

# Who convenes a Synod in Byzantium?

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To convene a synod in the Anglican church is a right of the lay ruler, according to the articles of religion<sup>1</sup> while in the catholic church such a possibility is offered to the head of the church.<sup>2</sup> These two different manners of convening a council or a synod illustrate the importance of the question. While much literature is preoccupied with the existence or not of caesaropapism, the sources reveal that in the Byzantine Empire it is God who convenes the most important synods and the rest is left to humans. This article aims to analyse how the official documents of synods describe the act of gathering the participants of synods.

One may begin by a simple distinction operated by Theodore the Studite (759-826) who divided synods into two main groups: ecumenical and local.

ἡμεῖς τοίνυν, ὧ μακαριώτατε, ὀρθόδοξοι ἐσμεν κατὰ πάντα, πᾶσαν αἴρεσιν ἀποβαλλόμενοι καὶ πᾶσαν σύνοδον οἰκουμενικὴν τε καὶ τοπικὴν ἐγκειρομένην ἀποδεχομενοι (Theod. Stud. Epist. 30. 9-11 Fatouros in G. Fatouros, *Theodori Studitae Epistulae*, Berlin 1992).

Most blessed father, we are always Orthodox, we refuse each heresy and we accept every ecumenical synod and approved local decision.

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1. Article 21 of 1662 prayerbook: "General Councils may not be gathered together without the commandment and will of Princes. And when they be gathered together, (forasmuch as they be an assembly of men, whereof all be not governed with the Spirit and Word of God), they may err, and sometimes have erred, even in things pertaining unto God. Wherefore things ordained by them as necessary to salvation have neither strength nor authority, unless it may be declared that they be taken out of holy Scripture".

2. *Generalia, quae et Oecumenica dicuntur, ea sunt, ad quae vocantur Episcopi totius orbis, qui possunt, et debent iisdem interesse, nisi legitime impediuntur, et quibus praesidet Romanus Pontifex per se, vel per suos Legatos.* (Benedictus XIV De Synodo Diocesana Roma 1806, 1.2)

This distinction between ecumenical and local synods illustrates the importance of jurisdiction. Indeed the geographical extent of a synod implies different procedures for convocation. One may begin with the ecumenical synods. Leaving aside what the word ecumenical implies or even means, it refers to the seven gatherings:<sup>3</sup>

- 325 Nicaea
- 381 Constantinople
- 431 Ephesus
- 451 Chalcedon
- 553 Constantinople
- 680 Constantinople
- 787 Nicaea

We are very fortunate to have the decrees of all these synods<sup>4</sup> and the acts of most of them.<sup>5</sup> Since we do not have the acts for the first two and the definitions of faith do not describe the synod itself one cannot determine the official of the convocation. The following examples may serve for the other synods:

Ἡ ἅγια σύνοδος ἡ χάριτι θεοῦ ἐν Ἐφέσῳ συναχθεῖσα κατὰ τὸ θέσπισμα τῶν εὐσεβεστάτων καὶ θεοφιλεστάτων ἡμῶν βασιλέων. (Eph. 1.1.2.64.7-8).

The Holy Synod which by the Grace of God was gathered in Ephesus by decree of the most pious and God-loving emperors.

Ἡ ἅγια καὶ οἰκουμενικὴ σύνοδος ἡ χάριτι θεοῦ κατὰ θέσπισμα τῶν εὐσεβεστάτων καὶ φιλοχρίστων ἡμῶν βασιλέων συναχθεῖσα ἐν τῇ Χαλκηδονέων πόλει τῆς Βιθυνίας (Chal. 2.1.2.41.34-35).

3. Among others, one may single out Theodore the Studite who refers directly to seven ecumenical councils (Epist 490.52 Fatouros).

