 167-183.

THOMSON, "Economy" =F.J.THOMSON, "Economy", *The Journal of Theological Studies*, 16 (1965) 368-420.

Bibliography

- ULLMANN, *The Medieval Idea of Law*=W.ULLMANN, *The Medieval Idea of Law as represented by Lucas de Penna, A Study in Fourteenth Century Legal Scholarship*, London, 1946.
- VECCHIO, *Lezioni di Filosofia del Diritto* = G.VECCHIO, *Lezioni di Filosofia del Diritto*, XIIIth Edition, ed., Dott.A.Giuffre, Milano, 1965.
- VELLA, “Canon Law and the Mystical Body”=VELLA, D.J., “Canon Law and the Mystical Body”, *The Jurist*, 22 (1962) 412-432.
- VISCHER, “Reform of Canon Law - an Ecumenical Problem”=VISCHER, “Reform of Canon Law - an Ecumenical Problem”, *The Jurist* 26 (1966) 395-412.
- VOGEL, “Early Church”=VOGEL, “Canon Law, History of, 1.Early Church”, *NCE*, vol.3, Washington, 1967, 34-37.
- VÖÖBUS, *Syriac and Arabic Documents Regarding Legislation* = A.VÖÖBUS, *Syriac and Arabic Documents Regarding Legislation Relative to Syrian Asceticism*, Stockholm, 1960.
- VÖÖBUS, *The Synodicon*=A.VÖÖBUS, *The Synodicon in the West Syrian Tradition I*, in UCAUCL, CSCO, 162/163, Louvain, 1975; *The Synodicon in the West Syrian Tradition II*, in UCAUCL, CSCO, 164/163, Louvain, 1976.
- VÖÖBUS, “Important Manuscript Discoveries”=A. VÖÖBUS, “Important Manuscript Discoveries for the Syro- Roman Law Book”, *Journal of Near Eastern Studies*, 32 (1973) 321-332.
- WARE, “The Ecumenical Councils and the Conscience of the Church”=K.WARE, “The Ecumenical Councils and the Conscience of the Church”, *Kanon* 2 (1974) 217-233.
- WERNZ, *Ius Decretalium*, vol. 1=WERNZ, *Ius Decretalium*, vol.1, 3rded., Prati, 1913.

Salvific Law

WHITE, “Law in the Image of God”=R.J.WHITE, “Law in the Image of God”, *The Jurist*, 17 (1957) 1-8.

WIJLENS, “*Salus Animarum Suprem a Lex*”=M.WIJLENS, “*Salus Animarum Suprema Lex: Mercy as a legal principle in the application of Canon Law?*”, *The Jurist*, 54 (1994) 560-590.

WIJLENS, *Sharing the Eucharist*=M.WIJLENS, *Sharing the Eucharist*, Oxford, 2000.

WRIGHT, “The Law and the Person”=J.WRIGHT, “The Law and the Person”, *The Jurist*, 23 (1963) 314-320.

- U• EK, “Bipartizione o tripartizione”=I. • U• EK, “Bipartizione o tripartizione dei *Christifideles* nel CIC e nel CCEO”, in *Understanding the Eastern Code*, Kan.8, Rome, 1997, 328-353.
- U• EK, “Che cosa e una Chiesa, un Rito Orientale”=I. • U• EK, “Che cosa e una Chiesa, un Rito Orientale”, *Seminarium*, 27 (1975) 263-277.
- U• EK, “L’conomie”=I. • U• EK, “L’conomie dans les Travaux de la Commission Pontificiale pour la Revision du Code de Droit Canonique Oriental” in *Understanding the Eastern Code*, Kan.8, Rome, 1997, 429-458.
- U• EK “Incidenza del *Codex Canonum Ecclesiarum Orientalium*”=I. • U• EK “Incidenza del *Codex Canonum Ecclesiarum Orientalium*”, in *Understanding the Eastern Code*, Kan.8, Rome, 1997, 266-327.
- U• EK, “Presetazione”=I. • U• EK, “Presetazione del *Codex Canonum Ecclesiarum Orientalium*” in *Understanding the Eastern Code*, Kan.8, Rome, 1997, 110-135.
- U• EK, “Reflessioni”=I. • U• EK, “Reflessioni circa la costituzine apostolica Sacri Canones”, *Apollinaris*, 65 (1992) 53-64.

