

# **THE PROBLEMS CONNECTED WITH INTER RITUAL MARRIAGES**

## **Introduction**

Many Christians are baffled by the complexity of the Christian East, which can appear to be a bewildering array of national churches and ethnic jurisdictions. Each Church is placed in its own historical, geographical, doctrinal and liturgical context. We have four distinct and separate Eastern Christian communions: (1) The Assyrian Church of the East, which is not in communion with any other church; (2) The five oriental Orthodox Churches, which, although each is fully independent, are in communion with one another; (3) The Orthodox Church, which is a communion of National and Regional Churches, all of which recognize the patriarch of Constantinople as a point of unity enjoying certain rights and privileges; and (4) The Eastern Catholic Churches, all of which are in communion with the Church of Rome and its own Bishop Heads.

The Christian faithful are aware of the changes in the world and in the Church and raise many existential questions. The number of married couples going through separation, divorce, and cohabitation has increased in the recent past. The extraordinary synod on the family, held in 2014 and the new documents based on it had come out to handle the new situation. The Church wants to keep pace with the changes taking place in the secular world and accommodate them as much as possible without compromising the essentials of ecclesiastical doctrines and discipline. We have in India three Ritual Churches namely the Latin Rite, Syro-Malabar Rite and the Syro-Malankara Rite. We do face some practical difficulties with regard to marriage in the Inter-ritual context.

## **1. Some Essential Elements Concerning the Eastern Churches**

**1.1.** Eastern Christianity consists of four main church families: the Eastern Orthodox Church, the Oriental Orthodox Churches, and the Assyrian Church of the East, as well as the Eastern Catholic Churches (that are in communion with Rome but still maintain an Eastern liturgy). The term is used in contrast with Western Christianity (namely the Latin Church and Protestantism). Eastern Christianity consists of the Christian traditions and churches that developed in the Middle East, Africa, Eastern Europe, Asia Minor, the Balkans, Southern India and parts of the Far East over several centuries. The term does not describe a single communion or religious denomination. Some Eastern churches have more in common historically and theologically with Western Christianity than with one another. The various Eastern churches do not normally refer to themselves as "Eastern", with the exception of the Assyrian Church of the East and its offshoots.

**1.2.** The terms "Eastern" and "Western" in this regard originated with geographical divisions in the Christian Church mirroring the cultural divide between the Hellenistic east and Latinate west and the political divide between the Western and Eastern Roman empires. Because the largest church in the East is the body currently known as the Eastern Orthodox Church, the term "Orthodox" is often used in a similarly loose fashion as "Eastern", to refer to specific historical Christian communions. However, strictly speaking, most Christian churches, whether Eastern or Western, consider themselves to be "orthodox" (following correct beliefs) as well as "catholic" (universal), even when they do not include those words in their official names.

**1.3.** The twenty-three Eastern Catholic churches are all in communion with the Holy See at the Vatican, but are rooted in the theological and liturgical traditions of Eastern Christianity. These Churches were originally part of the Orthodox East, but have since been reconciled to the Roman Church.

Many of these churches were originally part of one of the above families and so are closely related to them by way of ethos and liturgical practice. As in the other Eastern churches, married men may become priests, and parish priests administer the mystery of confirmation to newborn infants immediately after baptism, via the rite of chrismation; the infants are then administered Holy Communion.

The Syro-Malabar Church, which is part of the Saint Thomas Christian community in India, follows East Syrian traditions and liturgy. Other Saint Thomas Christians of India, who were originally of the same East Syrian tradition, passed instead to the West Syrian tradition and now form part of Oriental Orthodoxy (some from the Oriental Orthodox in India united with the Catholic Church in 1930 and became the Syro-Malankara Catholic Church). The Maronite Church also claims never to have been separated from Rome, and has no counterpart Orthodox Church out of communion with the Pope. It is therefore inaccurate to refer to it as a "Uniate" Church. The Italo-Albanian Catholic Church has also never been out of communion with Rome, but, unlike the Maronite Church, it resembles Orthodox Church's liturgical rite.

