The Pamphilian Jurisprudence’s Influence on Eastern Ecclesial Self-Governance

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In this article we review in some detail Sean Doyle’s book, *The Apostolic See and the Eastern Catholic Churches: from the Tridentine Era to the Present*, fruit of his doctoral dissertation at the Catholic University of America.¹ In his estimable work Dr. Doyle examines the complex and sometimes vexed question of the relationship between the primatial authority of the Apostolic See of Rome and the Eastern Churches, which had enjoyed from apostolic times a certain autonomy in their self-governance. This volume dedicates itself especially, although by no means exclusively, to the detailed study of one particular thread of this relationship – the influence of the so-called Pamphilian jurisprudence within the decision-making of the popes and the Apostolic See in different epochs, beginning with the

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post-Tridentine era. The Pamphilian jurisprudence, a decision of a particular congregation of the Sacred Congregation for the Propagation of the Faith on June 4, 1631, directly regards the question of the binding authority of certain acts of the pope and the Apostolic See on the Christian faithful of the Eastern Churches. The book treats this and other questions related to Eastern autonomy in five major chapters, essentially chronological: 1) early modern recognition of Eastern autonomy, including the Pamphilian decision, 2) the thought and decisions of Benedict XIV generally favorable to a certain Eastern autonomy, 3) reductions of Eastern autonomy (real and attempted) under Pius IX and during Vatican I, 4) later affirmations of the Pamphilian jurisprudence from Leo XIII to the CIC of 1917, and 5) the significant related pronouncements of Vatican II and their application in the Codex Canonum Ecclesiarum Orientalium. While the author clearly delimits the period of time with which his study deals, “from the Tridentine era to the present,” the questions upon which the work touches regard the whole scope of Christian history and imply profound historical and ecclesiological questions, in addition to canonical ones. The complex nature of the question and the sheer breadth of time the work proposes to examine make it ambitious. It is within this framework that the volume makes its contribution to canonical science and Church history, while also revealing the deeper underlying questions which persist.

1. The Beginnings of the Modern Recognition of the Autonomy of Eastern Communities

The book begins with a very brief review of the history of the relationship between the various Eastern Churches and the Latin Church, placing the Pamphilian jurisprudence within this essential context. After his own summary of the preceding 1,500 years and some 16th and 17th century jurisprudence that regards the question, Doyle presents the Pamphilian decision. The Dubium to which the congregation gathered to respond was, “Whether the Supreme Pontiff
intends to encompass Greeks and others subject to the schismatic patriarchs of the East in the bull *In Coena Domini* and other apostolic constitutions, in which he reserves cases to himself and the Apostolic See” (p. 51). The author then presents the documents upon which the members of the Pamphilian congregation based their decision. These include documents from the first millennium like c. 6 of Nicea I, c. 2 of Constantinople I, c. 28 of Chalcedon, and c. 17 of Constantinople IV, as well as documents from the post-schism Church like the decree *Licet Graecos* of Lateran IV in 1215. The response given by the congregation – that these Eastern faithful “were not subject to censures established in apostolic constitutions that reserved cases to the pope and Apostolic See, insofar as the Roman pontiff did not intend them to be so subject” (p. 94-95) – also expressed three exceptions to this general rule that would become extremely influential in later centuries. These are 1) matters of the dogmas of faith, 2) if the pope explicitly mentions them, and 3) if the pope implicitly makes a determination about these faithful. While the Pamphilian decision itself regarded only the matters of discipline mentioned, the commentator Angelo Maria Verricelli would in his 1656 work *Quaestiones morales (Tractatus de missionibus apostolicis)* offer a much more expansive reading of this decision, excising it from its original context. His determination that “the subjects of the four patriarchal Churches of the East are not bound by new pontifical constitutions, except in three cases” (p. 111) would, according to Doyle, “become the basis for future considerations of the problem” (p. 101) – the “Pamphilian jurisprudence” as the author identifies and traces it through the Church’s history.

