



# Synod of Diamper as a Juridical Source of the Syro-Malabar Church

Varghese Palathingal\*

## Introduction

The Code of Canons of the Eastern Churches has referred to a rite not solely as liturgical forms of worship but a patrimony or heritage comprising the factors of liturgy, theology, spirituality and canonical order or discipline,<sup>1</sup> culture and circumstances of history of a distinct people. This is how an autonomous Church expresses its own manner of living the faith handed over through centuries (CCEO c. 28 #1). It is part of history that Latin rite was considered pre-eminent among the rites of the Church. However, Leo XIII in his apostolic letter *Orientalium Dignitas* held the view that all the rites in the Church

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\* Rev Dr. Varghese Palathingal is faculty at Institute of Eastern Canon Law, *Paurastya Vidyapitham*, Kottayam.

<sup>1</sup> *Communications*, 52/1 (2020) 162. Already in the first centuries ecclesiastical norms were distinguished from laws. Today, it is opportune not to speak about laws of the Church (*de legibus Ecclesiae et de iure canonico*) but about norms/rules of the Church and canonical order (*de regulis Ecclesiae et de ordine canonico*).

should be considered with great esteem<sup>2</sup>. It was re-affirmed by the Second Vatican Council in its Constitution on Sacred Liturgy that all liturgical rites in the Catholic Church enjoy equal dignity: “Finally, faithfully in accordance with the tradition, this holy council declares that the church regards all duly recognised rites as having equal legal force and as to be held in equal honour; it wishes to preserve them for the future and encourage them in every way” (SC 4)<sup>3</sup>. In the historical vicissitudes of the Saint Thomas Christians, not only that this community did not enjoy the equal dignity but it became deprived of its eastern character, namely, Chaldean liturgical character, and ancient customs were miserably spoiled. The Synod of Diamper played a pivotal role in the systematic latinisation of the Thomas Christian community. Here is an attempt to investigate how the legislations of the Synod of Diamper had its impact on the identity of the Saint Thomas Christians.

## 1. Ecclesiological Vision and the Synod of Diamper

Thirty years have elapsed since the common Code for the Eastern Churches came into force on 01 October 1991. In the Apostolic Constitution *Sacri Canones* with which the Code of Canons of the Eastern Churches (CCEO) was promulgated on 18 October 1990, Saint Holy Father Pope John Paul II underlined the need of having two codes in the Church. The prophetic words of the Supreme Pontiff are inspired by the conciliar teaching of communion ecclesiology reflecting the Catholic Church as *unum et plura*: “In God’s Providence the Church itself, gathered in one Spirit breathes as though with two lungs – of the East and of the West – and that it burns with the love of Christ in one heart having two ventricles”<sup>4</sup>.

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<sup>2</sup> Leo XIII, *Orientalium Dignitas*, 30 November 1894.

<sup>3</sup> *Sacrosanctum Concilium*, no. 4, in Norman P. Tanner, *Decrees of the Ecumenical Councils*, vol. II, (London & Washington, 1990) 820 - 821.

<sup>4</sup> AAS 82 (1990) 1037. In the Catholic Communion there are twenty two Churches *sui iuris* in the East and the Latin Church *sui iuris* in the West.

The vision of the Church and concept of communion in the Synod of Diamper was quite different. The prohibitive legislations against the customary practices of the Saint Thomas Christians especially the traditional participatory communion system of government ended up with revolts and confrontations with the Portuguese religious authorities. The antiquity, autonomy and individuality of the community of Saint Thomas Christians were shattered by the introduction of the monarchical pattern of the imperial system of the Western missionaries. Archbishop Dom Alexis Menezes who convoked the Synod of Diamper held a narrow concept of Church in the following regulation:

“Furthermore, that Catholic Church is one and the same all over the world, having for its pastor the chief Bishop of Rome successor in the chair of the blessed prince of the Apostles, Saint Peter, to whom and by him to his successors, our Lord Jesus Christ delivered the full power of ruling and governing his whole Church; for whence it is, that Roman Church is the head of the whole Church, and the father, master and doctor of all Christians; and the prelate of all in common, and of all priests, bishops, archbishops, primates and patriarchs, of whatsoever church they are; as also the pastor of all emperors, kings, princes and lords: in a word, of all that are Christians, and of all the faithful people. Hence it is, that all that are not under the obedience of the said Roman Bishop, the Vicar of Christ upon earth, are out of a

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Besides, there are Ordinariates erected for the Eastern faithful who are not united by a hierarchy of a proper Church *sui iuris*: Argentina (Buenos Aires); Austria (Wien); Brazil (Rio de Janeiro); France (Paris); Poland (Warszawa); Spain (Madrid), cf. Ritinella Chiesa, *Annuario Pontificio* (Vatican City, 2019) 1126 – 1129; 1770 – 1772. The importance of the Eastern Code in the modern history of the Universal church is well presented in the erudite study: Ivan Zuzek, “Incidenza del *Codex Canonum Ecclesiarum Orientalium* nella storia moderna della Chiesa universale” *Pontificium Consilium de Legum textibus Interpretandis, Ius in Vita et in Missione Ecclesiae*, (Acts of the international Symposium of Canon Law to mark the tenth anniversary of the Promulgation of Code of Canon Law, 19 – 24 April 1993, Vatican), Vatican, 1994, pp. 677 – 735.

state of salvation, and shall be condemned to hell as heretics and the schismatic for their disobedience to the commands of our Lord Jesus Christ, and the order that he left in the Church”<sup>5</sup>.

