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Specific Accents in the Rights and Obligations of Christian Faithful in the CCEO and Their Actual Relevance

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Specific Accents in the Rights and Obligations of Christian Faithful in the CCEO and Their Actual Relevance

Abstract: The article deals with the rights and obligations of the Catholic faithful, as specified in the Code of the Canons of the Eastern Churches (CCEO), compared with the Code of Canon Law from 1983 (CIC). It pays particular attention not only to the legal differences arising from the different legal schemes of matter and from different legal solutions, but traces the diverse theological accents contained in CCEO. These theological accents are enriched by brief description of the social accents, assessed in the light of the social doctrine of the Catholic Church, and this leads to a description and recognition of the very topical relevance of the legislation of the CCEO, focusing on life in a pluralistic society coupled with a high degree of intra-ecclesial, ecumenical, interreligious, and social cooperation.

Keywords: Catholic Church, Eastern Churches, Canon law, CIC, CCEO, ecumenism, Catholic social doctrine, pluralism

Introduction

I would like to take up the contribution of Professor Gałkowski, regarding the influence of the Second Vatican Council's constitution *Gaudium et Spes*¹ on the

¹ II Vatican Council, Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*, accessed February 15, 2016, http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html.

rights and obligations of the faithful in the actual Code of Canon Law (henceforth CIC),² which I will compliment by looking at the canonical legislation concerning Eastern Catholic Churches. Therefore, I will present particular fragments in the rights and obligations of the Christian faithful in the Code of Canons of Eastern Churches (henceforth CCEO),³ with an ongoing comparison to occidental legislation, and stress their actual relevance.

I point out the differences in the systematisation of legal norms in the CCEO in the first section. The second section describes the meritorious differences, while the third one proceeds to illustrate the broader ecclesiastical context of the life of Eastern Catholics. Subsequently, I will try to offer a reflection on the social context of the life of Eastern Catholics focusing on the actual relevance of discovered differences especially with connection to *Gaudium et Spes* (n. 76) which contains an explicit and wilful acceptance of social pluralism. In the conclusion, I will summarize the achieved findings.

Differences in the Systematization of the Description of Rights and Obligations of the Faithful in the CCEO

Dissimilitude of the Ecclesiastical Approach

As the representative of occidental legislation, the CIC indicates the division of the faithful in canon 207:

§ 1. Among the Christian faithful by divine institution there exist in the Church sacred ministers, who are also called clerics in law, and other Christian faithful, who are called laity.

§ 2. From the both groups there exist Christian faithful who are consecrated to God in their special manner and serve the salvific mission of the Church thorough the profession of evangelical counsels by means of vows or other sacred bonds recognized and sanctioned by the Church; although their state does not belong to the hierarchical structure of the Church, they nevertheless do belong to its life and holiness.

² *Code of Canon Law. Latin-English edition* (Washington: Canon Law Society of America, 1995).

³ *Code of Canons of the Eastern Churches. Latin-English edition* (Washington: Canon Law Society, 1995).

The CIC connect to the constitution *Lumen Gentium* of the Second Vatican Council,⁴ n. 10:

Though they differ from one another in essence and not only in degree, the common priesthood of the faithful and the ministerial or hierarchical priesthood are nonetheless interrelated: each of them in its own special way is a participation in the one priesthood of Christ. The ministerial priest, by the sacred power he enjoys, teaches and rules the priestly people; acting in the person of Christ, he makes present the Eucharistic sacrifice, and offers it to God in the name of all the people. But the faithful, in virtue of their royal priesthood, join in the offering of the Eucharist. They likewise exercise that priesthood in receiving the sacraments, in prayer and thanksgiving, in the witness of a holy life, and by self-denial and active charity.

On the other hand, the CCEO—as the representative of Eastern legislation—indicates the division of the faithful in another way especially in canon 399 which describes the definition of the laity:

The designation of “lay persons” is applied in this Code to the Christian faithful whose proper and specific quality is secularity and who, living in the world, participate in the mission of the Church, but are not in sacred order nor ascribed in the religious state.