While the section that treats pre-Tridentine sources is of necessity brief given the later developments studied, there is the sense that some of the answers to the ecclesiological questions that the author points out at the conclusion of his book lay precisely in these early centuries. He says, “for much of this development [of Eastern autonomy], practical considerations pushed this development, not ecclesiological
considerations… Only with *Orientalium Ecclesiarum* do ecclesiological considerations begin directly impacting the formulation of law” (p. 541). This conclusion surely points toward the need for deeper investigation of the ecclesiology of the first millennium, both in theory and praxis. In the course of the development of the ancient Church’s approach to the question of the interrelationship of the various important sees, including the relationship of the Roman See to the rest, strains of ecclesiological, political, and even geographical factors influenced a complex process that cannot be reduced to a discreet number of papal decisions or other important, even conciliar, documents. Indeed, while studying the Pamphilian jurisprudence on its own terms is part of understanding its importance in later canonical developments, nonetheless this post-Tridentine approach to the historical dimension of the question carries its own biases and preconceptions, as for example in the ample importance given to the decree *Licet* of a highly centralized and predominantly Latin Church at Lateran IV, where the East had no significant voice. The questions which remain for the author at the end of the work point back to some of the very presuppositions of the Pamphilian jurisprudence, which can carry its limits as well as its values into the future.

2. **The Juridic Autonomy of Eastern Communities According to Benedict XIV**

   In chapter two we begin to be exposed to one of the primary values of this work, namely its tracing of sources in which the Pamphilian jurisprudence was discussed or implemented. This value, in my view, is found not primarily in the official pronouncements that relate to such jurisprudence (like papal documents or conciliar decisions), which of course form the essential historical frame this book traces, but more particularly in the background documents like personal scholarship and records of committee debates that reflect the attitudes, perceptions, and education of various ecclesial leaders and scholars regarding the question of Eastern ecclesial autonomy over a long period of time.
This strength is further enhanced by the book’s extensive notes, with many citations offered in footnote in their original languages.

This second chapter examines Prospero Lorenzo Lambertini, later Pope Benedict XIV’s, treatment of the question of Eastern ecclesial autonomy in both his personal scholarship and his papal governance. His thought is traced through his works *De Servorum Dei Beatificatione e Beatorum Canonizazione*, composed before he became pope; the apostolic constitution *Allatae sunt*; and his personal work on the Eastern rites, *De Ritibus*, written while pope. In a confirmation of the pope’s attention to the Eastern Christian world, Doyle notes that Benedict XIV “issued at least 193 papal documents concerning the East” (p. 125), regarding matters large and small. Most significantly, Lambertini knew the Pamphilian jurisprudence as interpreted by Verricelli and used it. In *De Servorum* he delineated a distinction between the declaration of someone’s status as a saint and the veneration offered him or her with particular offices or Masses. While some people considered the former aspect a matter of faith, and at the very least it involved the pope’s supreme authority, the latter was a matter of liturgical discipline tied to a rite. Thus, Easterners as well as Westerners were bound to accept the declaration of sainthood, while Eastern faithful did not have to honor the person with particular offices or feasts. Significantly, Lambertini reveals a conception of papal authority that, although not yet solemnly defined, would continue to play an important role in this development. In the course of the discussion on saints, he writes, “the Roman Pontiff is head of each Church – Eastern and Western – and each Church is subject to him” (p. 127). The pope was seen as head of each Church, of which there were two; thus, he was supreme legislator also for the internal affairs of the “Eastern Church”, even if he promised to respect its various rites. Additionally, in *De Ritibus* the pope offers an interpretation of the uncertain “implicit” references to Easterners in the Pamphilian decision: these are found in general constitutions when
“there is found a common concern for Easterners and Latins” (p. 142). Naturally, this interpretation did not really clarify the uncertainties.

Doyle also takes up a commentary on what he calls the “structure of the Eastern Church” as it is contained, explicitly and otherwise, in the writings of Lambertini/Benedict XIV. This analysis is useful not only because it illustrates more explicitly the thinking around the status of the Eastern Churches at this time in history, but also because Doyle later argues that these conceptions’ effects (not all salutary) are found in a lasting way in the law and praxis of the Church today. In this regard, one of the dimensions I found wanting is the sudden way these particular concepts reappear in the fifth chapter after being treated here in the second, without a patient tracing of their genealogy from Pope Benedict XIV to the contemporary time. Nonetheless, the analysis Doyle presents is fruitful to consider.

