

# **Intermediary Legislative Bodies: The Relevance of Regional Particular Councils to India**

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Ecclesiastical power of governance, which regulates pastoral ministry of the Church, is distinguished as legislative, judicial and administrative. Legislative power is exercised at various levels. The pope as supreme head of the universal Church, either on his own or along with the college of bishops, legislates for the universal Church. The bishops, as successors of the apostles and as divinely instituted leaders of particular Churches, exercise legislative power in their respective dioceses. They exercise this power not only to complement or determine superior juridical norms where such oblige or permit them, but also, bearing in mind the needs of the particular Church and of the people of God, to regulate at the diocesan level, with regard to any pastoral matter not reserved to the supreme authority or some other ecclesiastical authority.

However, several pastoral issues transcend diocesan boundaries and can be addressed seriously and effectively only at the supra diocesan level. Right from the ancient times such intermediary legislative authorities have been established and functioning. This article first examines the existing intermediary legislative structures and then proposes to convoke regional particular councils in order to effectively and seriously address the pastoral needs in the Indian Church.

## **I. Intermediary Legislative Bodies**

In the 1983 code of canon law for the Latin Church (*CIC*), there are provisions for two kinds of intermediary legislative authorities,

namely, the particular councils and the assemblies of bishops. The analogous structures in the 1990 Eastern code (*CCEO*) are the synod of bishops and the council of hierarchs. This article reviews all these institutes, since all of them are relevant to the Church in India. Without going into an exegetical study of the pertinent canons, we highlight only the salient features of each institute, especially their legislative competency.

### Particular Councils

In the ecclesiastical parlance a council (*concilium* in Latin) refers to an assembly of ecclesiastics who are equals and who have deliberative voice in making decisions on pastoral governance. Particular councils, which preceded ecumenical councils historically, are of the most ancient Church structures devised for collegial decision making. The particular council is a gathering of neighbouring bishops of a particular territory, together with various members of the faithful of the territory, deliberating on important pastoral issues especially on major doctrinal and disciplinary matters.

Ever since the Council of Jerusalem, which settled the serious question on the necessity of circumcision for the new converts (*Acts* 15), particular councils have occurred throughout the history of the Church. In the first centuries legislations evolved in the particular councils held, for example, in Carthage in North Africa and Elvira and Toledo in Spain, were promulgated by the popes for the universal Church, thus influencing the development of Church law. In the eighth century, the emperor Charlemagne, in union with the pope, convoked a number of particular councils for successful reform of the Church. Lateran Council IV (1215) legislated annual provincial councils for the purpose of the reform of morals, especially of the clergy, after which hundreds of councils were convened. However, the number of councils declined after the fifteenth century. The 1917 code of canon law, perhaps reflecting the desuetude, required that a provincial council be convoked at least once every twenty years (c. 283). Vatican II, however, brought a renewal in the function of the particular councils. Describing them as temporary gathering of bishops in which they join

“their resources and their aspirations in order to promote both the common good and the good of individual churches”, the Council wished that particular councils “flourish with new vigour”.<sup>1</sup> Incorporating the conciliar insights, the *CIC* has dealt with the nature, competence and functioning of particular councils in eight canons (cc. 439-446).

Particular councils are of two kinds: plenary and provincial. A plenary council is one that is held “for all the particular churches of the same conference of bishops” with the approval of the Apostolic See (c. 439, §1),<sup>2</sup> while a provincial council is held “for the different particular churches of the same ecclesiastical province” under the direction of the metropolitan (c. 440, §1). The opportunity to convoke the council is determined by the necessity to provide for the pastoral needs of the people of God in the corresponding territory, especially “for the increase of the faith, the organization of common pastoral action, and the regulation of morals and of the common ecclesiastical discipline” (c. 445). The scope of particular councils is to empower the bishops “to submit for common judgement and decision those questions which require identical regulation throughout the territory” and “to establish the same norms for their different churches, thereby providing for more effective pastoral activity in tune with the needs of the times”.<sup>3</sup>