Bibliography

- U• EK, “The Ancient Oriental Sources”=I. • U• EK, “The Ancient Oriental Sources and the Modern Legislation for Oriental Catholics”, *Kanon* 1 (1973) 147-159.
- U• EK, “The *Ecclesiae Sui Iuris* in the Revision of Canon Law”=I. • U• EK, “The *Ecclesiae Sui Iuris* in the Revision of Canon Law” in R.Latourelle, ed., *Vatican II, Assessment and Perspectives, Twenty Five Years After*, vol. II, New York, 1989, 288-304.

2.2.General Works

- AQUINAS, *Summa Theologiae*= T.AQUINAS, *Summa Theologiae*, 5 vols. trans., Fathers of the English Dominican Province, Allen, 1981.
- BEKES, “The Eucharist makes the Church”=G.J.BEKES, “The Eucharist Makes the Church”, in R.Latourelle, ed., *Vatican II, Assessment and Perspectives, Twenty Five Years After*, vol.II, New York, 1989, 347-363.
- BOURASSA, “Sacrifice”=F.BOURASSA, “Sacrifice”, in R.Latourelle, ed., *Vatican II, Assessment and Perspectives, Twenty Five Years After*, vol.II, New York, 1989, 121-159.
- BRIGHT, *A History of Israel*=J.BRIGHT, *A History of Israel*, Philadelphia, 1981.
- BROCK, “Notes”=S.BROCK, “Notes to the Hymns on Paradise”, in ST.Ephraem, *Hymns on Paradise*, Eng.trans., S.Brock, New York, 1998, 189-194.
- BROWN, “sozo”=C.BROWN, “sozo”, *The New International Dictionary of New Testament Theology*, vol.3, Michigan, 1978.
- BULGAKOV, *II Paraclitto* = S.BULGAKOV, *II Paraclitto*, It.trans. Chiesi S., Bologna, 1972.
- BURKE, “*Communio*”=C.BURKE, “*Communio*”, in R.Shaw, ed., *Our Sunday Visitor’s Encyclopedia of Catholic Doctrine*, Indiana, 1997, 118-119.

Salvific Law

- CHEMPAKASSERY, *Memory and Presence* = CHEMPAKASSERY, *Memory and Presence, A Theology of the Eucherist*, Thiruvananthapuram, 2002.
- CONGAR, *The Mystery of the Church*=Y.CONGAR, *The Mystery of the Church*, 2nded.,trans., A.V.Littledale, London, 1965.
- CULLMAN, *Salvation in History*=O.CULLMAN, *Salvation in History*, London, 1967.
- De LUBAC, *Meditations sur l'Eglise*=De LUBAC, *Meditations sur l'Eglise*, Paris, 1953.
- De vita Constantini*, 4=EUSEBIUS, *De Vita Constantini, Liber Quatrus* in P.G.20, 1149 - 1230.
- DISTANTE, *Orientalium Ecclesiarum* = DISTANTE et. al., *Decreto sulle Chiese Orientali Cattoliche: Orientalium Ecclesiarum*, Casale Monferrato, 1986.
- DULLES, *Models*=A.DULLES, *Models of the Church*, New York, 1974.
- DUTRIPON, *Concordantiae Bibliorum Sacrorum Vulgatae Editionis* =F.P. DUTRIPON, *Concordantiae Bibliorum Sacrorum Vulgatae Editionis, Parsis*, 1838.
- FÜGLISTER, *Il valore salvifico della pasqua*=N.FÜGLISTER, *Il valore salvifico della pasqua*, Brescia, 1976.
- GERALD, *Justinian the Great*=T.F.GERALD, *Justinian the Great Roman Emperor of the East*, New York, 1970.
- GLARE, *Oxford Latin Dictionary*=P.G.W.GLARE, ed., *Oxford Latin Dictionary*, New York, 1987.
- GUTIEREZ, *A theology of Liberation* = G.GUTIEREZ, *A theology of Liberation*, New York, 1973.
- JOSEPHUS, *Contra Apionem I*=F.JOSEPHUS, *Contra Apionem I*, (Gk.-Eng.version) trans, Thackeray H.ST.J., in Goold G.P., ed., *The Loeb Classical Library*, 186, London, 1926, 160-291.