## 2. Nature of the Synod of Diamper

The Synod of Diamper (June 20 – 26, 1599) is supposed to be invalid for four reasons: lack of authority of one who convoked; absence of intention in one who conducted; lack of form in the manner of conducting; lack of integrity in the text promulgated. The Synod is considered to be of a mixed nature, that is, diocesan synod as well as a Malabar Yogam. The Archbishop Menezes convoked the Synod through Archdeacon George of Thomas Christians as *Mahayogam*. But it was conducted as a diocesan Synod of Latin Church following

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<sup>5</sup> Synod of Diamper, Session III, Decree I, Chapter XIII in James Hough, *History of Christianity in India*, Vol. II, (London 1845) 537. For the Acts of the Synod cf. Antonio Gouvea, *Jornada do Arcebispo de Ga Dom Frey Aleixo de Menezes*, Coimbra, 1606; J. F. Raulin, *Historiae ecclesiae Malabaricae cum Diamperitana synodo*, Romae 1745; M. Geddes, *The History of the Church of Malabar*, London, 1694; J. Hough, *History of Christianity in India*, London 1839/1845; Scaria Zacharia, *The Decrees of the Synod of Diamper*, Idamattam, 1994. For the studies on the Synod of Diamper, cf. Jonas Thaliyath, *The Synod of Diamper*, (OCA 152), Rome 1958, (Reprint edition, Bangalore, 1999); G. M. Antao, *De Synodi Diamperitanae natura atque decretis*, Goa, 1952; J. Wicki, “Die Synode von Diamper in Malabar (1599) und ihre Beurteilung (1600 – 1975)”, *Annuario Historiae Conciliorum* 9 (1977) 190 – 205; George Nedungatt, ed., *The Synod of Diamper Revisited*, (Kanonika 9), Rome, PIO, 2000; Sunny Kokkaravalayil, “Synod of Diamper”, in Francis Eluvathingal, ed., *Syro-Malabar Church since the Eastern Code*, (Mary Matha Publications, Trichur, 2003) 268 – 277; George Madathikandathil, “The Synod of Diamper: Its Impact on the Syro-Malabar Church”, in Andrews Mekattukunnel, ed., *Mar Thoma Margam: The Ecclesial Heritage of the St Thomas Christians*, (OIRSI, Kottayam, 2012) 794 – 799; Jacob Kollaparambil, *The Sources of the Syro-Malabar Law*, ed., Sunny Kokkaravalayil, (OIRSI, Kottayam, 2015) 367 – 426; Kuriakose Vettuvazhy, *The Synod of Diamper in the Ecclesial Life of Syro-Malabar Church in the Light of CCEO*, OIRSI, Kottayam, 2016.

the Rites of Councils by Cardinal Charles Borromeo. The authenticity of the acts is much confused. The decrees were formulated in Portuguese by Dom Menezes (dossier by Francis Rose). The Malayalam translation of the decrees were read out in the Synod and signed by the participants at the end of each session. The Malayalam version was significantly different from the original. Thirteen canons were lacking in Malayalam version.

The Decrees of the Synod had tremendous impact on the Liturgy, administrative systems sacraments and discipline of the Saint Thomas Christians. The decrees were implemented among the people by a forcible persuasion on the part of Archbishop Menezes. The rectors of the churches had to preserve in the archives a copy of Malayalam translation of the decrees. Officially it was signed by Archdeacon and the superior of the Vaipikotta seminary. The two authentic copies were signed by Archbishop Menezes to be kept at Vaipikotta and Angamaly. It was ordered that sections of the decrees had to be read out in Churches on Sundays and feast days to substitute sermons. The Archbishop personally attended to the execution of the decrees during the post-synodal visitation of the churches from July to November 1599. During the reign of Francis Ros (1599 - 1624) through his governance, especially by the synod of Angamaly, (1603) and promulgation of the Rosian Statutes (1606).

### **3. Synod of Diamper as Legitimate Source of CCEO**

The sources may be considered as constitutive, cognitive and cultural. The constitutive sources are known as formative sources which make up or give life to the juridical norm. Evidently, cognitive sources are informative sources by which a juridical norm is known. A given legislation by a competent ecclesiastical authority as synod of bishops or council of hierarchs is a constitutive source of canonical discipline. A report about the manner of living the faith or actual disciplinary practice of a specific community in a given period of time may be considered as a cognitive source. Still a third category is the cultural

sources which are sources of laws originated in a cultural milieu or ambient. They include monuments and muniments. Monuments include building, column and statue which keep alive the memory of a person or event. Muniments are documents kept as evidence of rights and privileges. Besides monuments and muniments certain other elements too constitute cultural source. For example, oral tradition, folklore, community living, community governance, church architecture, dress code, education of children and filial obligations toward parents are also sources of cultural value. The Synodal decrees of Diamper are a perfect blend of all the- afore mentioned constitutive, cognitive and cultural sources.

#### **4. Suitability of the Decrees as Source**

Among the sources of the CCEO are included the canons and decrees of the various Synods and councils of the Eastern Catholic Churches. These hierarchical structures were approved or recognised by the Apostolic See. These synods – a juridical corpus, together with the ancient canons, form the substratum of the particular law in each Church *sui iuris*. As regards the inclusion of the Synod of Diamper among those synods is justified for the following reason: “The many decrees of this synod were implemented and the synod has largely determined the discipline of the Thomas Christian Church even to the present day (e.g. clerical celibacy)”<sup>6</sup>. Besides, mere citation of a source may not necessarily be an indication that the canon in question is based on the source cited. Sometimes the canon departs from the source and may even be opposed to it. It would certainly point to a canonical development. This argument reflects also in the schema of the Decree on the Eastern Churches of the Second Vatican Council

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<sup>6</sup> Danilo Cecarelli Morolli, “Sources of the Canons of CCEO”, in George Nedungatt, (ed.), *A Guide to the Eastern Code: A Commentary to the Code of Canons of the Eastern Churches*, (Kanonika 10, PIO, Roma, 2002) 902. F. n. 28.

where citations from source texts are completely new or seemed to be contrary to the canonical discipline in force<sup>7</sup>.