In the 1917 code particular councils were described as exclusive gatherings of ordinaries, i.e. clerics, especially bishops. But, now, they are gatherings of neighbouring particular churches. This is a significant change wrought about by the ecclesiology of Vatican II according to which the nature of the Church is fundamentally a *communion* of different sections of the faithful, entitled “the people of God”. The distinctive ecclesial nature of the particular councils is very well underscored by Pope John Paul II in his post-synodal apostolic exhortation *Pastores Gregis* (*PG*): “Particular councils, precisely because they involve the participation of priests, deacons, men and women religious and lay persons, albeit with a consultative vote only, are an immediate expression not only of communion between the bishops but also of communion between the churches .... The place of particular councils cannot therefore be taken by Episcopal

conferences” (n. 62). Hence, it is mandatory now to invite to both plenary and provincial councils certain categories of priests, religious (men and women – women religious and brothers being lay persons in canon law), rectors of ecclesiastical and Catholic universities, some rectors of major seminaries and dean of theology and canon law.

Some other clergy and lay persons can also be invited, on the condition that their number does not exceed one half of those who must be called by law. When provincial councils are convoked, representatives of chapters, presbyteral councils and diocesan pastoral councils must also be invited. Although only bishops and their equivalents may actually vote on the council’s final decisions (deliberative voice), the other participants exert considerable impact on the making of those final decisions with their counsels (consultative voice).

Another most significant feature of the particular councils is that they possess power of governance, especially legislative power (c. 445). They can issue general decrees which are true laws (c. 29). A general decree is any provision or act issued for a community capable of receiving law. This is opposed to an individual decree which is an administrative act by which a decision is given or a provision is made by an authority with executive or judicial power in a particular case in accord with the norms of law (cc. 48; 1617). General decrees are called particular laws, since they are not common to the universal Church. The only restriction is that decrees of the particular councils are subject to universal law and are reviewed (*recognitio*) by the Apostolic See. After the conclusion of the council the president has to send to the Apostolic See all the acts and the texts of the proposed laws for the review (c. 446). After being reviewed by the Apostolic See and properly promulgated, the council’s decrees obtain force of law and are binding on its subjects. As particular laws, these provisions begin to oblige a month after the day of promulgation unless the particular council establishes another time period (c. 8). Individual bishops have the immediate responsibility to implement the decisions of the council, since they have to urge the observance of all ecclesiastical laws (c. 392, §1).

## Conference of Bishops

Vatican II gave a formal and permanent structure with the name “conference of bishops” to the pre-existing practice of bishops’ informal gathering to discuss common issues and provide mutual support.<sup>4</sup> The *CIC* has made obligatory the establishment of conferences of bishops and regulated its scope, competence and function in canons 447-449 in the title of groupings of particular churches. Based on the canons, the scope, competence and functioning of the conference have to be regulated by the conference statutes which have to be approved by the Apostolic See (c. 454).

The post-conciliar period witnessed a prolonged debate on the theological, juridical and doctrinal authority of the conferences. In May 1998, Pope John Paul II issued *motu proprio Apostolos Suos* which is intended to serve as a guide to the ongoing legal-pastoral practice of the conferences. Without going into the complexities of the issues, we highlight only the important features vis-à-vis the legislative competence of the conferences.

The conference of bishops is “a grouping of bishops of a given nation or territory” in order to effectively address numerous pastoral issues that transcend diocesan boundaries.<sup>5</sup> It is primarily viewed not as an intermediary governmental structure, but as an instrument of pastoral coordination and communication among the bishops through fruitful dialogue and serious study and action on numerous pastoral issues. It can issue general decrees, which are properly laws, only when the *CIC* or another universal law so empowers it (c. 455). The resulting decrees must obtain the *recognitio* by the Apostolic See before promulgation, in order to guarantee their conformity with universal canon law. Other than the general decrees, the decisions of the conference have only a moral binding force on the individual diocesan bishop. Thus, the conference’s legislative competence is very much circumscribed, perhaps because of the inalienable pastoral governance prerogatives of the Roman Pontiff on the one hand and the diocesan bishops on the other.