## **2. List of Orthodox/Oriental Churches not in full communion with the Holy See but having valid Baptism:**

### **2.1. The East Syrian Church (The Christians of St. Thomas)**

- The Syro-Chaldean Church of the East
- The Syrian-Orthodox Church (West Syrian)
- The Independent Syrian Church of Malabar
- The Mar Thoma Syrian Church

### **2.2. The Armenian Orthodox Church / The West Syrian Churches**

- The Syrian Orthodox (Jacobite) Church of the East
- The Coptic Church
- The Ethiopian Church

### **2.3. The Eastern Orthodox (Byzantine) Churches**

The Ecumenical Patriarchate of Constantinople  
The Patriarchate of Alexandria  
The Patriarchate of Antioch and all the East  
The Patriarchate of Jerusalem  
The Patriarchate of Moscow and all Russians  
The Archiepiscopate of the Island of Cyprus  
The Serbian Orthodox Patriarchate  
The Romanian Orthodox Patriarchate  
The Bulgarian Orthodox Patriarchate  
The Archiepiscopate of Greece  
The Metropolia of Poland  
The Metropolia of Albania  
The Patriarchate-Katholikosate of Georgia  
The Archiepiscopate of Finland  
The Metropolia of Macedonia  
The Orthodox Metropolia of Czechoslovakia  
The Orthodox Church in America  
The American Carpatho-Russian Orthodox Greek-Catholic Diocese  
The Ukrainian Orthodox Churches  
The Eastern Orthodox in Hungary  
The Orthodox Church of Belarussia

### **2.4. List of Churches found in India who have Valid Baptism**

*The following are the sects whose baptism is valid and generally found in India (Refer: Ecumenical Directory – CBCI Commission, 1970):*

The Syrian Church of Mar Thoma  
The Anglican Church  
The Methodist Churches  
Lutheran Churches  
The Baptist Churches  
The Church of South India  
The United Church of North India  
The Seventh Day Adventists  
The Mennonite Churches  
The Plymouth Brothers  
Evangelical Church of South India  
Those Churches who give baptism with the Trinitarian Formula

**2.5. The following are the sects known, whose baptism is invalid:**

- Mormon Church
- Apostolic Church
- Christian Scientists
- Bohemian Free Thinkers – Christian and Missionary alliance
- Church of Divine Science
- Mason – People’s Church of Chicago
- Quakers Church
- Pentecostal Churches (If not under Trinitarian Formula)
- Christadelphians
- Jehowa’s Witnesses
- Unitarians’ Church
- Christians Communities

**2.6. The following are the groups known, who do not have a baptism at all:**

- Bohemian Free Thinkers
- Salvation Army
- House of David
- United Society of Believers (known as Shakers)

(Remember always that the above list is not conclusive. The ‘*Trinitarian Formula*’ used and the ‘running of water’ (baptism by immersion, pouring or sprinkling) is the sign to ascertain the validity of baptism in cases of doubtful baptisms. In the case of Pentecostal Churches it is to be noted that generally their baptism as invalid because they do not use the ‘Trinitarian formula’ instead they say “in the name of Jesus for the remission of sins”. But there are some groups among them who use ‘Trinitarian formula’ and their baptism is valid. Hence one must check in each case.)

**3. The Eastern Catholic Churches**

**3.1. Churches with No Counterpart**

- The Maronite Catholic Church
- The Italo-Albanian Catholic Church

**3.2. From the Assyrian Church of the East**

- The Chaldean Catholic Church
- The Syro-Malabar Catholic Church

**3.3. From the Oriental Orthodox Churches**

- The Armenian Catholic Church
- The Coptic Catholic Church
- The Ethiopian Catholic Church
- The Syrian Catholic Church
- The Syro-Malankara Catholic Church

### **3.4. From the Orthodox Church**

- The Melkite Catholic Church
- The Ukrainian Catholic Church
- The Ruthenian Catholic Church
- The Romanian Catholic Church
- The Greek Catholic Church
- Byzantine Catholics in former Yugoslavia
- The Bulgarian Catholic Church
- The Slovak Catholic Church
- The Hungarian Catholic Church
- Eastern Catholic Communities without Hierarchies

### **3.5. Short history of Syro-Malabar and Syro-Malankara Catholic Churches of India**

#### **The Syro-Malabar Catholic Church of India**

A Syro-Malabar faithful is called a Mar Thoma Nasrani or **St. Thomas Christian**, as they trace their origin to the Apostle St. Thomas, who arrived in Kerala state on the Malabar Coast of south western India. They were in communion with the Assyrian Church of Persia, and followed the East Syriac or Chaldean liturgy. St. Thomas Christians were united during the early years of the Christian Church.

Aggressive latinization of St. Thomas Christians by the Portuguese and their Bishops in the sixteenth century led to rebellion through the Coonan Cross Oath in January 1653. Relations were improved by Pope Alexander VII in 1662 through Carmelite Friars. Pope Pius XI established the Syro-Malabar Catholic hierarchy in 1923. The restoration of the Oriental rite has made considerable progress since Vatican II. Pope John Paul II elevated the Church to Major Archiepiscopal status on December 16, 1992, and in 1998 gave the Syro-Malabar Bishops full authority in liturgical matters in an effort to promote union.