Bibliography

- JOSEPHUS, *Antiquities IV*=F.JOSEPHUS, *Antiquities IV*, (Gk.-Eng.version), trans., Thackeray, H.ST.J., in Goold G.P., ed., *The Loeb Classical Library*, 410, London, 1930, 476-635.
- KARAKUNNEL, *The Christian Vision of Man* = G.KARAKUNNEL, *The Christian Vision of man*, Banglore, 1984.
- KEYS, “Common Good”=M.M.KEYS, “Common Good” in R.Shaw, ed., *Our Sunday Visitor’s Encyclopedia of Catholic Doctrine*, Indiana, 1997, 115-120.
- LAMPE, *A Patristic Greek Lexicon*=G.W.H.LAMPE, *A Patristic Greek Lexicon*, London, 1968.
- LAPSLEY, *Salvation and Health*=J.N.LAPSLEY, *Salvation and Health*, Philadelphia, 1972.
- MAMPRA, “Uniqueness and Universality of Salvation” = T.MAMPRA, “Uniqueness and Universality of Salvation”, in J B CHETHIMATTAM, ed., *Unique and Universal*, Banglore, 1972, 135-144.
- McMANUS, *The Healing Power of the Sacraments* = J.McMANUS, *The Healing Power of the Sacraments*, NotreDam, 1984.
- McPARTLAN, *Sacrament of Salvation*. =P.McPARTLAN, *Sacrament of Salvation*, Edinburgh, 1995.
- MEYENDORF, *Byzantine Theology*=J.MEYENDORF, *Byzantine Theology*, New York, 1974. The sixth chapter (79-90) of this work deals with the ecclesiology of the Byzantine Canonical Sources.
- MOLTMAN, *The Church in the Power of the Holy Spirit* = J.MOLTMAN, *The Church in the Power of the Holy Spirit, A Contribution to Messianic Ecclessiology*, London, 1977.

Salvific Law

NEILSON, Webster's = W.A.NEILSON, *Webster's New International Dictionary of English Language* (Unabridged), Springfield, 1944.

ORCHARD, *A Catholic Commentary on Holy Scripture*= D.M.ORCHARD, ed., *A Catholic Commentary on Holy Scripture*, London, 1957.

O'COLLINS, "Salvation"=G.O'Collins, "Salvation", *The Anchor Bible Dictionary*, vol.5, New York, 1992, 907-914.

RAHNER, *Foundations*=K.RAHNER, *Foundations of Christian Faith*, trans.W.V.Dych, London, 1978

RAHNER, "Salvation"=K.RAHNER, "Salvation, 1.Universal Salvific Will", in K.Rahner, et.all.,ed., *Sacramentum Mundi*, vol.5, 1978, 405-409

SCHILLEBEECKX, Christ the *Sacrament* = E.SCHILLBEECKX, *Christ the Sacrament of the Encounter with God*, New York, 1963.

SCHMIDT, Old Testament=W.H.SCHMIDT, *Old Testament Introduction*, New York, 1984.

SCHNACKENBURG, *God's Rule and Kingdom* = R.SCHNACKENBURG, *God's Rule and Kingdom*, New York, 1963.

SHEMUNKASHO, "Salvation History"=A.SHEMUNKASHO, "Salvation History as a Process of Healing in the Theology of Mor Ephrem", *The Harp*, xi-xii (1998-99) 175-185.

SMC, *Hasaganangal*= The Syro Malankara Church, *Hasaganangal*, Trivandrum, 2001

SMC, *Thakso di Holy Qurbono*=The Syro Malankara Church, *Thakso di Holy Qurbono*, Trivandrum, 2001.

SMC, *Kurbanakramam*=The Syro Malankara Church, *Kurbanakramam*, Trivandrum, 2001.