The Apostolic Constitution with which John Paul II promulgated CCEO begins with the words, *Sacri Canones* is indeed the confirmation of the invaluable worth of the canons of the Eastern Churches of the first millennium. As regards the nature of the decrees of the Synod of Diamper a scholarly considered opinion goes as follows: “The decrees of the Synod of Diamper (1599), which constitute the foundation of the various subsequent diocesan statutes, were inspired neither by the *Sacri Canones*, nor by the other ancient Chaldean sources, nor did they safeguard – except very minimally – the genuine Malabar customs”<sup>8</sup>.

Eastern disciplinary identity must be based on genuine Eastern tradition. With this end in view the second guideline for the revision of CCEO aimed to ensure a Code faithful to this tradition: “The Oriental Code should draw its inspiration from, as well as express, the common discipline, such as it is contained: a) in the Apostolic tradition; b) in the Oriental canonical collections and c) in the customary norms common to the Oriental Churches and fallen into desuetude”<sup>9</sup>. The authentically common Eastern sources are the canons of the first two Ecumenical

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<sup>7</sup> *Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani secundi*, vol. III, pars V, (Polyglot, Vatican, 1975) 751.

<sup>8</sup> Ivan Zuzek, *Understanding the Eastern Code*, (Kanonika 8, Roma, PIO, 1997) 214; cf. also. Ivan Zuzek, “The Ancient Oriental Sources of Canon Law and the Modern Legislation for Oriental Catholics”, *Kanon I* (1973) 147 – 159; Sunny Kokkaravalayil, “Oriental Character of the Eastern Code”, in YoannisLahziGaid, (ed.), *The Eastern Code Text and Resources*, (Kanonika 13, PIO, Rome, 2007) 105 – 146; Hubert Kaufhold, “Sources of Canon Law in the Eastern Churches”, in Wilfried Hartmann and Kenneth Pennington, (eds.), *The History of Byzantine and Eastern Canon Law to 1500*, (The Catholic University of America Press, Washington, 2012) 215 – 342; Heinz Ohme, “Sources of the Greek Canon Law to the Quinisext Council, (691/2) – Councils and Church Fathers”, in *Ibid.*, 24 – 114.

<sup>9</sup> *Nuntia* 3 (1976) 19.

Councils and those of local synods which were held till the Council of Chalcedon. The Commission for the Revision of the CCEO was particular to remain faithful to the common disciplinary patrimony and genuine eastern traditions. Conformity and coherence to the ancient heritage of the Eastern churches was the constant concern of the Commission<sup>10</sup>.

## 5. Synod of Diamper and the Syro – Malabar Yogam

The Synod of Diamper is characterised as a mixture of Diocesan Synod in the Latin Church as well as Pallyogam of the Syro-Malabar Church. The new canonical norm of CCEO canon 295 was absent in the former eastern legislation. The Saint Thomas Christians had an ancient system of governance which was part of their heritage. The identity, autonomy and patrimony of the Saint Thomas Christians were well expressed in their age-old system of ecclesiastical constitution or system of administration. It was the laudable heritage of palliyogam – a tangible expression of the ecclesial communion of the Christian faithful in the Church. Centuries before the Second Vatican Council envisaged the ecclesiology of communion the yogam was prevalent among the Saint Thomas Christians. The heritage of leadership of Archdeacon

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<sup>10</sup> *Nuntia* 3 (1976) 20. The ancient canonical collections depict Church as a ship and the Sacred Canons as rudder, (*Pedalion*). The ship represents the following realities: The ship – Church of Christ; Keel – Orthodox faith in Holy Trinity; Beams and Planks – dogmas and tradition of faith; Mast – Cross; Sail and Rigging – hope and love; Master of the vessel – Lord Jesus Christ whose hand is on the helm; Helm – Christ’s hand at Helm to direct and control; Mates and Sailors – Apostles and successors and clergymen, secretaries and notaries, teachers; Passengers – All Orthodox Christians; Sea – Present life; Breeze (gentle and zephyrlike) – Whiffs. Graces of Holy Spirit wafting the vessel on its course; Wind – Temptations baffling it; Rudder (*Pedalion*) – Whereby steered straightforward to the heavenly harbour – Sacred Canons, cf. front inner cover picture of the book, George Mastrantonis, ed., *Ancient Epitome of the Sacred Canons of the Eastern Orthodox Church*, Ologos Mission, 1987.

with Yogam as a system of governance and the role of Bishop presiding over the liturgical worship was the lawful custom of the Saint Thomas Christians.