The Syro-Malabar Catholic Church has rapidly expanded until it is now the second largest Eastern Catholic Church with 4.1 million faithful in communities throughout India, the United States and Canada.

#### **The Syro-Malankara Christian Churches of India**

The Syro-Malankara Christian Churches of Kerala, India also trace their origin to the Apostle St. Thomas, who arrived near Maliankara in Kerala in 52 AD. They are primarily Oriental Orthodox Churches and are distinguished from the Syro-Malabar Church by the use of the West Syriac or Antiochene liturgy.

Latinization by the Portuguese in the sixteenth century produced widespread division, and by the Coonan Cross Oath of 1653, the community joined with the Syriac Oriental Orthodox Patriarchate of Antioch. Following an appeal by Mar Ivanios, one of the Malankara Bishops, Pope Pius XI established the Malankara Catholic Hierarchy in 1930. Pope John Paul II assisted greatly in the ecumenical movement with a Papal visit on February 8, 1986 at St. Mary's Cathedral, Pattom, Trivandrum in Kerala, India.

Today there are about 4,000,000 members of the Syro-Malankara Oriental Orthodox Churches and their affiliates, and 400,000 members of the Syro-Malankara Eastern Catholic Church.

## **4. The CCEO Canons explicitly affect the Latin Church**

The Latin Church is explicitly mentioned a few times in the Eastern Code, which binds the Latin faithful were expressly stated: “The Canons of this Code affect all and solely the Eastern Catholic Churches, unless, with regard to relations with the Latin Church, expressly (*expresse*) stated otherwise” (CCEO c.1). Authors have interpreted the term ‘*expresse*’ in different ways. The majority of authors believe that “express” mention of the Latin Church can also occur implicitly, that is, when it clearly surfaces from the context in which the norm is located. The Pontifical Council for the Interpretation of Legislative Texts dispelled this confusion in an explanatory note on this canon given on December 8, 2011. The central affirmation of the note is the following: “It must be assumed that the Latin Church is implicitly included by analogy whenever the CCEO explicitly uses the term “Church” in the context of inter-ecclesial relations.”

### **4.1. Pastoral Care of the Faithful outside the Proper Territory**

CCEO §2 states, “The power of the patriarch is exercised validly only within the territorial boundaries of the patriarchal Church, unless the nature of the matter or the common or particular law approved by the Roman Pontiff establishes otherwise.” This canon must be understood in the light of CCEO cc.146-150, which shows the lawgiver’s solicitous care toward the faithful of any Church *sui iuris*. CCEO c.147 addresses the duty of the patriarch to care for the faithful of any Church *sui iuris*. CCEO c.148 highlights the right of the Patriarch to conduct a visitation of the faithful residing outside of his territory either by himself or through another with the assent of Roman Pontiff. Accordingly, efforts were made after the Synod to give pastoral care to the faithful living outside the proper territory in these Churches.

### **4.2. Recording Ascription or Transfer to a Church *sui iuris***

Unique to the Eastern Code, CCEO C.37 requires that Eastern Catholics’ ascription to a certain Church or transfer to another Church *sui iuris* always be recorded. Although CIC c.535 §2 does not require the baptised person’s ascription to a certain church to be noted in the baptismal register, CCEO c.37 obliges the Latin pastors to make such an annotation. If this is not possible, the Eastern norm prescribes that the ascription should be recorded in another document and kept in the parish archive of the proper pastor appointed for the Eastern faithful. Thus, the confusion that was prevalent with regard to the state of the one baptised in Oriental Catholic Church or Latin Church is cleared. In the same way, CCEO c.37 also requires that a Catholic’s transfer to another Church *sui iuris* is to be always recorded.

### **4.3. On Knowing the Rite of another Church *sui iuris***

CCEO c.41 stipulates: “The Christian faithful of any Church *sui iuris*, even that of the Latin Church, who have frequent relations with the Christian faithful of another Church *sui iuris* by reason of their office, ministry or function, are to be accurately instructed in the knowledge and practice of the rite of that Church, in keeping with the seriousness of the office, ministry or function which they fulfil.” The rationale for this canon is the preservation of the rites. Hence, it obliges even the Latin faithful who frequently deal with those Churches to come to know the Eastern Code accurately.

### **4.4. The Quinquennial Report**

CCEO C.207 states: “An Eparchial bishop of any Church *sui iuris*, even of the Latin Church, is to inform the Apostolic See on the occasion of the quinquennial report, about the status and needs of the Christian faithful who, even if they are ascribed to another Church *sui iuris*, are committed to his care.” Thus, a bishop should be solicitous toward all the faithful committed to his care.