Three key terms emerge: the “Eastern Church”, “rites”, and “nationes”. While understanding himself to be the head of the whole Church and each Church, Pope Benedict XIV did acknowledge the existence of two bodies of law in the Church, Eastern and Western. Thus, Eastern autonomy was able to be seen, even if in a partially eclipsed way, not merely as “negative autonomy” (that is, Western laws not applying to Easterners, except in certain cases, as in the Pamphilian decision), but also as “positive autonomy” (being a subject with its own laws). I say partially eclipsed because Benedict XIV saw himself as the only legislator capable of acting for either the Western or Eastern Church. Thus, the pope is seen as the only legislative authority for the Eastern Church, understood as a single entity. If this view is understandable given the context of the times, it yet seems to ignore or misinterpret the question of the origin of the very laws considered to be the Eastern patrimony. Positively, Benedict XIV does use the word “rite” to speak of a personal ascription that follows the individual wherever he or she may be; yet, this ascription is to a liturgical tradition, not to an ecclesial community per se. A consequence of this view is seen in the concept of “nationes”, a term used to denote
Eastern communities united with their pastors and understood in strictly geographical terms. The “nationes”, even if patriarchal Churches, had no more juridical space for self-governance than a Latin metropolitan province. In fact, the combination of these concepts led to the situation that “[a]ny member of the Eastern faithful moving from the territorial bounds of their community or natio of origin would no longer be subject to the laws of that community or natio” even as they retained their rite (p. 168). Thus, even if Benedict XIV was attentive to a certain autonomy for Eastern Churches, nonetheless problematic elements persisted, including notions of tradition that isolated liturgical practices and ambiguities about the ecclesial nature of Eastern communities.

3. Attempted Constructions of Eastern Autonomy under Pius IX

Chapter three confronts the heritage of these ambiguities and a different response to them during the next pontificate to give a considerable amount of attention to the Eastern Churches, that of Bl. Pius IX. The chapter examines documents and decisions of this pope, as well as the attitudes at the First Vatican Council to questions regarding the Eastern Churches. Although Pius IX published the well-known letter *In suprema*, which elicited a strong negative response from Orthodox bishops, he also established the “Sacred Congregation for the Propagation of the Faith for Matters of the Eastern Rite” within Propaganda Fide in 1862, giving curial structure to the special status of Eastern questions for the first time. This decision set the foundation for future developments regarding the relations of the Eastern Churches to the Roman Apostolic See. Doyle also investigates both the reasoning behind and the negative responses to two of the pope’s other decisions: the 1867 document *Reversurus* that determined a new mode of electing bishops and patriarchs for Armenian Catholics and his 1869 apostolic constitution *Cum ecclesiastica disciplina* that made similar provisions for the Chaldeans. Although the dogma of papal primacy was defined in 1870, the practical mode of its implementation especially with regard
to the Eastern communities and their patriarchs was unclear. According to the author the “underdeveloped understanding of these communities as true ecclesial entities rather than simply groups of people following the same liturgical rite” left the door open to a sense of conflict on all sides when confronted with Papal action of this nature (p. 272).

The most valuable contribution of this chapter is its treatment of the sources related to the First Vatican Council that dealt with Eastern topics. One notes immediately the paucity of Eastern participation in the preparatory commission regarding such matters (with only one Eastern member), a sign of the regnant attitude. This commission by and large promoted a uniformity in ecclesiastical law, including between the Latin West and the East, while grounding this position on the untidy state of canonical affairs in the East and the opinion that ecclesiastical discipline was uniform in the ancient Church. One member even argued that “Eastern law” itself was an improper term, since Eastern discipline was rather “the primitive universal law of the Church” (p. 189). The battle against “disciplinary dualism”, the commission’s great concern, led to a strong preference for the uniformity of ecclesiastical discipline, which in the given historical context essentially meant Latin law for the East, except for certain local exceptions. The reestablishment of the Latin Patriarchate of Jerusalem by Pius IX in 1847 merited greater treatment than the footnote it was given, considering its implications for Eastern autonomy, both theoretical and practical. This is especially so given the large role played by the papal appointee to this see, Joseph Valerga, whose “personality dominated” some of the discussions the author analyzes (p. 192). Nevertheless, this chapter notably enriches theological and historical understanding by providing citations from the various contributors both before and during the council, which open a window into the mind and formation of the men charged with thinking about Eastern ecclesial governance and law at this time. Indeed, the speeches of certain Eastern hierarchs at the Council – which also constitute a significant part of this chapter – reveal a divided opinion even among these hierarchs themselves.
4. The Affirmation of the Pamphilian Jurisprudence and the First attempt to Codify Eastern Law