In contrast to the particular councils, conferences are permanent structures with a juridical personality and are frequently convened. But, unlike the councils, the legislative competence of the conference is, as noted above, very much restricted. Moreover, unlike the particular councils, the conferences do not reflect the different sections of the people of God, since they are assemblies of bishops, not groupings of particular churches, although the canons are placed under the title on groupings of particular churches. The membership to the conferences is open only to the bishops and those who are equivalent to them. Such exclusive membership does not reflect the broader ecclesial nature of collaborative and participative decision-making process desired by Vatican II. Despite these limitations, however, the conferences have de facto replaced the particular councils as the most common means of addressing pastoral concerns at the supra-diocesan level.

### **Regional Assembly of Bishops**

The *CIC*, under the same title of “Groupings of Particular Churches”, speaks of another intermediary episcopal body at the regional level. Paragraph one of canon 433 states that when it is opportune, the Apostolic See can unite neighbouring ecclesiastical provinces into ecclesiastical region at the request of the conference of bishops and erect them as juridic persons. The scope of this assembly is more or less the same as that of the meeting of provincial bishops, namely, “to foster cooperation and common pastoral action in the region” (c. 434).

The *CIC* does not mention whether the juridical status of the assembly of the regional bishops is a council or a conference. Canon 434 states that the meeting of the regional bishops “does not have the powers attributed to a conference of bishops ... unless the Holy See has specifically granted it certain powers”. However, the code has situated the regional episcopal body not under the chapter on conferences of bishops but under the chapter on provincial councils. Again, Pope John Paul II has spoken of this structure in the context of promoting particular councils: “Wherever it is considered appropriate for the common good to erect Ecclesiastical Regions, a similar function

(of the provincial councils) can be carried out by meetings of bishops of the same region or by plenary councils" (*PG*, 62). The new directory for the bishops has added another norm, which is not found in the *CIC*, that "the diocesan bishops take part in the meetings of the regional assembly of bishops according to the norm laid down in its statutes" (*AS*, 23c). These directives have opened the possibility for, on the one hand, the regional episcopal conferences with restricted legislative competence and, on the other, convocation of particular councils at the regional level.

### Synod of Bishops

For the universal Church, the synod of bishops is an institution shaped by the deliberations of Vatican II and established by Pope Paul VI a month and a half before the promulgation of *Christus Dominus*, which refers to it in no. 5. In accordance to its constitutive norms, this synod of bishops, representing all the Catholic episcopate, depends directly and immediately on the Roman Pontiff, who convenes it on fixed occasions to assist him in his primatial function. Its competence is clearly consultative: it can discuss and set forth recommendations, "not to resolve them or issue decrees about them unless in certain cases the Roman Pontiff has endowed it with deliberative power, in which case he ratifies its decisions" (*CIC*, c. 343).

In the Eastern Churches, which have their own distinct liturgical, theological, spiritual and disciplinary patrimony, the synodal structure is an ancient institution. Among the twenty one *sui iuris* Eastern Churches, the Patriarchal and the equivalent major Archiepiscopal Churches have the synodal structure. The synod members are the bishops (eparchs) within or outside the patriarchal territory and have deliberative vote. Particular law, however, may restrict the voting status of titular and retired bishops and bishops outside the territory. Non-episcopal Church leaders may be invited as experts to discuss synod issues (*CCEO*, c. 102). The permanent synod, which assists the synod of bishops, represents different sections of the people of God, but it does not have any legislative power.

The synod of bishops exercises primarily legislative and judicial power. The *CCEO* contains only common provisions –what is absolutely necessary for the good of all of them- leaving to the synod to create particular law. Besides, the synod conducts the elections of the patriarch / major archbishop, bishops, and the members of the permanent synod.