### **4.5. Assemblies of Hierarchs of Several Churches *sui iuris* (CCEO c.322 §1)**

According to CCEO c.322, an assembly of hierarchs comprises all patriarchs, metropolitans and bishops – residential and titular, Latin and Eastern – of a particular nation or region. The first paragraph of the canon notes that the assemblies are meant to foster unity of action, to facilitate common works, to promote more readily the good of religion, and to preserve more effectively ecclesiastical discipline through the cooperation of various prelates. In India, the ‘Catholic Bishops Conference of India is recognized ‘as a component organ’ of different Church *sui iuris*. It is a voluntary and consultative body whose decisions have no binding force on the members. Their purpose is to coordinate pastoral activities of the different Churches in a nation and to present a united front before society.

Paragraph two of CCEO c.322 lists three conditions for the decisions of these assemblies to have juridical force. (1) Decisions must be backed by a least two-thirds of members with the right to a deliberative vote and (2) by the Apostolic See. (3) The assembly of hierarchs can take no valid decision prejudicial to the rite, as defined in CCEO c.28 §1, of any of the Churches *sui iuris* involved, nor to the power of patriarchs or major archbishops, synods, metropolitans, or councils of hierarchs.

The Catholic Bishops Conference of India (CBCI) has been reorganized as an assembly of Latin, Syro-Malabar, and Syro-Malankara hierarchs in the true sense. Today under CBCI each Church is respected and recognized with their peculiarities and it is administered by equal dignity.

#### **4.6. Religious Institutes and Ascription to another Church *sui iuris***

Again unique to the Eastern code, CCEO c.432 also concerns the Latin Church. The canon treats religious institutes which exercise their apostolate in countries where the Eastern Catholic Churches are present.

According to CCEO c.432, the competent major superior of a Latin religious institute erects such houses or provinces, which are ascribed to an Eastern Church *sui iuris* with the approval of the Holy See. This ascription does not ascribe the members of the house or province to that Eastern Church; however, with matters of the apostolate and external governance, these houses and provinces will be subject to the Eastern Code and the particular law of the Eastern Church *sui iuris* to which they are ascribed. Common life and matters of internal governance are governed by institute's constitutions and statutes.

### **5. Administering Sacraments among the churches *Sui Iuris***

#### **5.1. Administration of the Sacrament of Chrismation**

CCEO c.696 §1, states: "All presbyters of the Eastern Churches can validly administer this sacrament either along with baptism or separately to all the Christian faithful of any Church *sui iuris* including the Latin Church."

CCEO c.696 §2 states: "The Christian faithful of Eastern Churches validly receive this sacrament also from presbyters of the Latin Church, according to the faculties with which these are endowed."

However, CCEO c.696 §3 gives a general rule that presbyters licitly administer the sacrament only to the Christian faithful of their own Church or to the faithful of another Church who are their subject.

#### **5.2. The Faculty to Bless Marriages**

According to CCEO c.830 §1, the faculty to bless a marriage can be extended also to Latin priests. The norm explicitly states: "As long as they legitimately hold office, the local hierarch and the pastor can give the faculty to bless a determined marriage within their own territorial boundaries to priests of any Church *sui iuris*, even the Latin Church." With respect to the different Eastern Catholic Church, canonical form requires, for validity, the celebration of a sacred rite by a priest (CCEO c.828). A "sacred rite" is understood to be "the intervention of a priest who assists and blesses" (CCEO c.828 §2). In the Eastern tradition, the nuptial blessing, which is reserved to the priest, is required for the validity of marriage. Hence, the faculty of blessing a marriage cannot be conferred on a deacon.

In the Latin Church, the priestly blessing is not an essential element of the ordinary form of the celebration of marriage. The intervention of the priest as the representative of the ecclesial community in the celebration of marriage essentially consists only in the juridic act of asking and receiving a manifestation of the consent of the spouses (CIC c.1108 §2). Hence, even a lay person may be delegated to fulfil this role (CIC c.1112). However, if the marriage is celebrated in the Latin Church, and one of the parties is an Eastern Catholic, for validity CCEO c.828 §2 must be observed, since the Eastern faithful are bound by it.



### **5.3. Appointment of a Personal Pastor for the Care of Eastern Faithful (CCEO c.916 §5)**

This canon concerns the appointment of a local hierarch for Eastern Catholic faithful in places where no hierarchy of their Church *sui iuris* has been erected. This norm is bound to affect the Latin Church more than any other Church *sui iuris* in our context since, in the case of Eastern Catholics living in an area where no hierarchy of their own Church has been erected, the Latin will often be the only one established in that place. In such situation, the local Latin hierarch may be appointed as the Eastern faithful's proper hierarch.