The study group for the revision of CCEO paid special attention to this canonical institute. It was a precious and immemorial praxis of the churches of Malabar to decide matters of great importance in Yogam. This canonical institute of yogam had a special recognition during the discussion: “Indeed, with the exception of the Malabarese, Malankaraese, and may be some other churches the introduction of the parish councils, as wanted by the Vatican II, will be a new experience in which the legislative authority of the eparchial bishop and that of the oriental synods will play the greatest part”<sup>11</sup>. The guidelines proposed: Oriental customs – sometimes of immemorial date -, relative to the participation of the laity in the ecclesiastical administration and in the apostolate, are to be preserved and encouraged”<sup>12</sup>. With due regard to the ancient custom and the regulation given in the guideline the definitive norm of law reads as follows: “In the parish there are to be appropriate councils dealing with pastoral and financial matters, in accord with the norms of the particular law of its own Church *sui iuris*”, (CCEO c. 295). Though this canon is similar to the CIC c. 536 #1 there is a significant difference between the two. According to CIC parish pastoral councils may be established only if the bishop requires such after consulting the presbyteral council. But CCEO considers it mandatory and the nature and objectives of this council must be determined by the particular law formulated by the Synod of all Bishops of the Church *sui iuris*.

## 6. Yogam as Ancient Heritage

Noteworthy is the fact that already a decade before the promulgation of the CIC, the Congregation for Bishops foresaw the

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<sup>11</sup> *Nuntia* 9 (1979) 76; 26 (1988) 110.

<sup>12</sup> *Nuntia* 3 (1976) 23.

need of such parish council: “Representative spiritual leadership, efficiency in accomplishing pastoral goals, spiritual growth and renewal, as well as the utilization of sound administrative procedures are some values that indicate a need for parish councils today”<sup>13</sup>. However, this provision was not included in the revised CIC as mandatory. The yogam was a laudable heritage of the Syro-Malabar Church as there is a direct participation of the cross section of the people of God in the ministry and governance of the church. The communion of people of God was expressed in the Yogam: “They make counsel together, deliberate and make consensus or decision on all important matters pertaining to the ecclesial life and mission of the Christian community in the parish. All matters regarding the three fold *munus* of the Church are discussed and decided upon in the yogam”<sup>14</sup>.

The system of Yogam or assembly which prevailed among the Saint Thomas Christians for centuries was taken as a model by the Pontifical Commission for the Revision of the Eastern Code to formulate the canons on triadic assemblies or the assemblies in three levels for all the Eastern Churches.

First and foremost, Church *sui iuris* level: This type of assembly is the highest in a Church *sui iuris*. The Patriarch/Major Archbishop who is the father and head of the Church *sui iuris*, all bishops of different eparchies, selected priests, religious and laity are members in this assembly. CCEO canons 140 – 145, 172 govern the constitution and nature of such assembly. There is no similar assembly in the Latin Church.

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<sup>13</sup> Sacred Congregation for Bishops, *Directory on the Pastoral Ministry of Bishops*, February 22, 1973, in James A. Coriden et al. eds., *The Code of Canon Law: A Text and Commentary*, (TPI, Bangalore, 1986) 431.

<sup>14</sup> Jacob Kollaparambil, “The Institute of Yogam in the Oriental Churches”, *Canonical Studies*, (Canon Law Society of India, Bombay, 1996) 62. The Statutes of the Palliyogam – Procedure Rules of the Syro-Malabar Church came into effect on 03 July 1998. See *Code of Particular Law of the Syro-Malabar Church*, (Major Archiepiscopal Curia, Mount Saint Thomas, Kochi, 2013) 108 - 133.

The second type of assembly is at eparchial level. The eparchial assembly is similar to the diocesan synod of the Latin Church (CIC cc. 460 – 468). The eparchial bishop, ex-officio members, elected, and nominated priests, religious and laity participate in the eparchial assembly. The eparchial assembly is convoked by the eparchial bishop when a genuine need arises after consulting the presbyteral council. CCEO cc. 235 – 242 establish the norms for convocation and conduct of the eparchial assembly.

The third type of assembly is at parochial level. The ancient custom of the Saint Thomas Christians and the communion ecclesiology of the Second Vatican Council have played a vital role in the introduction of CCEO c. 295. It deals with Parish assembly or appropriate councils in the parish to deal with pastoral and economic matters according to the norms of the Particular Law of a Church *sui iuris*. The Particular Law regarding Palliyogam – Procedure Rules were promulgated on 16 January 1998 and came into effect on 03 July 1998<sup>15</sup>.

The participatory role of the laity is expressed, implicitly or explicitly, in the rules and regulations of Yogam. The communion and co-responsibility of clerics, religious and laity have due consideration in the norms. The basic equality of the Christian faithful, each one according to his/her role and condition in life is emphasised and their rights are respected. The active participation and collaboration of all in the decision/consensus making, not losing each one's identity is commendable. CCEO canons establish that the assemblies at eparchial and *sui iuris* level are made consultative only. It is against the spirit of the ancient custom. The break of a long standing tradition occurred as a result of the systematic latinisation effected through the legislations of the Synod of Diamper for three centuries and the subsequent diocesan statutes formulated in the light of the Synodal decrees. The

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<sup>15</sup> *Synodal News*, 6 (1998) 44 – 74. *Code of Particular Law of the Syro-Malabar Church*, (SMMAC, Kochi, 2013) 108 – 134.

resolutions of the Major Archiepiscopal Assembly will have force of law if they were accepted and confirmed by the Synod of Bishops.

## 7. Impact of Synodal Decrees on Canons of CCEO

The Code of Canons of the Eastern Churches, in the prophetic words of John Paul II, establishes the “order of tranquillity among the Eastern Churches, so clear in antiquity”<sup>16</sup>. The Synod of Diamper had far reaching influences on the Syro Malabar Church known for its apostolic origin and venerable antiquity. The legislations passed in the Synod aimed at correcting errors and introducing discipline in ecclesial life, restoring unity and uniformity with drastic consequence of a systematic latinisation. The foreign missionaries were daunted by the idea that Church is Roman Church; it means Latin Church and Universal Church is nothing but Latin Church. They could not catch hold of the multi - faceted spectrum of truth, that is, law of Peter is different from law of Thomas.