In contrast to the episcopal conference, the synod of bishops can create any particular law<sup>6</sup> in any area to meet the pastoral needs and to serve the common good. These laws need no *recognition* by the Apostolic See. The synodal decrees and decisions are simply forwarded to the pope, but only for information (*CCEO*, c. 111, §3) and perhaps for fostering ecclesial communion and pastoral collaboration. The liturgical laws promulgated by the patriarch / major archbishop bind the faithful of the church everywhere in the world and the disciplinary laws affect the faithful within the patriarchal / major archiepiscopal territory (*CCEO*, c. 150, §2). The bishop of an eparchy established outside of the territory, if he desires to do so and the matter does not exceed his competence, can incorporate the laws for his eparchy.

Similar to the episcopal conference, the synod of bishops does not also assure a more credible role for non-episcopal members of the people of God in the process of ecclesial decision-making, analogous to the particular councils. However, the synod enjoys a relative legislative autonomy that enables it to enact laws in order to respond effectively to distinctive pastoral needs in different socio-cultural settings of the Church.<sup>7</sup>

### **Council of Hierarchs**

The council of hierarchs is also another intermediary legislative authority in a Metropolitan Eastern Church *sui iuris*. It is presided over by the Metropolitan of a determined See who has been appointed by the Roman Pontiff (*CCEO*, c.155, §1). It is the prerogative of the Metropolitan to convoke the council of hierarchs. But it is to be convoked at least once a year. All the bishops of the Metropolitan

Church belong to the council, but only eparchial and coadjutor bishops have a deliberative vote, while other bishops have it only if this has been so decided; otherwise their votes are only consultative (*CCEO*, c. 164). The council, being distinct from its members, is a juridic person. It, therefore, must have the statutes which precisely deal with its structure and plan of action.

The council of hierarchs is to take care to provide for the pastoral needs of the Christian faithful. It has to take measures to promote the growth of faith, to foster common pastoral action, to regulate the mores, to preserve the respective rite and common ecclesiastical discipline (*CCEO*, c. 169). However, in contrast to the synod of bishops, the power of the council of hierarchs is strictly limited to the territory of the autonomous metropolitan Church. Moreover, its legislative competence is very much circumscribed. It is mandated to enact particular legislations to the following:

- establishment of a seminary for different eparchies of the *sui iuris* Church (c. 334, §1);
- norms for catechetical formation (c. 621, §1);
- prohibition of certain means of social communication detrimental to faith and morals (c. 652, §2);
- approval of liturgical texts (c. 657, §1);
- preparation of a list of approved censors for books (c. 664, §1);
- policy for the administration of sacraments for the non-Catholics (c. 671, §4);
- distribution of the Eucharist by persons other than priests or deacons (c. 709, §2);
- reservation of sins (c. 727);
- duration of studies prior to the diaconate (c. 760, §1);
- reception of non-Catholic bishop into Catholic communion (c. 898, §1).

The Metropolitan has to notify the council's decrees and decisions to the Roman Pontiff and only after notification of reception of the acts of the council, he can promulgate the laws and publish the decisions of the hierarchs. Thus, in many respects, particularly with the restricted legislative autonomy, the council of hierarchs resembles the conference of bishops.

## II. Intermediary Legislative Bodies in the Indian Church

In addition to the diverse socio-cultural, linguistic and multi-religious pluralities, Church authorities in India have to address several pastoral and juridical questions arising from the inter-ritual conflicts. Following the promulgation of the 1983 *CIC* and later the letter of Pope John Paul II to the Indian Bishops in 1987, the hitherto existing Catholic Bishops Conference of India (CBCI) lost its canonical status as episcopal conference. Subsequently, three episcopal bodies in accordance with the three rites have come into existence, namely, Conference of Catholic Bishops of India (CCBI) for the Latin rite, Synod of Bishops for the Syro-Malabar Church and Council of Hierarchs for the Syro-Malankara Church. We will briefly review the exercise of legislative power by these three ritual episcopal bodies and other supra diocesan structures.