Such a description corresponds fully to the constitution *Lumen Gentium* n. 31:

The term laity is here understood to mean all the faithful except those in holy orders and those in the state of religious life specially approved by the Church. These faithful are by baptism made one body with Christ and are constituted among the People of God; they are in their own way made sharers in the priestly, prophetic, and kingly functions of Christ; and they carry out for their own part the mission of the whole Christian people in the Church and in the world.

Therefore it is necessary to state, that the ecclesiastical approach of both codes results from the doctrine of the Second Vatican Council, but each code makes it in a different way.

The CIC accentuates the essential difference between clergymen as wearers of the seal of the sacrament of orders and laymen as non-wearers of this seal; therefore, the description of laymen in the CIC is basically negative.

⁴ Vatican Council II, Dogmatic Constitution on the Church *Lumen Gentium*, accessed February 15, 2016, http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html.

The CCEO emphasizes the traditional conception of three states of life (*status*) of the faithful, being clergymen, laity, and consecrated persons, which seems to be more practical criterion allowing a rather practical approach to their life (and to its legal regulation). It is important to add that the practical approach stressing three states of life of the faithful is preferred by the consecutive documents of the Church magisterium, as we can see very clearly, for example in the Catechism of the Catholic Church⁵ (n. 897) and in the post-synodal apostolic exhortation *Vita Consecrata*⁶ (n. 31).

Differences in the Systematisation of the Catalogues of the Rights and Obligations of the Faithful

Coming from the ecclesiastical approach, the CIC indicates in book II, part I, title I, the obligations and rights of all Christian faithful (cann. 208–223), title II depicts the obligations and rights of lay Christian faithful (cann. 224–231), and title III, chapter III defines the obligation and rights of clerics (cann. 273–289). Only much later, in book II, part III, section I, title II, chapter III can we find the enumeration of the obligations and rights of religious institutes and their members (cann. 662–672), which belongs *mutatis mutandis* to all *de iure* consecrated persons.

However, the CCEO is arranged in a different order in the description of obligations and rights of the faithful. The CCEO indicates at the very beginning in title I the obligations and rights of all Christian faithful (cann. 7–26), later in title X, chapter III, the obligations and rights of clerics (cann. 367–393) and in title XI, which is dedicated only to laymen, the obligations and rights of lay Christian faithful (cann. 399–409). It is not possible to find a specific list of obligations and rights of consecrated persons there; the singular provisions are dispersed throughout chapter I, title XII (i.e., in cann. 410–553).

⁵ *Catechism of the Catholic Church*, accessed February 15, 2016, http://www.vatican.va/archive/ENG0015/_INDEX.HTM.

⁶ John Paul II, Post-Synodal Apostolic Exhortation *Vita Consecrata* of the Holy Father John Paul II to the Bishops and Clergy, Religious Orders and Congregations, Societies of Apostolic Life, Secular Institutes and All the Faithful on the Consecrated Life and its Mission in the Church and in the World, accessed February 15, 2016, http://www.vatican.va/roman_curia/congregations/ccsclife/documents/hf_jp-ii_exh_25031996_vita-consecrata_en.html.

Description of the Meritorious Differences in the Rights and Obligations of the Faithful between the CCEO and CIC

The description of the differences in the rights and obligations of the faithful in the two codes can be envisaged in several ways. It is useful to focus on the integral catalogues of the obligations and rights: of all the faithful, of clerics, and of lay Christian faithful (using the order in the CCEO).

Meritorious Differences in the Rights and Obligations of All Faithful

The comparison of the catalogue of the obligations and rights of all faithful in the CIC and the CCEO does not find any meritorious difference. It is possible to observe the influence of the unrealized project *Lex Ecclesiae Fundamentalis*; even more: the formulation of the singular provisions is nearly identical.

It is possible to find there only one phrasing difference connected with the more accurate language of the CCEO: in can. 214 of the CIC is the guarantee of the right to worship God according to the prescripts of their own rite (*iuxta praescripta proprii ritus*), whereas in can. 17 of the CCEO the right to worship God is warranted according to the prescriptions of their own Church *sui iuris* (*secundum praescripta propriae Ecclesiae sui iuris*)—this difference is in accordance with the very clear distinction between the rites and Churches *sui iuris* in the CCEO, which is not found thoroughly in the CIC.⁷

Meritorious Differences in the Rights and Obligations of Clerics

The catalogue of the obligations and rights of clerics in the CCEO is much different from the one in the CIC.⁸

⁷ Pio Vito Pinto, *Commento al Codice dei Canonici delle Chiese Orientali* (Città del Vaticano: Libreria Editrice Vaticana, 2001), 24–25.