The principal sources of the decrees of Synod of Diamper were the Council of Trent, (1545 – 1563), Council of Lateran IV (1215), Council of Constance (1414 – 1418), Council of Florence (1438 – 1452), First synod of Angamaly (1583). The sources of the CCEO constitute mainly, Scriptures, Apostolic Canons, Fathers of the Church, General Ecumenical Councils, local councils and synods, Ecclesiastical Canonical Collections, Collections of Civil Law, Pronouncements of the Roman Pontiffs, Instructions and decrees of Dicasteries of the Roman Curia, Four Apostolic letters issued *motu proprio* by Pius XII as partial Eastern legislations and Documents of the Second Vatican Council.

Altogether sixtyeight decrees of the Synod of Diamper have been cited among the sources of the Code of Canons of the Eastern

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<sup>16</sup> John Paul II, Apostolic Constitution, *Sacri Canones*, AAS (1990) 1044.

Churches. They are mainly in the CCEO canons on sacraments, sacramentals and Penal sanctions <sup>17</sup> .

Sixty-eight Decrees of the Synod of Diamper<sup>18</sup>(1599) are included in the sources of the following Canons of the Eastern Code.

<b>Synod of Diamper</b>	<b>CCEO</b>	<b>Topic</b>
XXIII	c. 884	Veneration of Mother of God and Other Saints
XXX	c. 888 #2	Protection of Icons and Images
XXXI	c. 886	Exposition of Icons and Images
LXXII–LXXIII	c. 675 #1	Baptism and its Effects
LXXVI	c. 686 #1	Obligation of parents
LXXXII	c. 1451	Judge and admission of new Proofs
LXXXVII	c. 684 #1	Sponsor in Baptism
XCIV	c. 695 #1	Chrismation with Baptism
XCVII–XCVIII	c. 714 #1	Preservation of Eucharist and Adoration
XCIX	c.708	Obligation for Eucharistic Communion
C	cc. 711, 712	State of Sin and Eucharist

<sup>17</sup> *Codex Canonum Ecclesiarum Orientalium*, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione auctum, Libreria Editrice Vaticana, 1995; (English Translation by Canon Law Society of America, 2001; Indian edition, Theological publications India, Bangalore, 2003). The statement is noteworthy: “Sources drawn from documents of Particular law of the individual eastern churches drawn especially from acts of the preeminent synods which were lawfully celebrated in former times”, CCEO, (English Translation Bangalore, 2003) 847.

<sup>18</sup> W. Becket Soule, “Sources for the Code of Canons of the Eastern Churches”, in John D. Faris & Jobe Abbass, eds., *A Practical Commentary to the Code of Canons of the Eastern Churches*, Vol. II (Wilson & Lafleur, Montreal, 2019) 3172.

CI	cc. 707 #1, 717 #2	Particular Norms and Offerings for Eucharist
CII	c. 708	Eucharist and the Paschal Obligation
CV	c. 711	Perfect Contrition and Eucharist
CXXXI–CXXXII	c. 881 #1	Forbidding the Sale of Relics
CXXXIV	c. 715 #1	Intentions for Divine Liturgy
CXXXV	c. 718	Essence of Sacrament
CXXXVII	c. 719	Opportune Time of Penance
CXLV	cc. 722#3, 724 #1	Presbyter and Faculty of Confession
CXLVI–CXLVII	c. 727	Restriction of Faculty
CXLVIII	c. 1434 #1	Major Excommunication
CLIII	c. 737 #1	Grace and Anointing of the Sick
CLIV	cc. 737 #1, 741, 742	Oil and Rite of Anointing of the Sick
CLV–CLVI	c. 741	Blessing the Oil of Anointing
CLVII	c. 744	Bishop Conferring Sacred Ordination
CLIX	cc. 758 #1, 759 #1	Licit Ordination and the Required Age
CLXIII–CLXV	c. 377	Celebration of Divine Praises
CLXX	c. 387	Norm on Clerical Dress
CLXXI–CLXXII	cc. 385 #2, 1466	Involvement of Clerics in Temporal Activities
CLXXIII	cc. 373, 383 .3	Clerical Celibacy and Forbidden activities

CLXXIV–CLXXV	cc. 373, 758 #3, 1453 #1	External Sins against Chastity
CLXXVI	cc. 758 #3, 1453 #1	Sacred Orders and Married Men
CLXXIX	cc. 809 #1, 1461	Affinity and Simony
CLXXXII	c. 758 #1. 4	Requirement for Ordination
CLXXXV	cc. 828 #1, 836	Form of Marriage and Observance of Norms
CLXXXVI	c. 784	Inquiries on Freedom to Marry
CLXXXVIII	c. 783 #2	Reception of Eucharist at Wedding
CLXXXIX	cc. 795 #1, 808 #1	Dispensation from Consanguinity
CXC	c. 795 #1	Dispensation from Impediments
CXCI	c. 795 #1, 811 #1	Impediment of Spiritual Relationship
CXCII	c. 838 #2	Time of Celebration of Marriage
CXCIII	c. 800 #1	Impediment of Age
CCVII	c. 693	Preparation of Holy Myron
CCVIII–CCIX	c. 880 #2	Feast Days of a <i>sui iuris</i> Church
CCX–CCXII	c. 880 #2, 882	Days of Penance
CCXIII–CCXVI	c. 880 #2	Competence of Church <i>sui iuris</i>
CCXVII	c. 867 #2	Sacramental and Particular Law
CCXXIII	c. 867 #2	Sacramental
CCXXVIII–CCXXXI	c. 872 #1	Protection of Sanctity of Church
CCLIV	c. 1451	Penalty for Injury to Human Life

## 8. Baptism

The ancient Thomas Christians under the influence of the Chaldean prelates had been using baptismal formulas in the passive voice. The Synod of Diamper considered them as heretical and substituted with declarative formula. About the custom of sponsors or god parents in baptism was endorsed by Vatican Codex 16 written by Joseph the Indian. Under the influence of the decrees of Trent Council Archbishop Menezes abrogated such custom as illegitimate and left out the spiritual affinity that existed between the baptised and the baptising. Although CCEO did not mention about the qualities required by the sponsors the Synod of Bishops legislated the particular norms in this regard<sup>19</sup>.