### The CCBI

The CCBI was formally started as the episcopal body for the Latin bishops at a separate meeting held on 14 April 1988. After many years of deliberations on the adaptations to the *CIC* in its plenary meetings at Kottayam (1988), Shillong (1989) and Bombay (1993), and after obtaining its legal status as a full-fledged conference by the approval of its statutes in 1994 by the Apostolic See,<sup>8</sup> the CCBI promulgated in 1995 the complementary legislations.<sup>9</sup> There are several canons for which complementary legislations are yet to be formulated: e.g., c. 8, §2 on the mode of promulgation of the Conference decrees; c. 961, §2 on general absolution; c. 1031, §3 on fixing an older age for

presbyterate and permanent diaconate; c. 1083, §2 on the age for marriage; c. 1425, §4 on exempting collegiate tribunal. Taking into account the diversity of pastoral situations and needs in India, the conference has delegated several adaptations to the regional conferences or to the diocesan bishop. (The legislative competence of the regional conferences is discussed below). In the meanwhile, the conference has stated that it is preparing some changes in the already promulgated adaptations.<sup>10</sup>

In these circumstances, several Roman documents, issued after the promulgation of the 1983 code, have required the intervention of the episcopal conferences to provide complementary norms. The following may be mentioned as few instances from the most recent documents for which the CCBI will have to provide adaptations:

- Norms for the formation of candidates for the permanent diaconate (*AS*, 97)
- Guidelines for Catholic religious education and instruction (*AS*, 132);
- Texts for other acclamations after consecration in the Eucharistic Prayer;<sup>11</sup>
- Norms on the distribution of Holy Communion under both kinds (*RS*, 101);
- Guidelines for distribution of Holy Communion during Sunday assemblies in the absence of a priest (*RS*, 165);
- Directory on the current approaches to the sacraments of Christian initiation;<sup>12</sup>
- Rituals for the celebration of the liturgy of the word during Sunday gatherings in the absence of a priest;<sup>13</sup>

In sum, the CCBI seems to be trailing far behind in the exercise of its even restricted legislative mandate.

## **Synod of Bishops of the Syro-Malabar Church**

On 16 December 1992 the Syro-Malabar Church was raised to the major archiepiscopal status with title of Ernakulam-Angamaly. The first synod of the bishops was held on the very same day when the Major Archbishop Mar Antony Padiyara was installed in office on 20 May 1993. Subsequently the Synodal Statutes were published.<sup>14</sup> The Statutes state that the Synod of Bishops is “the legislature, superior tribunal and the electoral college” of the Syro-Malabar Church. All and solely the ordained bishops of the Syro-Malabar Major Archiepiscopal Church, whether eparchial, titular or emeritus, constituted inside or outside the territorial limits of the Syro-Malabar Major Archiepiscopal Church, excluding those mentioned in c. 953 §1 or those who are punished by canonical penalties mentioned in canons 1433 and 1434, are members with deliberative vote in the Synod. At present, there are 26 Syro-Malabar eparchies worldwide among which 15 are under the direct authority of the Major Archbishop and the Synod.

Endowed with total legislative autonomy, the Synod of Bishops of the Syro-Malabar Church has promulgated the “Code of Particular Law” having three parts: Part I – particular laws formulated according to the indications in *CCEO*; Part II – Statutes of the various institutions related to the Major Archiepiscopal curia; and Part III – Common Institutions of the Syro Malabar Church.<sup>15</sup> With this comprehensive enactment of particular legislations, the Syro-Malabar Church has realized to a large extent the teaching of Vatican II that the churches of the East “have the right and duty to govern themselves according to their own special disciplines. For these are guaranteed by ancient tradition, and seem to be better suited to the customs of their faithful and the good of their souls”.<sup>16</sup>

## **The Council of Hierarchs of the Syro-Malankara Church**

The Malankara Catholic Church, established in 1932, is one of the four Metropolitan *sui iuris* Churches. The Metropolitan See is the Malankara archdiocese of Trivandrum with 6 suffragan eparchies.