⁸ Andrés Gutiérrez, “I chierici nel Codex Canonum Ecclesiarum Orientalium e nel Codex Iuris Canonici,” in *Il Diritto Canonico Orientale nell’ordinamento ecclesiale*, ed. Kuriakose Bhranikulangara (Città del Vaticano: Libreria Editrice Vaticana, 1995), 128–12; Dimitrios Sallachas, *Istituzioni di diritto canonico delle chiese cattoliche orientali* (Bologna: Edizioni Dehoniane Bologna, 1993), 278–85.

The main practical differences are connected with the fact of priestly ordination of married men. Therefore, it is possible to find in can. 373 of the CCEO—beyond the appreciation of the celibate—the positive estimation of the life of married clerics,⁹ whereas in can. 375 the requirement of an exemplary marital life and the education of children on the part of married clerics, and in can. 371 § 3—the possibility of exercising a civil career as well. Such provisions are missing in the CIC.¹⁰

Regarding the description of the proper life of clerics, the CCEO offers several times a more able and richer wording, for example, in can. 367—a theologically richer description of the style of life of clerics, in can. 376—a better explanation of the advantages of common life of clerics (which can be realized rather exclusively by celibate clerics), in can. 380—the postulate of the stimulation and cultivation of vocations to the state of clerics or consecrated persons (missing in the CIC), in can. 381 § 1—stronger accent on apostolic zeal, especially towards social groups in danger, in can. 393—an emphasis upon missionary sending especially through providing help in regions with the lack of clerics (missing in the CIC), and finally, in can. 397—the postulate of cooperation between the clerics of several Churches *sui iuris* in the same territory.

In the CCEO, there are often better expressed provisions regarding the relationship between clerics and their superiors, that is, in can. 371 § 1, describing the right to adequate help for the work of clerics on the part of eparchial bishop, in can. 371 § 2, making a stronger demand of accepting and faithfully carrying out every office, ministry, or function committed to them by the competent authority whenever, in the judgment of the same authority, the needs of the Church require it (without the limitation *nisi legitimo impedimento excusatur* expressed in can. 274 § 2 of the CIC), and in can. 389, the postulate to refer controversies arising among them or between clerics and other faithful to the forum of the Church (missing in the CIC).

According to can. 388 of the CCEO, clerics must not use special rights and insignia connected with granted dignity outside of the territory where the authority who granted the dignity exercises its competence.¹¹ The CCEO is missing the provision of can. 274 § 1, that only clerics can obtain offices for whose exercise the power of orders or the power of ecclesiastical governance is required.

⁹ Very broad description of the legal evolution of the state of married priests in the Eastern Catholic Churches and its possible limitations can be found in the last-mentioned book by Dimitrios Salachas, *Istituzioni di diritto canonico*, 281–85.

¹⁰ Dimitrios Salachas and Luigi Sabbarese, *Chierici e ministero sacro nel Codice latino e orientale. Prospettive interecclesiali* (Roma: Urbiana University Press, 2004), 126–28.

¹¹ Salachas and Sabbarese, *Chierici e ministero sacro*, 131–32.

Meritorious Differences in the Obligations and Rights of Lay Christian Faithful

There is a very basic difference between the regulation of the CIC and the CCEO, that is, title XI which is dedicated specially to the laity but is missing in the CIC.¹²

Therefore, it is comprehensible that the wording of the CCEO is clearer and theologically richer. As examples can serve: can. 399, containing a positive definition of lay persons and can. 401, bringing a far better description of the proper vocation of lay persons (both texts arise from *Lumen Gentium* n. 31 and from the post-synodal exhortation *Christifideles Laici*, especially n. 7).¹³