The East Syrian custom was prevailing in the Malabar Church concerning the time of baptism, namely, fortieth day for the male and eightieth day for female child. Exceptions were also admitted. Menezes introduced the decree of Council of Florence, that is, baptism within the first week after birth of child. The general tendency was to substitute the East Syrian laws and customs with the western canonical discipline and Latin customs. The introduction of baptismal registers and instruction about the safety of abandoned children were welcoming reforms of the Synod.

## 9. Chrismation with Myron

The ancient practice of the Malabar Church was to celebrate the Sacrament of Chrismation with Myron together with baptism. With the Synod of Diamper the minister of Chrismation was designated to be a Bishop and the blessing of oil was reserved to Bishop. The prescriptions of the Liturgical books are to be followed in the

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<sup>19</sup> Synod of Diamper, decree, 5, 15, 23, Session IV; *Code of Canons of the Eastern Churches* (CCEO) cc. 675 #1, 684 #1; *Code of Particular Law of the Syro-Malabar Church* (CPLSMC), art. 131 – 134.

celebration of the sacrament. The Particular law has enacted norms based on the canons of CCEO <sup>20</sup>.

## 10. Divine Eucharist

The canonical regulations of CCEO on the preparation of the Eucharistic bread, the observance of fasting, liturgical vestments, time and place of celebration and conservation of the Blessed Sacrament to the decrees of Synod of Diamper. The practice of Malabar Church was to use fermented bread made out of rice for the Eucharistic bread. The Synod decreed that only bread made of wheat alone shall be used. The Particular law enacted norms based on CCEO that bread shall be baked out of wheat flour and with sufficient thickness. As regards fasting before the Eucharist there existed a discipline already in the Malabar Church. Moreover, the Synod stipulated that the parish priests will be suspended if they were negligent in seeking the sick at home and administering sacraments to them<sup>21</sup>.

## 11. Penance

The frequency of the sacrament of reconciliation, reservation of sins, faculty to hear confession were introduced by the Synod. Though certain decrees of the Synod do correspond to the oriental practices the spirit of the decrees was mostly from the decrees of Trent and IV Lateran Council. The decrees were formal enactments of the already existing practices. The innovations in this regard are the obligation of annual confession for all who attained the age of reason under mortal sin and encouragement of frequent confession, use of register known as *status animarum*, the need of written permission for confessors to

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<sup>20</sup> Synod of Diamper, decree, 20, Session IV; CCEO cc. 692, 695 #1; CPLSMC art. 135

<sup>21</sup> Synod of Diamper decree, 3, 5, 6, 7, 15, 16, Session V; CCEO cc. 707, 708, 711 - 715; CPLMC art. 136 – 144.

hear confession are noteworthy. The Synod warned those who received Holy Eucharist prior confession<sup>22</sup>.

## **12. Anointing of the Sick**

The salutary practice of the Malabar Church was more in tune with the sacred heritage of the Saint Thomas Christians. The holy water was sprinkled on the sick person. Biblical passages engraved on plates were tied to the person in the sick bed. Dust taken from the tomb of Apostle Thomas, mixed with water was given to the sick person as medication. All these rituals were considered by the Synod as superstitious rituals and were abolished. The Synod, on the other hand introduced Latin rituals and insisted the sick at death bed not to be deprived of the grace of the sacrament and thus Latin laws and customs were enforced<sup>23</sup>.

## **13. Sacred Orders**

The Synod simply enumerated the seven holy orders as given in the Roma Pontifical. Archbishop Menezes insisted that the seminarians shall acquire the proficiency in Syriac just as the Trent Council demanded the candidates to priesthood of the Latin Church to have the knowledge of Latin. This approach from the part of the Archbishop is quite welcoming. It was the custom among the Saint Thomas Christians from the age of eight to twenty to teach the male to learn to use weapons. It is because as loyal subjects to the king especially Christians joined military service. The success of the King in battles depended on the number of Christian soldiers. From this custom it is also known that the Malabar clergy carried weapons as it was usual with the people in the locality. The Synod of Diamper prohibited the clergy to join military service. The CCEO included in the canons the

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<sup>22</sup> Synod of Diamper decree, 1, 7, 9, 10, 12; CCEO cc. 718, 719, 722 #3, 724 #1, 727.

<sup>23</sup> Synod of Diamper, decree, 15, Session VI; CCEO cc. 737 #1, 741, 742.

norm that clerics are not allowed to join any civil service without prior permission of the hierarch. The particular law in the light of the common law prescribed that clerics shall abstain from any office that is not becoming to clerical state.<sup>24</sup>

The Synod imposed as a grave obligation the private recitation of the Divine Praises instead of the traditional communitarian practice with active participation of the faithful.