The Fourth chapter of the book takes on the quite ample task of analyzing the understanding of Eastern autonomy from 1878 to 1958. While tracing key elements of Leo XIII’s reign, including the ecclesiological openings of *Satis cognitum* and *Orientalium dignitas*, Doyle also points to the use of the Pamphilian jurisprudence in various curial documents. Most significantly, a response by the Propaganda Fide to a 1882 *Dubium* is instructive. It concerns the application to Easterners of a provision in Leo’s apostolic constitution *In suprema*: the requirement of bishops and territorial abbots to apply a *Missa pro populo* on feast days. The reply states that such an obligation is *de iure divino* and therefore binds all bishops as such, yet the number of Masses to be offered and the application of the norm to pastors are left to local custom. Here Easterners are not expected to conform entirely to Western models, but to observe what is considered to be divine law. This reasoning is also reflected in the rephrasing of the Pamphilian jurisprudence made in this decision, which – Doyle does well to highlight – clarifies the clause regarding “implicit” mention of Easterners in the following way: “when the material itself shows inclusion [of the Easterners], in as much as it is not ecclesiastical law but a declaration of divine and natural law” (p. 285). This clarification would remain into the future.

In the pontificate of St. Pius X, the codification of the *CIC* required consideration of similar matters. The first canon of the *CIC*, which is the first pontifical approbation of Pamphilian jurisprudence in law promulgated for the whole Latin Church, states that its canons apply only to the Latin Church, “unless it determines things that, by the very nature of the matter, affect the Eastern Church as well” (p. 300-301). Alas, this open-ended phrasing led to significant contrasts in the interpretation of what regarded the “Eastern Church”. Doyle goes on to explain the establishment of the Sacred Congregation for the Eastern Church by Benedict XV, consecrated in the *CIC*.
c. 257. This canon states that the pope himself (here implicitly head of all Churches) presides the Congregation, which “pro Ecclesiis ritus orientalis... omnibus facultatibus potitur, quas aliae Congregationes pro Ecclesiis ritus latini obtinent, in columitamen iure Congregationis S. Officii.” This very ample authority, however, was gradually but consistently reduced by the concession of jurisdiction over various matters to other curial offices, like the causes of beatification and canonization, those cases involving the Sacred Penitentiary, and the erection and moderation of ecclesiastical universities and faculties. Again, the author’s virtue of drawing out the theological underpinnings of various decisions regarding the Eastern faithful stands out. If the creation of the Sacred Congregation for the Eastern Church was a step ahead in the awareness of these Churches’ unique status, “being subject to the pope and Apostolic See only in virtue of the former’s supreme authority and not his authority over the Latin Church” (p. 329), the “practical” restrictions of the Congregation’s authority in the following years showed that this awareness was not deeply implanted in the Curia. Eastern faithful were eventually treated as “simply one group among many over which the Roman Curia exercised its authority” (p. 329). Doyle also does well to note that Pius XI’s 1938 motu proprio Sancta Dei Ecclesia, which gave the Eastern Congregation authority over Latin faithful on a territorial basis, changed the ecclesiological logic of the Congregation itself. Given all the restrictions noted, one might not be unjust in wondering if the author is too generous in finding such a profound awareness of the Eastern Churches’ unique status vis-à-vis pontifical authority in the creation of the Eastern Congregation.