### **5.4. Penalty for Inducing a Catholic to Transfer to Another Church *sui iuris***

According to CCEO c.31, clerics, religious and lay members of any Church *sui iuris*, who minister in the Church, are not to induce a Latin or Eastern Catholic of another Church *sui iuris* to transfer to their Church. In the same way, CCEO c.1465 explicitly provides that anyone who exercises a ministry in a Church *sui iuris* and violates CCEO c.31 is to be punished with an appropriate penalty. In the case of marriage also this is to be followed by the clerics of both Latin and Eastern churches.

## **6. Administering the Sacrament of Marriage in Particular**

### **6.1. Marriage Betrothal**

According to the Eastern custom, the celebration of marriage shall be preceded by Betrothal, which is to be celebrated sufficiently in advance in order to give time for the publication of marriage banns. Betrothal is to be held before the local hierarch or the pastor of either of the parties or a delegated priest or deacon, in the presence of two witnesses in the parish church or with the permission of the pastor at any other church convenient to the party. However, in places other than churches, it cannot be celebrated without the permission of the local hierarch. The betrothal may be conducted only on obtaining the Form A or a corresponding document. After the celebration of the betrothal, the pastor of the parish of the other party should be intimated through Form B. The betrothal has to be solemnized according to the liturgical text. If the party does not want to proceed to marriage after betrothal, he/she has to obtain permission from the local hierarch in order to enter marriage with another person (CCEO c.782 §2). In connection with the celebration of marriage, five *kuries* (forms A,B,C,D, and E) must be exchanged among the concerned pastors. Marriage banns are published in order to bring to the attention of the parish community of the proposed marriage and to give the community an opportunity to bring to the attention of the pastors any impediments, which might impede the celebration of the said marriage.

If dispensation from banns is to be obtained, it has to be entered in the register for betrothal and in Form B. If dispensation is received, the matter shall be communicated to the concerned pastors of parishes. If marriage did not take place within six months from the completion of the publication of banns, they have to be repeated unless the local hierarch dispenses from this norm. Pastors should see to it that the celebration of marriage should take place only after obtaining the Form C. (CCEO c.828 §1).

## **6.2. Pre-Nuptial Enquiries**

While CIC c. 1067 states the conference of bishops is to establish norms regarding prenuptial matters, CCEO c. 784 prescribes that those norms are to be stipulated in the particular law of each church *sui iuris*. Invoking a now familiar formula, the Eastern canon states that this particular law is to be established after consultation with the eparchial bishops of other Churches *sui iuris* exercising their power in the same territory. With the obvious aim of pursuing a unity of action and discipline, this unique Eastern norm prescribes consultation with eparchial bishops of other churches *sui iuris* exercising their power in the same territory.

## **6.3. Blessing Marriage and plays of another Church *Sui Iuris***

Within the limits of their territory, local hierarchs and local pastors validly bless the marriage of parties whether they are subjects or non-subjects, provided at least one of the parties is ascribed to his church *sui iuris*. If the pastor or local hierarch blesses the marriage in the territory but in a place exclusively of another Church *sui iuris*, the marriage would still be valid as well as licit unless the hierarch who exercises power in that place expressly refuses. In another unique Eastern norm, CCEO c. 831 §1, 3 establishes: “The local hierarch or local pastor licitly blesses a marriage also in a place exclusively of another Church *sui iuris*, unless the hierarch who exercises power in the place expressly refuses.”

What seems more important is that the question most probably arose when an Eastern local hierarch or pastor assisted at a marriage in a place in their territory that was exclusively of the Latin Church. Even if that were not the case, given the text and context of Eastern canon 831 §1, 3, the meaning to be given “Church *sui iuris*” could not exclude the Latin Church. Therefore, a correct interpretation of CCEO c. 831 §1, 3 would hold that an Eastern local hierarch or local pastor licitly also blesses a marriage in a place exclusively of another Eastern Church *sui iuris*, or the Latin Church, unless the hierarch who exercises power in the place expressly refuses.

## **6.4. The Blessing of the Priest Needed for the Validity of Marriages of the Eastern Faithful**

For the validity of the canonical form of marriage, can.828 of CCEO requires the blessing of the priest. The deacon in the East cannot bless and, then, no one doubts that the Eastern deacon is not able to perform the canonical form of marriages of faithful who belong to Eastern Churches. Can.1108 of the CIC, instead, foresees the deacon as a valid assistant for the canonical form, and the LG n.29 says that deacons can bless marriages.