As pointed out earlier, the council of Hierarchs enjoys only a limited legislative power. It does not share the superior instance authority with the Metropolitan. The Metropolitan is the head of the Malankara Church *sui iuris*, but his power is not supreme and his authority is restricted to a prescribed territory. This author is handicapped to get access to the sources for assessing the present legislative activity of the Council of Hierarchs. However, various authors have called for a rethinking about the adequacy of the present juridical status of the Malankara Church, which claims to have an ancient tradition of the Holy Synod of the Catholicate which had the same powers of a Patriarchal Church.

### Particular Councils

As indicated above, particular councils - plenary or provincial - have been rarely celebrated in the Latin Church at large in the sense the *CIC* has determined. The Indian Church is no exception. The Statutes of the CCBI, to whose sphere the Plenary Council belongs (c. 439, §1), is silent about its convocation. This author is not aware of any celebration of provincial councils in India either. When the bishops of a province meet, it is only a gathering of bishops and is not really as such subject of governmental power. It is doubtful whether decisions arrived at such provincial meetings of bishops have any normative value and are applied uniformly in a province, since they are not promulgated in the form of decrees. It may be interesting to illustrate this point with an example of fixing stipends for Mass intentions. Paragraph two of canon 952 states: "It is for the provincial council or a meeting of the bishops of the province to define by decree for the entire province the offering to be given for the celebration and application of Mass, and a priest is not permitted to seek a larger sum". In the ecclesiastical province of Pondicherry & Cuddalore, for instance, the archdiocese and its four suffragans have fixed diverse rates for the low Mass and the high (sung/solemn) Mass.<sup>17</sup> (It is a different question that liturgically and theologically there is only one Mass!). If each diocesan bishop fixes an amount according to his discretion, one does

not understand the meaning of the mandate given by the above mentioned canon on Mass offering

### **Regional Episcopal Conferences of the Latin Rite**

India is a federal union of states that are generally circumscribed by distinctive linguistic, socio-cultural, ethnic and geographical factors. For the same reason, a ritual episcopal body at the national level cannot adequately address the pastoral needs and challenges of the regions. Hence several pastoral matters are shelved to the assemblies of bishops at the regional level for discussion and deliberation. There are twelve ecclesiastical regions in India, namely, Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Western, North Western, Central, Eastern, North Eastern, etc. By and large each region has established itself as a full-fledged assembly of regional bishops with a replica of pastoral commissions and institutes established at the national level. It is indeed in the regional level that bishops are very much engaged in fulfilling their collegial episcopal ministry by making several pastoral, liturgical and disciplinary provisions. We would like to demonstrate this development with the pastoral and disciplinary provisions of the Tamil Nadu (regional) Bishops' Conference (TNBC).

The TNBC has periodically issued circulars, directives, exhortations, norms and guidelines on various issues. Some of the recent provisions are the following:

- The 10 point programme issued in 1990 by the TNBC Commission for SC/ST/BC for the development of the Christian scheduled classes;
- Norms for admission of Catholic students in the educational institutions issued by the TNBC Commission for Education (Tamil Nadu Catholic Educational Association) in 1992;<sup>18</sup>
- Circular letter on the social involvement of the Church which was read in all the Latin rite parishes of Tamil Nadu on 8 March 1992;

- Circular letter to the priests on liturgical renewal by the TNBC Commission for Liturgy in May 1998, which contains several disciplinary norms on the liturgy;
- Disciplinary norms to be observed in the sacred liturgy issued by the TNBC Commission for Liturgy;<sup>19</sup>
- Circular letter issued by the TNBC Commission for the Laity to promote participation of the laity in the life and ministry of the Tamil Nadu Church;<sup>20</sup>
- Norms on collective Mass intentions and uniform stipends for Holy Mass for the whole of Tamil Nadu. Although this communication states that these are proposals, it concludes saying that they come into effect in Tamil Nadu from 1<sup>st</sup> October this year;<sup>21</sup>
- Special circular letter of the TNBC on donation of blood and human organs.<sup>22</sup>

From the above sample provisions it is amazing to observe how the TNBC has attempted to respond to the circumstances of the times by addressing a wide range of pastoral issues and Church discipline. Obviously, the other regional conferences of bishops have similarly exercised their collegial episcopal responsibility, the subjects of which cannot be cited here for want of space. Evidently, some of these provisions are disciplinary norms and statutory guidelines that require observance with the binding force of law. But the fact is, they are not binding on any one because the regional episcopal conferences are not bestowed with legislative competence.