Doyle concludes the fourth chapter with an examination of the process undertaken to codify the Codex Iuris Canonici Orientalis. He treats some of the debates relative to the nature and number of codes to be produced and shows how many attitudes still reflected those present at the First Vatican Council. Some thought the CIC17 already contained a significant portion of Eastern law, and in fact it
would become the basis for many of the canons promulgated. Doyle notes how Pius XI considers “good” (“bella” in the original Italian) the idea of a single code for the whole Church “for reason of unity,” but decides for a separate, single Eastern codification prudentially – so as not to elicit negative responses to a perceived Latin imposition – rather than out of convictions about the Eastern Churches’ status (p. 351-353). This Eastern Code’s piecemeal and incomplete promulgation in four letters *motu proprio* forms a meaningful code to the era under consideration, and constitutes a prelude to the significant principles articulated at the Second Vatican Council and applied thereafter. Doyle continues to point out weaknesses in the understanding of the Eastern communities’ ecclesiological status present in these canons, as for example in the ill-paired phrase “rites… *sui iuris*” (*Postquam Apostolicis Litteris* c. 303 §1, 1°) – rites being a “complex of liturgical norms” that cannot be self-governing, and *sui iuris* implying rather a “physical or moral/juridic person” that could self-govern (p. 358). The same ambiguity is present in the treatment of “ritual ascription” in *Cleri sanctitati* c. 6, whose second paragraph recognizes a liturgical rite’s right to a person’s ascription even before they are baptized. Yet, it must be asked, does a *rite have rights* to someone’s ascription or does a *community*? These letters *motu proprio* also restricted the understanding and effective use of a patriarchal synod’s legislative authority and required Eastern legislation to be in accord with these pontifical norms, abrogating relevant particular law in many areas (“marriage, procedure, religious, temporal goods, rites, persons”) with their promulgation (p. 369). Furthermore, even as “rites” were treated with fuller canonical status, the communities themselves were still conceived in a geographical way, such that the patriarch had ordinary authority only in the territory of his patriarchate (*CS* c. 240 §1). Doyle traces analogous ambiguities and difficulties in the period leading to the Second Vatican Council.
5. From the Second Vatican Council to the *Codex Canonum Ecclesiarum Orientalium*

The fifth and final chapter of this book treats the Second Vatican Council and the promulgation of the *CCEO*, the authoritative sources that govern the Eastern Catholic Churches’ autonomy today. While Doyle traces the ambiguities that would persist in the preparatory phase and even the debates of the council itself, including in the examination of the drafts of *De Ecclesiae Unitate “Ut Omnes Unum Sint”* and *De Ecclesiis Orientalibus*, he notes the positive outcome of the recognition of the equal dignity of all Churches within the Catholic communion of Churches and the declaration of the “right and duty of self-governance” for these Churches (p. 438-439). As in previous chapters the content of committee work, with its comments and corrections, including the various outlooks of Eastern hierarchs, provides an excellent source of material for reflection. The decree *Orientalium Ecclesiarum*. 5 contains the “turning point” present in the council for Eastern Churches. It “solemnly declares that the Churches of the East and of the West enjoy the right and are bound by the duty to rule themselves according to their own particular disciplines” (p. 442). Doyle then passes to a consideration of the Eastern codification project undertaken on the basis of the conciliar decisions. The long-standing debate on the number of codes to produce was resolved in favor of one Eastern Code, whose legislator would be the Roman Pontiff, even as the sources of the code would be Eastern. Its canons would not be prejudicial to single Churches’ autonomy, but rather appeal to particular law. After debate, a slightly adapted version of the Pamphilian jurisprudence, including its transformations traced in this book, finds a home in the *CCEO* in c. 1492.