In the CCEO, there are three other important provisions for lay persons missing in the CIC: in can. 403—the right and obligation to observe everywhere their own rite, in can. 405—the requirement of a mutual esteem and unity of action between the lay members of different Churches *sui iuris* for the common good of the society in which they live, and in can. 408 § 3 the obligation of full subjection to ecclesiastical authority in respect of the exercise of ecclesiastical functions.¹⁴

Another difference is apparent in assigning specific tasks: while the CIC can. 230 § 1 and § 2 talk about the services of lector and acolyte and the provisional authorization to operations connected with these and other liturgical services, the equivalent can. 403 § 2 allows authorization to similar activities only for a shortage of clergy and can. 709 § 2 speaks specifically on extraordinary minister of the Eucharist.¹⁵

¹² Cf. Pinto, *Commento al Codice dei Canonici delle Chiese Orientali*, 349–60.

¹³ John Paul II, Post-Synodal Apostolic Exhortation *Christifideles Laici* of his Holiness John Paul II on the Vocation and the Mission of the Lay Faithful in the Church and in the World, accessed February 16, 2016, http://w2.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_30121988_christifideles-laici.html.

¹⁴ Pinto, *Commento al Codice dei Canonici delle Chiese Orientali*, 353–54, 356, 358.

¹⁵ *Ibid.*, 354; Jean Gaudement, “Laypeople,” in *A Guide to Eastern Code*, ed. George Nedungatt (Roma: Pontificio Istituto Orientale, 2002), 338.

The Broader Context of the Ecclesial Life of the Eastern Catholics

The Emphasis on the Cooperation of Several Churches *sui iuris* for the Same Territory

Unlike the Latin Church, Eastern Catholic Churches are generally far less populous, and so rarely is one of them in a given territory clearly the dominant Church. Usually these Churches make up a minority in a particular country, and, moreover, frequently there coexist in the same territory several Eastern Catholic Churches, often along with the Latin Church.¹⁶

The CCEO takes into account the far greater variability of Catholic communities in the same territory, and therefore it provides important guidelines for the necessary cooperation.

Can. 379 includes a requirement for the greater cooperation of the clerics of several Churches *sui iuris* in the same territory¹⁷ and can. 405 requires a mutual appreciation of the life of the various Churches *sui iuris* connected with unified apostolic efforts in favor of the society in which they live.¹⁸

As structural means for this goal, can. 322 provides the possibility of an assembly of local hierarchs of the various Churches *sui iuris*, even of the Latin one.¹⁹ These hierarchs are to see most carefully to the faithful protection and accurate observance of their own rite without admitting changes in it except for when it is by reason of its organic progress, and keeping in mind, however, the mutual goodwill and unity of Christians (can. 40), therefore it is necessary that they know thorough the rites of other Churches *sui iuris* in its territory and take care of their development, which is specifically emphasised for the Latin Church as one of the churches *sui iuris* there (can. 41).²⁰

The Postulate of Ecumenical Cooperation

Unlike the CIC, the CCEO strongly emphasizes ecumenism even dedicating the whole of title XVIII to this matter (cann. 902–908), while the CIC dedicates to

¹⁶ This reality is very minutely described in Paul Pallath, *Local Episcopal Bodies in East and West* (Roma: Pontificio Istituto Orientale, 1997), 456–61.

¹⁷ Pinto, *Commento al Codice dei Canoni delle Chiese Orientali*, 330.

¹⁸ Gaudement, “Laypeople,” 339.

¹⁹ Pallath, *Local Episcopal Bodies*, 461, 464–67.

²⁰ *Ibid.*, 470–72.

this theme only one can. 755, dealing with the promotion and governance of ecumenical efforts.²¹

The CCEO in can. 903 accentuates the special ecumenical significance of Eastern Catholic Churches (albeit these Churches are mostly vigorously denied by the Eastern non-Catholic Churches). As means to this, can. 903 of the CCEO mentions: the example of life, fidelity to the ancient traditions, greater mutual understanding, mutual cooperation, and fraternal valuation.²²

Can. 904 § 2 requires the existence of a special committee on ecumenical issues for individual Churches *sui iuris*, or eventually in the cooperation of several Churches *sui iuris*. Likewise, in accordance with § 3, there should exist a similar commission at the level of eparchy or of more eparchies if necessary. Compared to that, can. 905 emphasizes the need for adequate discretion to avoid erroneous irenicism, indifferentism, and immoderate zeal.²³