## **14. Matrimony**

The Synod of Diamper passed rules and regulations concerning a valid and licit celebration of marriage. Certain customs and practices that were not in harmony with the norms of the Church were ruled out and abrogated. It was established that the couple should confess and receive Holy Communion three days. If they are not willing the parish priest shall not allow them to enter a marriage. Pre-nuptial investigation and publication of banns must necessarily precede celebration of marriage. So also the age for marriage was prescribed as fourteen for man and twelve for woman. Child marriage was in vogue in those days. Dispensation was allowed not more than six months for women and not more than four months for men. This dispensation can be given only by the prelate.

The Synod decreed that marriages celebrated within the prohibited degrees of consanguinity and affinity were null and void and those who contract such marriages are culpable of mortal sins and they are not at all considered as married couples. Only Apostolic See and Prelates are entitled to give dispensation. The spiritual affinity was considered a diriment impediment and necessitated dispensation from the competent authority.

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<sup>24</sup> Synod of Diamper, decree, 12, 15, 16, Session VII; CCEO cc. 373, 383, 385, 387, 737 #1, 744, 758, 759; CPLSMC, Art. 145 – 149.

As regards the form of the celebration of marriage the Synod decreed that the dignity of the sacrament should be retained and to be valid celebration should take place publicly before the parish priest or the prelate and in the presence of two or three witnesses. The seasons of Advent and Lent were prohibited time for marriage, (First day of Advent to the Epiphany; Ash Wednesday to the Sunday after Easter)<sup>25</sup>.

## 15. Sacramental

The Synod of Diamper issued norms concerning sacramental and sacred space. They dealt with better administration of the Church and church properties<sup>26</sup>. Decree XXIV established that four trustees (*kaikkars*) should be elected from palliyogam for the efficient management of the charity box and administration of the temporalities of the Church. The major expenses shall be settled only with the prior consultation and unanimous agreement of all the four trustees. The Synod prescribed that the prelate during the annual visitation would audit the accounts and check the safe keeping of things pertaining to divine worship.

Another innovation was to introduce the Roman way of using the surplice and stole as obligatory for the administration of sacraments and sacramental. In view of conforming the Malabar practices to the Roman ceremonials it was decreed that on the day of the feast of purification of Blessed Mother candles should be blessed and candle light procession should take place around the church. All the three days before the feast of Ascension candle light procession, reciting litanies translated from Roman Ritual, was to be conducted.

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<sup>25</sup> Synod of Diamper, decree, 3, 5 – 10, Session VII; CCEO cc. 783 #2, 784, 795, #1, 800 #1, 808 #1, 809 #1, 811 #1, 828 #1, 836 #1, 838 #1; CPLSMC, art. 150 – 190.

<sup>26</sup> Synod of Diamper, decree, 9, 10, 12, 14 – 19, 21, 25 – 34, 36, 39; Session VIII; CCEO cc. 867 #2, 872 #1, 880 #2, 881 #1, 882, 884, 886, 888 #2. CPLSMC, art. 191 – 199.

Synod legislated norms about ecclesiastical funeral and burial and the obligation of praying for the dead. However, it is also prescribed that in remote places where there is no church the corpse of the Christian faithful can be buried in profane places without a priest assisting and praying. The Synod considered it praiseworthy to have the corpse interred in cemetery in accompaniment with a prayer service. The Synod prohibited the custom of burying in a church and if at all inhuman and unholy acts took place in a church it has to be reconciled by re-dedication. The adapted Hindu custom of sick people taking rest inside the church for days with the intention of recovering from illness was prohibited. So also, another custom of Hindus not dedicating two temples in the same locality to two different deities on the superstitious belief to avoid hostilities between them, was also reprobated. Churches in the same locality should be dedicated to two different patrons.

Concerning the precept of fasting Synod relaxed the strict and rigorous practice followed in Malabar. The Synod did not oblige children and those under twenty one, the old people and the sick, to keep laws of fasting. However, everybody from the age of seven onwards was obliged to follow fasts and abstinences. The ceremonial bath taken on days of fasts and abstinences were condemned as superstitious practice. It was only an external preparation for prayer and self-sanctification.

For the sake of uniformity of practices in Universal Church ash Wednesday was introduced to the beginning of the Lent whereas the custom in Malabar was to start the season of Lent two days before and abstinence on Saturday was prescribed under mortal sin; against the Malabar practice of computation of time from evening to evening the Latin custom of computation from midnight to midnight was introduced. It was also established that churches shall be dedicated to saints canonized by Pope and sacred images in the church should be installed and pulpits and steeple bells should be set up. Following the East Syrian custom the Malabarians did not have statues in the church.

## 16. Penal sanctions

There existed *poenae latae sententiae* in Malabar. The synod threatened bishops who would not attend the Synod with the penalty of *latae sententiae*. It is the first source to testify that there existed such penalties in the Eastern Churches. A clear example is as regards clerical marriage. The Synod of Diamper prohibited priests to marry; priests to bless the marriage of a priest; the faithful to be present on the occasion of the marriage of a priest. The synod decreed as follows: "...desiring to restore this Church to its purity, and the usage of the Roman church, doth command, in virtue of obedience and upon pain of excommunication *latae sententiae*, that hence forward no cleric in Holy Orders presume to marry, nor shall any *Cattanar* marry any such, nor shall any presume to be present at any such marriage, nor give counsel, favour or assistance thereunto..."<sup>27</sup>. In the light of the stipulations of the Council of Trent and the third Provincial Council of Goa (1585) and the practice followed by the missionaries in Cranganore, Cochin and Quilon the Saint Thomas Christian married priests were not allowed to exercise priestly ministry: "The Synod of Diamper took up the issue in Session VII, Section I. Decree No. 16 forbade clerics in Holy Orders to marry, in virtue of obedience and under pain of excommunication *latae sententiae*. The clerics who had already married were suspended from sacerdotal acts until they separated from their wives, Clerics who had married twice or married widows were declared bigamists, and were ordered to put off their wives under pain of excommunication. Decree n. 17 permitted married