Doyle ends his research with an examination of Eastern Catholic Churches’ autonomy as governed by the *CCEO*. He explains the ways the various kinds of Churches *sui iuris* exercise their self-governance.
While Doyle affirms the *CCEO*’s broad consonance with Vatican II’s determinations, he also critiques the *CCEO*’s limitation of synods’ authority to their canonical territory, apart from matters liturgical. In this limitation Doyle detects the remnant effects of the concepts of “rite” (personal) and “natio” (geographical) as used by Benedict XIV exercising their influence against the full-throated affirmation of Eastern Churches’ right to govern themselves in *OE 5*. “The general territorial limitation on the binding force of synodal laws in the modern Eastern code results from the ‘Church sui iuris’ inheriting this concept of ‘natio’” (p. 521). According to Doyle such a limit contradicts an Eastern Church’s right and duty to govern all of itself, and not only a geographically limited part of itself, affirmed in *OE 5*.

While Doyle’s critique certainly points to a tension present in the *CCEO*, one also notes a few shortcomings in his considerations here. Although there is a consonance between the older terms and contemporary legislation in the use of the personal and territorial dimensions of Church law, Doyle does not trace this connection directly, only noting the similarity and implying a genealogical relation. Given the important place this critique holds in his conclusions about the status of Eastern Catholic Churches’ autonomy today, it merited a more careful tracing in the intervening chapters, as already noted above (an investigation that could still be done in another work). Furthermore, his critique must account for the ecclesiological question of the link between episcopal authority and territoriality, also present in the Church’s life in other ways (e.g., titular bishops and overlapping jurisdictions). Thus, while the issue raised deserves deeper consideration and even resolution – paraphrasing Doyle, that to limit the legislative authority of the organs of governance of Eastern Catholic Churches *sui iuris* juridically divides a community that is affirmed as a single ecclesiological entity – its denouement requires vast historical and theological discussions. Certainly, Doyle has contributed to this exchange; but the needed work goes well beyond simply fully applying the affirmation of Eastern self-governance as found in Vatican II.
Lastly, Doyle’s brief conclusion summarizes the essential moments of development he has traced and the questions his research has raised. He also offers an appendix that contains a transcribed version of the meeting minutes of the original Pamphilian decision from June 4, 1631, and an extensive bibliography. This transcription is useful as a documentary resource brought to more permanent light from the Propaganda Fide archives, the record of that event whose storied history of interpretation Doyle has so extensively investigated.

6. A Few Constructive Criticisms and a Conclusion

Although I think there is much to recommend this book, there are a few general elements for improvement that bear mentioning in addition to what is said above. Unfortunately, not all the translations are rendered with natural English phraseology; the author could have made some comment about translation strategy if he intended to be painstakingly literal. Perhaps as a result of composing such a lengthy work, the author’s English style, although good, is not always smooth. Most importantly, Doyle spends much space summarizing the content of sources immediately after citing them. While this can be necessary for more complex citations or to recall a previous text, it is not always helpful; the length of the work could be better managed through this important stylistic change. Finally, one of the work’s strengths – the abundant documentation it contains – leads to a wish: the presence of an index (by topic, at least) so that interested scholars could more easily access the relevant parts of such extensive research.

Doyle worthily refers in his book’s conclusion to St. John Paul II’s commitment in the encyclical *Ut unum sint* to dialogue on “the request made of [him] to find a way of exercising the primacy which, while in no way renouncing what is essential to its mission, is nonetheless open to a new situation” (*UUS* 95-96). This book, without doubt, is a serious academic contribution to this essential dialogue. It is useful to canon lawyers in its patient tracing over many centuries of the establishment, development, and contemporary consecration of the
“Pamphilian jurisprudence”; and through this research it provides many avenues for further canonical reflection about past, present, and future praxis regarding Eastern ecclesial autonomy. The book is of no less interest to Church historians and to theologians, especially those concerned with ecumenical and ecclesiological matters, by virtue of the plethora of historical sources that it assembles in one place. A highlight are those sources beyond the official decisions themselves, especially personal writings and committee notes, which reveal the thought of various figures over long periods of time on the nature of the Eastern Churches and their governance. This book may also serve as a way of introducing theologians to the canonical decisions that have been made in the Catholic Church’s history with respect to Eastern autonomy since Trent, as the consequence of both practical needs and ecclesiological convictions. Having benefitted much from reading this book myself, I am happy to recommend it to all those seriously interested in canonical, ecumenical, and ecclesiological issues related to the Christian East.