The Statutes of the CCBI in paragraph 4 of article 4 state: “in cases where the Conference has the power to make general decrees, this power can be delegated to ecclesiastical provinces (c.431, §1) or the ecclesiastical regions (c. 432, §2)”. Again, in article 18 there is a provision: “The Plenary Assembly may delegate to the Ecclesiastical Provinces/Ecclesiastical Regions matters pertaining to liturgical adaptations and inculturation, which are specifically of a regional nature”. In the footnote to this norm, the Statutes state: “This article

is formulated this manner because the diversity of languages, cultures, customs and traditions within India, makes it necessary that Ecclesiastical Provinces/Ecclesiastical Regions be invested with this faculty. By way of explanation we may note that if the regions are not given this faculty, many bishops are forced to vote blindly in matters pertaining to adaptations and inculturation, without understanding and appreciating their real meaning”.

The CCBI has de facto delegated its faculty to the regional conferences of bishops to formulate particular legislations for few canons, for instance: c. 284 on suitable ecclesiastical dress for the clerics; c. 788 on catechumenate; c. 851 on the rite of Christian initiation for adults; c. 1062 on engagement before marriage; and c. 1120 on the rite of marriage. This author is not aware whether any regional conference has exercised this delegated faculty and lawfully enacted any particular legislation.

In the meanwhile, the Apostolic See has, for the reasons known to itself, repeatedly rejected the request of the CCBI for the juridical formation of the regional episcopal conferences. In a reply it states: “After an exhaustive analysis of the advantages and disadvantages of such a proposal ... this Dicastery judges that it would not be in the best interest of the Church in India to establish Ecclesiastical Regions at this time, not in the foreseeable future”.<sup>23</sup> Thus, regional episcopal conferences are functioning without the official recognition from the Roman Dicastery. As such they have no juridical status, nor any legislative competence.

### **III. The Relevance of Regional Particular Councils**

As already explained, canon law has made provisions for the convocation of either provincial or plenary particular councils, but it has not excluded the possibility of celebrating a particular council at the regional level. The regional particular council is all the more relevant to the Latin ritual Church in India for the following reasons:

1) Our brief study on the intermediary legislative bodies in India demonstrates that particular councils at the provincial level are hardly celebrated and that the episcopal conference, with its limited legislative activity, has virtually replaced the plenary council. Given the particular circumstances, regional assemblies of bishops have emerged as credible alternative structures to make several pastoral and disciplinary provisions. Since these regional conferences do not have any normative competence, their pastoral and disciplinary provisions remain largely ineffective. At the same time, it is very unlikely that the Apostolic See will grant legislative competence, even restricted, to the regional conferences in the foreseeable future. A credible alternative structure would be the regional particular councils that are guaranteed with legislative competence by law itself.

2) Even if the episcopal bodies at the national or regional level are endowed with legislative competence, they do not reflect the ecclesial dimension of participation and decision-making. Only in particular councils, mandated *ipso iure*, there is participation, albeit with a consultative vote only, of priests, deacons, men and women religious and lay persons, which is an immediate expression not only of communion between the bishops but also of communion between the Churches. Hence, particular councils cannot be replaced by episcopal conferences, either national or regional, and, in the context of the emergence of the regional assemblies of bishops, convocation of particular councils at the regional level is all the more tenable.

3) In contrast to the Synod of the Syro-Malabar Church, (if not the Council of Hierarchs of the Syro-Malankara Church for time being), which enjoys almost a total legislative autonomy to provide particular legislations to the people of God largely concentrated in the territory of Kerala, one of the 12 ecclesiastical regions in India, the other regions of the Latin rite, each placed in the analogous socio-cultural settings, seem to be deprived of their legitimate legislative self-determination. This anomaly can be rectified by making statutory provisions for the convocation of regional particular councils.