Bibliography

- SPICQ, *Theological Lexicon of the NT.*,=C.SPICQ, O P, *Theological Lexicon of the New Testament*, vol.3, trans.J D Ernest, Peabody, 1996.
- ST.CLEMENT, *The First Epistle of St.Clement*=St.CLEMENT, *The First Epistle of St.Clement to the Corinthians*, in A Roberts, ed., *Ante Nicene Fathers*, Vol.1, Peabody, 1995, 5-21.
- ST.EPHRAEM, *Hymns on the Church* = ST.EPHRAEM, *Hymen de Ecclesia*, Ger.trans., E.Beck, in UCAUCL, CSCO 198/199, LOUVAIN, 1960.
- ST.EPHRAEM, *Hymns on Paradise* = ST.EPHRAEM, *Hymns on Paradise*, Eng. trans., S.Brock, New York, 1998.
- ST.EPHRAEM, *Hymns on Nisibis*=ST.EPHRAEM, *Carmina Nisebena*, Ger.Trans., E.Berak, in UCAUCL, CSCO 218/219;240/241, Louvain 1961, 1963.
- ST.IRANEUS, *Adversus haereses*, 4 = ST.IRANEUS, *Adversus haereses*, 4 in Hemmerdinger et.al., ed., *SChr.100*, Paris, 1965.
- St.JUSTIN, *Dialogue with Trypo.* = ST.JUSTIN, *Dialogue with Trypo*, in Alexander Roberts, Ed., *Ante Nicene Fathers*, Vol.1. Peabody, 1995, 1894-270
- STOLZ, “yshi”=F.STOLZ, *yshi*, in E. Jenni and C.Westermann eds., *Theological Lexicon of the Old Testament*, vol.2., Testament, vol.2, trans.M.E. Biddle, Peabody, 1997.
- STRAVINSKAS, *Catholic Encyclopedia* =P.M.J. STRAVINSKAS, ed., *Our Sunday Vision's Catholic Encyclopedia*, Indiana, 1991.
- SULLIVAN, “Church of Christ” = F.SULLIVAN, “The Significance of the Vatican II Declaration that the Church of

Salvific Law

Christ ‘subsists in’ the Roman Catholic Church”, in R.Latourelle, ed., *Vatican II, Assessment and perspectives, Twenty Five Years After*, vol.II, New York, 1989, 272-287.

VÖÖBUS, *History of Asceticism in the Syrian Orient I*, = A. VÖÖBUS, *History of Asceticism in the Syrian Orient I*, UCAUCL, CSCO, 184, IOUVAIN 1958.

ZORELL, *Lexicon Greacum Novi Testamenti*=F.ZORELL, S.I, *Lexicon Greacum Novi Testamenti*, Parisiis, 1931.

- U• EK, “Animadversiones quaedam” = I• U• EK, “Animadversiones quaedam in decretum de Ecclesiis Orientalibus Catholicis Concilii Vaticani II”, *Periodica de Re Morali Canonoca Liturgica*, 55 (1966) 266-288.

INDEX OF CCEO CANONS REFERRED IN THE BOOK

Canon	Page	Canon	Page
7	124	399	82
8	91	406	111,124
14	110,111	410	82
17	102	490	141
20	112	538	104
24	140	585	111
27	91	595	124,125
143	95	606	113
146	83	616	115
147	83	625	95
148	83	628	112
149	83	629	112,123,124
150	83	634	113
238	95	667	83
269	132	671	104
289	113	675	83
323	82	676	83
324	95	692	83
346	104	694	83
347	114	695	83
350	114	697	118, 83
362	141	698	104, 83
373	83	700	105
377	104	704	106
395	168	708	104
396	168	711	106

Salvific Law

Canon	Page	Canon	Page
713	104,107	1176	141
718	83, 160	1302	172
725	168	1396	133
727	132	1397	133
732	161, 164, 165	1400	122, 133, 141
735	168	1401	150, 153, 157
743	83	1403	149
758	83	1404	151
780	95	1407	150
781	95	1426	148
811	83	1427	150
828	83	1428	151
848	173	1436	150
873	132	1437	150
881	104	1438	150
902	93, 94	1493	81
907	95	1500	151
908	93, 95	1501	140
934	132	1512	172
940	141	1519	128, 142
975	141	1531	171
1000	129	1534	172
1110	130, 131	1536	170
		1542	103