Can. 906 gives emphasis to the education of the faithful towards ecumenism, even using the media; can. 907 stresses the same thing for schools, hospitals, and similar institutions. The final can. 908, accentuates the point that ecumenical cooperation is not to be organized only individually, but together, especially in the field of charity, social justice, the defence of the dignity of the human person and its fundamental rights, promoting peace on national holidays and memorable days.²⁴

Besides title XVIII, there are other provisions regarding ecumenism in the CCEO. In the field of education, the spirit of ecumenism is to be present in the teaching of every theological discipline (can. 350 § 4), in the institution of clerics (can. 352 § 3) and in catechetical instruction (can. 816). Even more, in the case of mixed marriages it is necessary to take the pastoral care also of the non-Catholic spouse (can. 816—identical to can. 1128 of the CIC).²⁵

Neither of the codes contains provisions for interreligious dialogue nor dialogue with non-believers, and both codes only require that bishops and priests take appropriate pastoral care for non-believers too.

²¹ Cf. Dimitrios Salachas, "Ecumenism," in *A guide to Eastern Code*, ed. George Nedungatt (Roma: Pontificio Istituto Orientale, 2002), 607–18.

²² Salachas, "Ecumenism," 610–12; Pinto, *Commento al Codice dei Canonici delle Chiese Orientali*, 778–79.

²³ *Ibid.*, 612–14; Pinto, *Commento al Codice dei Canonici delle Chiese Orientali*, 779–81.

²⁴ *Ibid.*, 614–16; *Ibid.*, 781–82.

²⁵ Pinto, *Commento al Codice dei Canonici delle Chiese Orientali*, 685.

The Social Life Context of the Eastern Catholics, Especially Regarding Pluralism

On the basis of the comparative analysis realized in the previous chapters we can proceed to fundamental and important findings regarding the legislation in the CCEO.

Firstly, there is no trace of the tendency, quite present in the older traditional Latin Catholicism, to create a homogeneous Catholic society there. It is recognized, however, that even in this, the Second Vatican Council greatly changed the attitude of the Catholic Church.²⁶ The first very explicit expression of such a change in an official Church document can be found in the Pastoral Constitution of the Second Vatican Council *Gaudium et Spes*, where n. 76 reflects upon and positively assessed pluralism; it can be described as a ground-breaking reality:

It is very important, especially where a pluralistic society prevails, that there be a correct notion of the relationship between the political community and the Church, and a clear distinction between the tasks which Christians undertake, individually or as a group, on their own responsibility as citizens guided by the dictates of a Christian conscience, and the activities which, in union with their pastors, they carry out in the name of the Church.

This attitude has been further developed in the social teaching of the Church, which is clearly and comprehensively expressed in the Compendium of the Social Doctrine of the Church, especially in nos. 16, 151, 187, 417, 552, and 572.²⁷

Secondly, the CCEO takes more into account the minority status of Eastern Catholics, which corresponds to their percentage representation not only in the Catholic Church, but very often in the society.²⁸

Thirdly, the CCEO underlines the cooperation of several Churches *sui iuris* in the same territory, including the Latin Church. Therefore, it is possible to include the hierarchs of the Eastern Catholic Churches as members of the conferences of bishops according to the provision of can. 450 of the CIC—this is designated for territories with a prevalent presence of Latin Catholics. In the territories with a clear dominance of Eastern Catholics, there is the possibility to create a special structure for this purpose according to can. 322 of the CCEO:

²⁶ Paweł Sobczyk, *Kościół a wspólnoty polityczne* (Warszawa: Santiago, 2005), 79–86.

²⁷ Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, accessed February 18, 2016, http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html.

²⁸ Cf. Pallath, *Local Episcopal Bodies in East and West*, 456–61.

the Assembly of Hierarchs of several Churches *sui iuris*; and—if it is suitable—the Latin hierarchs can be included in such assemblies as members.

Fourthly, last but not least, the CCEO gives priority to ecumenical cooperation much more than the CIC, underlining the importance of the formation to ecumenism, too.