4) It may be argued that particular councils are only temporary structures and, in comparison to the conference structures, it is cumbersome to convoke them frequently, since they involve all the categories of the people of God. Nevertheless, as this article has highlighted, of all the intermediary legislative structures we have examined, regional particular councils seem to ensure a broad legislative self-determination. Moreover, we must recall to mind once again the ardent hope of Vatican II that particular councils take on renewed vigour. If plenary and provincial particular councils have become redundant, why not try the regional particular council? –that is the hope of this author for the renewal of the Church in India at the completion of 25 years after promulgation of the *CIC*.

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### Endnotes

<sup>1</sup> See Vatican II, *Christus Dominus*, n. 36.

<sup>2</sup> For granting this approval, the revised pastoral directory for bishops issued by the Congregation for Bishops on 24 February 2004, *Apostolorum Successores* (= *AS*), has further required that “the Apostolic See needs to know the precise motive for convoking the council and also the topics or subjects to be discussed” (n. 25).

<sup>3</sup> *Ibid.*, n. 27.

<sup>4</sup> See Vatican II, *Christus Dominus*, nn. 38 & 40.

<sup>5</sup> See c. 447; *Apostolos Suos*, n. 14.

<sup>6</sup> Particular law is that body of laws, legitimate customs, statutes and other norms of law which are not common to the universal Church nor to all the Eastern Churches (*CCEO*, c. 1493, §2).

<sup>7</sup> See T.J. Green, “The Legislative Competency of the Episcopal Conference: Present Situation and Future Possibilities in Light of Eastern Synodal Experience”, in *The Jurist*, 64 (2004) 306-308.

<sup>8</sup> The Conference received permanent approval by the approval of its revised Statutes which were promulgated on 15 August 2001: see *Statutes of Conference of Catholic Bishops of India*, CCBI Secretariat, New Delhi, 2001.

<sup>9</sup> S. Pimenta (CCBI President), *Complementary Legislations to the Code of Canon Law*, New Delhi, 1995.

<sup>10</sup> See *CCBI News*, vol. XVII (4/2006) 59.

<sup>11</sup> See Congregation for Divine Worship and the Discipline of the Sacraments, instruction, *Redemptionis Sacramentum*, 25 March 2004 (= *RS*), n. 54.

<sup>12</sup> See Benedict XVI, apostolic exhortation, *Sacramentum Caritatis*, 22 February 2007, n. 18.

<sup>13</sup> *Ibid.*, n. 75.

<sup>14</sup> See *Synodal News*, vol. 11 (1/2003) 79-97.

<sup>15</sup> *Ibid* – the entire issue

<sup>16</sup> Vatican II, *Orientalium Ecclesiarum*, n. 5.

<sup>17</sup> See *Supplement to the Ordo of August 2007-2008*, Puducherry, p. 6 (Pondicherry: Ordinary Mass - Rs. 40, Solemn Mass - Rs 60); p. 38 (Kumbakonam: Ordinary Mass – Rs. 35, Sung Mass – Rs. 45); p.63 (Salem: Low Mass – Rs. 40, High Mass – Rs. 50); p.84 (Thanjavur: Low Mass – Rs. 35, High Mass – Rs. 50); and p. 118 (Dharmapuri: Ordinary Mass – Rs. 40, Sung Mass - Rs. Rs. 50).

<sup>18</sup> See *Nam Vazhvu* (Tamil weekly), 14.6.1992, p. 7.

<sup>19</sup> See *Nam Vazhvu*, 12.8.2007, p. 22.

<sup>20</sup> *Ibid.*, pp. 20-21.

<sup>21</sup> See *Diocese of Thanjavur News Letter*, vol. 20 (September 2007) 10.

<sup>22</sup> See *Nam Vazhvu*, 21.10.2007, pp. 12-13.

<sup>23</sup> See Congregation for the Evangelization of Peoples, Letters, prot. n. 2655/02 dt. 5 February 2003 and prot. n. B.1312/06 dt. 16 March 2006.