## **6.5. The Catholic Priest who bless the Orthodox Marriage**

Can.833 CCEO affirms that the (Oriental) Hierarchy of the place may grant to any Catholic priest (also Latin) the faculty to bless the marriage of two Orthodox in certain circumstances. The CIC instead does not say anything about this. One must admit that for the Eastern mind the blessing of the priest is seen as an essential part of the celebration, and this can lead to misunderstandings. So, “in any case, after receiving the power of the local ordinary, the priest will be able to bless this orthodox marriage only if the marriage itself is valid and lawful. And it will be valid and lawful only if the Hierarchy of the interested Orthodox Church recognizes it as such. Thus, it is important to clarify this point with the Orthodox Church in question.”

## **6.6. Procedure to celebrate Marriage between Latin and Oriental Catholic**

While the Latin code states that a spouse is free to transfer to the Church *sui iuris* of his/her partner at the celebration of or during the marriage (CIC c.112, §1, 2), the Eastern discipline stipulates that only the wife is at liberty to transfer to the Church of the husband (CCEO 33) and that the husband requires, for validity, the consent of the apostolic See (CCEO 32, §1). Likewise, while the CIC permits marriage in the parish church of either of the contracting partners having domicile or quasi-domicile (CIC c.1115), the CCEO prefers that the marriage be celebrated before the pastor of the bridegroom unless particular law or a just cause is a valid excuse (CCEO c.831, §2). In the latter case, however, the Eastern norm is not a restriction but expresses only a preference and does not have any impact on the validity or liceity of marriage. Hence, in an inter-ecclesial marriage between a Latin and an Oriental catholic, the spouses can choose either of the pastors and neither of them has the right to demand that they be married under his jurisdiction.

## **7. Competence of Parish Priests to assist at Inter-Ritual Weddings (An Example)**

The territory of St. Thomas Parish belonging to a diocese of the Syro - Malabar *sui iuris* Church overlaps the territory of St. Peter’s Parish of the Latin diocese. This situation has given rise to many problems especially in relation to the competence to celebrate inter-ritual weddings. Some of these problems may be articulated in the following questions:

- a) Can a couple belonging to St. Thomas Parish validly celebrate their marriage before the Parish Priest of St. Peter’s Parish?
  
- b) Does the Latin parish priest in this case need delegation from either the local hierarchy or the parish priest of the Syro-Malabar Church to validly celebrate this wedding?

c) If one of the parties in a marriage is of the Latin Church and the other is of the Syro-Malabar Church, can either of the Parish Priests (of St. Thomas or of St. Peter) validly assist at their wedding?

d) If a member of the Syro-Malabar Church marries at St. Peter's Church, where should the marriage be registered: at St. Thomas Parish or at St. Peter's Parish?

The essential function of ecclesial law is to promote and values that are intrinsic to the mission of the Church. This function is at the very heart of each canon of the two Codes and is directed toward the achievement of the ultimate goal of the Church, that is, the salvation of souls (cf. CIC c. 1752, CCEO. c.1400). It is this fundamental principle that underlies the canons, which regulate all activities of the Church, including the celebration of sacraments, but in a very special way the sacrament of marriage.

The canons governing the celebration of marriage in the Church affirm the rights of the faithful to receive the sacrament validly and fruitfully and the corresponding obligations of the pastors of the Church to offer this font of grace to their subjects according to the norm of law. In regard to the first we read in CIC. 213: "The Christian faithful have the right to receive from the sacred pastors out of the spiritual good of the Church, especially the word of God and the sacraments" (cf. CCEO c. 912). As to the corresponding obligations of the "sacred pastors," we find them stated throughout the two Codes. For example, in c. 387 on bishop's functions we read: "[...] Since he is the principal dispenser of the mysteries of God, he is to endeavour constantly that the Christian faithful entrusted to their care grow in grace through the celebration of the sacraments and that they understand and live the paschal mystery" (cf. CCEO c. 197). A similar obligation on the part of a parish priest toward his faithful is explicitly recognized in c. 530 with respect to each sacrament: "The following functions are especially entrusted to a pastor: [...]; 4<sup>o</sup> the assistance at marriages and the nuptial blessing" (cf. CCEO c. 290, §2).

In order to secure the realization of these rights and obligations, the legislator determines the relationship between the "sacred pastors" and their faithful on the basis of "residential condition or status" of the Christian faithful, that is to say, by their domicile or quasi-domicile.

That is why the legislator says, "...through both domicile and quasi-domicile, each person acquires his or her pastor and ordinary." And "the proper pastor or ordinary of a transient is the pastor or local ordinary where the transient is actually residing," while "the pastor of the one who has only a diocesan domicile or quasi-domicile, is the pastor of the place where the person is actually residing" (CIC. c.107, §§1 – 3; CCEO c. 916, §§1-3). With these basic legal provisions, the Church's law lays down concrete norms that would govern certain aspects of the celebration of marriage, some of them being required even for its validity.