In the present period, characterized by globalization, interreligious dialogue becomes more important. Although neither of the two Codes contain any provisions for such a dialogue, it is certainly possible to start with the principles indicated for ecumenism.

It is therefore clear that the CCEO envisages a diversified, therefore pluralistic society. This acceptance and recognition of pluralism, not only as an irreversible social fact, but as a fact having a theological justification, albeit with its pitfalls and limitations too, has become the basis for specifying the principles governing the relationship between the state and religious authority, or—as can be said—the relationship between Church and state.

Conclusion

It can be summarized that specific accents in defining the rights and obligations of the faithful, and especially strongly in the case of clerics and laymen, together with an emphasis on the cooperation of several Churches *sui iuris* in the same territory and on ecumenical cooperation, lead to, in conformity with the spirit of the pastoral constitution of the Second Vatican Council *Gaudium et Spes* (and of the declaration *Dignitatis Humanae* of the same council), a greater appreciation of diversity in society and also, therefore, lead to living with a pluralistic society. There is also an emphasis not only on increasing knowledge, appreciation, and mutual cooperation, but also on maintaining their Churches' own identities.

In understanding pluralism, the Catholic Church has taken a balanced position between the desire for a homogenous, unified society and ideological indifference. On the one hand, it stresses man's allegiance to objective truth (which is reflected in his/her conscience) and to true values, and on the other hand, accentuates the diversity of people and of the conditions in which they grow, as a result of the diversity embedded in the order of Creation. Neither the Church nor the state should seek to homogenize or unify society, while they ought to allow the free development of individuals and communities towards a common good, which, however, has its basis in human nature (this view is based on the understanding of man, as is shown in God's revelation).

This is very important not only in Eastern countries, those for which the CCEO is primarily intended, but also in Western culture, which is character-

ized by a very considerable variability and, therefore, by far-reaching pluralism, indeed; moreover, because of the enormous influx of refugees, mainly from Muslim countries.

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Damián Němec

Accents spécifiques dans les droits
et obligations des catholiques
de CCEO ainsi que leur relevance actuelle

Résumé

L'article analyse les droits et les obligations des fidèles catholiques inclus dans le Code des canons des Églises orientales (CCEO) tout en les comparant avec le Code de droit canonique de 1983 (CIC). On y porte une attention particulière non seulement sur les différences du droit résultant d'une autre systématique de la matière juridique et de différentes solutions juridiques, mais en plus, tout en les analysant, on cherche à identifier différents accents théologiques inclus dans le CCEO. À ces accents théologiques, l'auteur ajoute des accents sociaux évalués à la lumière de l'enseignement social de l'Église catholique. Cela conduit à la description et à la connaissance de la relevance actuelle de la normativité de CCEO adressée à la vie dans une société pluraliste, y compris le haut degré de la coopération œcuménique, interconfessionnelle, sociale ainsi que celle à l'intérieur de l'Église.

Mots clés: Église catholique, Églises orientales, droit canonique, CIC, CCEO, œcuménisme, enseignement social catholique, pluralisme

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Gli accenti specifici nei diritti
e doveri dei cattolici nel CCEO
la loro rilevanza attuale

Sommario

L'articolo tratta i diritti ed i doveri dei fedeli cattolici, come specificato nel Codice dei Canoni delle Chiese Orientali (CCEO), in confronto al Codice di Diritto Canonico del 1983 (CIC). Viene prestata particolare attenzione non soltanto alle differenze giuridiche risultanti da una diversa sistematica giuridica della materia e da differenti soluzioni giuridiche, ma partendo dalle stesse cerca di identificare diversi accenti teologici compresi nel CCEO. A questi accenti teologici aggiunge per sommi capi gli accenti sociali, valutati alla luce della dottrina sociale della Chiesa cattolica, e ciò porta alla descrizione e al riconoscimento di una rilevanza molto attuale della normativa del CCEO, rivolta alla vita nella società pluralistica unita all'elevato grado di collaborazione intraecclesistica, ecumenica, interconfessionale e sociale.

Parole chiave: Chiesa Cattolica, Chiese orientali, diritto canonico, CIC, CCEO, ecumenismo, dottrina sociale della Chiesa cattolica, pluralismo