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<sup>27</sup> Synod of Diamper, decree, 7, 9, 11, 19, Session IX; CCEO cc. 1434 #1, 1451, 1453#1, 1461, 1466; Session 7, "Doctrine of the Sacrament of Orders", decree, 16; See Scaria Zacharia, ed., *The Acts and Decrees of the Synod of Diamper 1599*, (Indian Institute of Christian Studies, Edamattam, Kerala. 1994) 164 – 166; Sunny Kokkaravalayil, "Clerical Marriage and Celibacy in the Tradition of the Syro-Malabar Church", in G. Ruysen, ed., *Sacred Ordination in the Canonical Tradition of the Eastern Churches*, (Kanonika, 20/2014, PIO & Valore Italiano, Roma) 115.

priests, after putting away their wives, to exercise Holy Orders. By these decrees clerical celibacy was made obligatory for the Saint Thomas Church”<sup>28</sup>.

Excommunication and exclusion from Church were considered the serious penalties in Malabar. However, the synod applied some corrective measures in the hitherto practice of inflicting this penalty: “Nevertheless the Synod commands that it should not be inflicted hereafter except upon grave cases and after great considerations, and never orally but in writing. Therefore, the Synod condemns what has been until now commanded in this diocese such as the prohibition to absolve from certain cases never in the life and even in the danger of death. This is against Christian charity and against the rules of the Church, who as pious mother receives the penitents at all times and never closes the door of salvation to her children”<sup>29</sup>. Although in the sacramental internal forum such penitents are absolved of their sins strict regulation is given as to their conduct in the community. To avoid scandal to the people those excommunicated are segregated from the church and are denied *casthuri* (sign of peace) and priests shall not visit their houses.

The Synod also condemned the practice of concubinage which was in practice as an immoral behaviour. The Synod instructed the priests shall instruct such public sinners and if the three warnings were in vain they should be excommunicated. Simony which is profanation of grace insimoniac ordination or simoniac exercise of sacred power is termed by Balsamon as sellers of salvation. It is a spiritual trafficking or exchange of something of temporal value for a spiritual reality (Acts

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<sup>28</sup> Jacob Kollaparambil, “The Impact of the Synod of Diamper on the Ecclesial Identity of the St Thomas Christians”, in George Nedungatt, ed., *The Synod of Diamper Revisited*, (PIO, *Kanonika* 9, Roma, 2001) 164 – 165.

<sup>29</sup> Manzi, *Synod of Diamper Syro-Malabaranzium*, CXLVIII, 1267, in Vettuvazhiyil, *Synod of Diamper in the Ecclesial Life*, 383; CCEO c. 1434 # 1.

8: 18 – 21). In Malabar the practice followed was to accept the voluntary offerings in connection with the celebration of sacraments or sacramental. This was misunderstood as simony due to the ignorance of the actual customs and practices of the Saint Thomas Christians.

## Conclusion

Synod of Diamper is a mile stone in the bi-millennium history of the Syro-Malabar Church. The aim of the Synod was to attain unity in catholicization of the Church. But it ended in a systematic latinization. The consolidation and the introduction of the many changes in the manner of living of the Saint Thomas Christians. Instead of attaining the desired unity the ancient Church was divided into several churches or ecclesial communities.

The prerogative of the Second Vatican Council to return to the ‘ancestral traditions’ (OE 6), in the case of Syro-Malabar Church is the pre-Diamper traditions, which is Law of Thomas. The modern equivalent would be Thomas Christian rite in the true sense of CCEO c. 28 #1. In view of organic progress intended by the Council, the Syro-Malabar Church is engaged with constant efforts to reform its Liturgy and revise the canonical discipline (particular law). In this process, as John Paul II cautioned, a twofold fidelity is to be maintained: “This twofold fidelity is fidelity to God and to His revelation - shining brightly in the many different traditions which come from the Apostles though the Fathers (OE 1), and fidelity to man and to his need of God, in the various ways in which this is expressed”<sup>30</sup>. The same Pope had earlier elucidated the true content of the genuine Eastern tradition itself: “It contains elements that are capable of giving a more complete

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<sup>30</sup> John Paul II, Discourse to the Meeting of Bishops and Religious Superiors of Eastern Catholic Churches in America and Oceania, Boston, 7 – 12. November 1999, *L’Osservatore romano*, 8 – 9 November 1999, p. 5.

Christian response to the expectations of the men and women of today”<sup>31</sup>.

The strict Tridentine perspective of Archbishop Menezes coupled with strong adherence to Roman Catholicism rendered him incapable of understanding and appreciating the antiquity, apostolicity and venerable patrimony of the Saint Thomas Christians. The eastern character of divine worship, ecclesiology of communion, the governance of the community by Archdeacon and yagam, were not given due respect and recognition.

However, one cannot overlook the contributions of the Synod of Diamper to filter the pre-Diamper customs to bring about a renewal in Christian life in the Syro-Malabar Church. Moreover, the decrees of the Synod, though lacking genuine eastern character in essence and form have helped greatly as a source for the formulation of the disciplinary norms and statutes of various dioceses in the Syro-Malabar Church.

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<sup>31</sup> John Paul II, Apostolic Letter, 02 May 1995, *Oriente Lumen*, AAS 87/5 (1995) 749.