Thus, c. 1108, §1 stipulates: “Only those marriages are *valid* which are contracted before the *local ordinary, pastor (parochus)*, or a priest or deacon delegated by either of them, who assists, and before two witnesses according to the rules expressed in the following canons and without prejudice to the exceptions mentioned in cc. 144, 1112, §1, 1116 and 1127, §§1-2”. This canon essentially links the *validity* of the celebration of a marriage to the assistance by the local ordinary or the parish priest, and these can delegate their faculty to do so in accord with the norm of law (cf. CIC. c. 1111; CCEO c. 830).

Moreover, CIC. 1109 limits the faculty of the local ordinary or of the parish priest to *validly* assist at a marriage to their respective territory. Thus, this canon states: “Unless the local ordinary and pastor have been excommunicated, interdicted [...] by virtue of their office and *within the confines of their territory*, they assist *validly* at the marriages not only of their subjects but also of those who are not their subjects provided that one of them is of the Latin rite”. Several Principles are implied in this canon. First, the local ordinary and the parish priest can *validly* assist at marriages only *within* the confines of their territory. This would mean that should a local ordinary or a parish priest attempt to celebrate a marriage, even of their own subjects, *outside* their respective territorial boundary, without proper delegation of the local ordinary or of the local parish priest of the place where the marriage is celebrated, their assistance at the marriage would be *invalid*, and consequently, the marriage itself would be invalid.

Second, unless they are entrusted to their pastoral care, the local ordinary or the parish priest of the Latin rite *cannot* validly assist at the marriage of two persons who are members of an Eastern Catholic Church *sui iuris*, not because they are not his *subjects*, but because neither of them is a member of the Latin Church *sui iuris*, a juridic condition which impedes them from being married by a Latin rite local ordinary or parish priest without proper delegation from their proper hierarch or proper parish priest. Third, the local ordinary and the parish priest can *validly* assist at the marriage of two persons who are *not* his subjects within their respective territory provided that at least one of them is a member of the *Latin Church*, for the *liceity* of their assistance, however, they must obtain the permission of the proper ordinary or proper pastor of the person(s) being married (cf. CIC. c.1115; CCEO c. 831, §1,2°). Fourth, the local ordinary or the parish priest can *validly* and *licitly* assist, within their respective territory, at the marriage of *one their own subjects* and the other a member of another Catholic Church *sui iuris*, or a member of an Orthodox Church, or a Protestant or even a non-baptized person.

Fifth, the local ordinary or the parish priest *licitly* assists at a marriage (within his respective territory) “also in a place exclusively of another Church *sui iuris*, unless the hierarch who exercises power in that place expressly refuses” (emphasis added; cf. CCEO c. 831, §1,3°). A hypothetical case scenario could be described as follows: the territorial boundaries of a Latin parish and those of an Eastern Church *sui iuris* parish overlap (coextensive). That means both parish priests would have the faculty to assist at the marriages of their subjects anywhere within the confines of their jurisdiction, which would include even the parish church (church structure) of their respective parishes. But the proper parish priest of the particular parish church would have exclusive jurisdiction in his church. What happens if the pastor of the Eastern Church *sui iuris* celebrates the wedding of his own subjects in the church (structure) belonging to the Latin parish without the permission of the Latin parish priest? The celebration of the wedding is certainly being performed within the territory of the Eastern rite parish, therefore, it must be considered as valid. Would it be licit? According to CCEO c. 831, §1,3° (which does not have a parallel prescript in the Latin Code), the celebration would also be licit, “unless the hierarch who exercises power in that place expressly refuses.” This prescript merely emphasizes the pastoral approach the Church has taken in protecting the validity of its sacraments.

In order to establish certainty of the celebration of the sacrament of matrimony, the Church shows great solicitude by insisting on its entry into proper Church records. We read the mind of the Church on this matter in CIC c. 1121, which provides for different situations in which a marriage might be celebrated (in ordinary circumstances, in an extraordinary situation such as danger of death, in case of a marriage celebrated with a dispensation from canonical form, etc.). The first paragraph of this canon reads: “After a marriage has been celebrated, the pastor of the place of the celebration or the person who takes his place, even if neither assisted at the marriage, is to note as soon as possible in the marriage register the names of the spouses, the person who assisted, and the witnesses, and the place and date of the celebration of the marriage according to the method prescribed by the conference of bishops or the diocesan bishop” (cf. CCEO c. 841). This canon clearly states that the registration of the marriage celebrated in a parish is the responsibility of the parish priest or of the one who takes his place. Thus, for example, a marriage between two members of an Eastern Church *sui iuris* celebrated in a Latin church; similarly a I marriage between a Latin Catholic and an Eastern rite Catholic or a Protestant celebrated in a Latin church, must be recorded in the register of the Latin parish by the parish priest of that parish or one who takes his place at the time. The basic principle is that a marriage must be recorded in the register of the parish where the marriage was celebrated. That is why the law places the onus of doing so directly on the *parish pest* of the parish of celebration.

With these *praenotanda* in mind, we can now answer the above questions. First, the couple involved in this marriage are members of the territorial parish of St. Thomas belonging to the Syro-Malabar Church *sui iuris*. Both parties are members of this Church. Hence they have their own parish priest and by that very fact they are his subjects. He has the obligation to care for their spiritual and pastoral well-being. Although the parish priest of the Latin parish of St. Peter has jurisdiction within his entire parish and, therefore, can *validly* assist at the marriages of his *own* subjects anywhere within the confines of his parish, as well as of non-subjects, at least one of whom must belong to the Latin Church, he cannot *validly* assist at this particular marriage because neither of them belongs to the Latin Church as required by law. In other words, the Latin parish priest can *validly* assist at the marriages of those who are not his subjects, as long as at least one of them is a Latin Catholic, and this requirement is prescribed by law for the *validity* of the marriage. In the case as presented, however, both parties are members of an Eastern Church *sui iuris*. Therefore, the marriage would be *invalid* if celebrated by the Latin rite parish priest without obtaining proper delegation to do so. The Latin parish priest can obtain this delegation either from the local Syro-Malabar hierarchy or from the local Syro-Malabar parish priest for *validly* assisting at the marriage.

Second, in the second scenario, one of the parties is a member of the Latin Church and the other belongs to the Syro-Malabar Church. As stated above, either of the local parish priests can *validly* assist at or celebrate the marriage. For the *liceity* of the celebration, however, the priest who assists at such a wedding should obtain the permission of the other parish priest or of the proper local ordinary prior to celebrating the marriage. This, I believe, is usually done during the pre-nuptial investigation when necessary information about the parties is sought from the other parish priest in order to determine their free status.

Third, if one of the parties in a marriage is of the Latin Church and the other is of the Syro-Malabar Church, and the marriage is celebrated in the Latin parish church, then it is the responsibility of the *parish priest* of that church, even if he had not assisted at its celebration, to register the marriage in his own parish register in accord with the methodology prescribed by the diocesan norms. This principle is to be applied also when the marriage is celebrated in the Syro-Malabar church. It is the parish priest of that Church who must record in his parish register the marriages celebrated in his parish. The same parish priest is also obliged to send relevant information on the marriage to the parish of baptism of the parties.

## **8. New Directives given by the Holy Father regarding CIC and CCEO**

### **Art. 6.**

**C.1108 §3 (New)** – Only a priest validly assists at marriages between the Eastern parties or one of whom is an Eastern party – Catholic or Non-catholic.

### **Art. 7.**

**C.1109 (New)** – Unless the Local ordinary and pastor have excommunicated, interdicted or suspended from office or it is declared through a sentence or a decree, they can validly assist at the marriage of those under their territory, provided at least one of the parties ascribes to the Latin Church, even if they are not their subjects.

### **Art. 8.**

#### **C.1111 (New)**

**§1.** As long as they hold office, the Local ordinary or the Pastor can delegate to priests or to deacons, the faculty, even general faculty, of assisting at marriages within the limits of one's territory as given in C.1108 §3.

### **Art. 9.**

**C.1112 §1 (New)** – Where there are lack of priests, the diocesan Bishop can delegate even lay people to assist at marriages, if decided by the Conference of Bishops and obtained due permission from the Holy See as per Canon 1108 §3.

### **Art. 10.**

**C.1116 §3 (New)** – In judging the cases mentioned in §1, nn.1 & 2, the local ordinary can give faculty to any priest to assist at the marriage of non-Catholics not in full communion, provided they voluntarily ask and provided there are no impediments to do so. The priest needs to inform the authorities of the non-Catholic party about the marriage in due time.

### **Art. 11.**

**C.1127 (New)** The prescripts of Canon 1108 are to be observed for the form to be used in mixed marriages. A catholic and a Non-catholic Easterner to marry, the canonical form is needed only for liceity; for validity, the presence of a priest is required along with the other requirements (witness & canonical form etc).

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## **9. Conclusion**

St. Pope John Paul II evoked the image to again breath fully with two lungs, one Eastern and one Western. Both the codes have brought about mutual understanding and recognition among different churches *sui iuris* which paved way for several aspects for the peaceful coexistence in many areas particularly in marriage practices. The church is missionary by its very nature and it is always progressive. Similarly, the reception of the ecclesiastical laws is not static but ever evolving and striving to attain its purpose.

**Rev. Fr. Peter Thumma**