4. Edited in G. Alberigo, *Conciliorum Oecumenicorum Generaliumque Decreta*, Turnhout 2007.

5. ACO has edited the acts of the following councils: Ephesus 431 in E. Schwartz, *Acta conciliorum oecumenicorum*, vol. 1 Berlin 1924-1927 (Eph.); Chalcedon 451: E. Schwartz, *Acta conciliorum oecumenicorum*, vol. 2 Berlin 1933-1935 (Chal.); Constantinople 536 E. Schwartz, *Acta conciliorum oecumenicorum*, vol. 3. Berlin 1940; (Const II). Constantinople III 680-681: R. Riedinger, *Acta conciliorum oecumenicorum Series secunda, volumen secundum: Concilium universale Constantinopolitanum tertium, Pars 1-2*. Berlin 1990, 1992. (Const III). E. Lamberz, *Acta conciliorum Oecumenicorum Acta Concilium Universale Nicaenum secundum*: Berlin 2008, 2012 (Nic. II).

The holy ecumenical synod which by the grace of God by the decree of the most pious and Christ-loving emperors was gathered in the city of Chalcedon of Bithynia.

Ἡ ἅγια καὶ μεγάλη καὶ οἰκουμενικὴ σύνοδος ἡ κατὰ θεοῦ χάριν καὶ θέσπισμα τῶν εὐσεβεστάτων καὶ φιλοχριστῶν ἡμῶν βασιλέων (Const II 3.3.17-18).

The holy, great and ecumenical synod which was gathered by the grace of God and decree of the most pious and Christ loving emperors.

Ἡ ἅγια καὶ μεγάλη καὶ οἰκουμενικὴ σύνοδος, ἡ κατὰ θεοῦ χάριν καὶ πανευσεβὲς θέσπισμα τοῦ εὐσεβεστάτου καὶ πιστοτάτου μεγάλου βασιλέως Κωνσταντίνου συναχθεῖσα ἐν ταύτῃ τῇ θεοφυλάκτῳ καὶ βασιλίδι Κωνσταντινουπόλει νέα Ῥώμη (Const III 18.768.1-3).

The holy great and ecumenical synod, which by the grace of God and the most revered decree of the most pious and faithful great emperor Costantine was gathered in this God protected imperial capital Constantinople, New Rome.

Συνελθούσης τῆς ἁγίας καὶ οἰκουμενικῆς συνόδου τῆς κατὰ θεῖαν χάριν καὶ εὐσεβὲς θέσπισμα τῶν αὐτῶν θεοκυρῶτων βασιλέων (Nic. II 1.18. 7-8).

The holy ecumenical synod convened by the grace of God and the pious decree of the emperors ensured by God.

The passages illustrate that the convocation was done by a procedure known as a *θέσπισμα* in Greek which has the specific meaning of imperial decree. The situation is not simple in as much as Justinian felt he needed to give legal value to council decisions within the law which he did in the *Corpus Iuris Civilis*.<sup>6</sup> This applied to the first four councils. By the ninth century all seven ecumenical councils' canons had legal value as one can see from the byzantine legal code, the *Basilika*.<sup>7</sup> This demonstrates the need judges or the law had to apply the

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6. CJ.1.1.8.19: Imperator Justinianus: Suscipimus autem sancta quattuor concilia, id est trecentorum decem et octo sanctorum patrum, qui in nicaea congregati sunt, et centum quinquaginta sanctorum patrum, qui in hac regia urbe convenerunt, et sanctorum patrum, qui in epheso primo congregati sunt, et sanctorum patrum, qui in chalcedone convenerunt, sicut vestra apostolica sedes docet atque praedicat. <a 534 d. viii k. april. roma dn. iustiniano pp. a. iiii et paulino iuniore vc. cons.>

7. Θεσπίζομεν τοίνυν τάξιν νόμων ἐπέχειν τοὺς ἁγίους ἐκκλησιαστικοὺς κανόνας τοὺς ὑπὸ τῶν ἁγίων ἐπτὰ συνόδων ἐκτεθέντας ἢ βεβαιωθέντας, *Basilica* 5.3.2.2-3 in H.J. Scheltema and N. van der Wal, *Basilicorum libri LX*. Series A, vols. 1-8, 1955-1988.

canons. At the time of the patriarch Alexios (1025-1043) in the eleventh century this problem is described accurately in relation to communities which did not accept the fourth ecumenical council, such as the Syro Jacobites.<sup>8</sup> Therefore the law of Justinian confirms that the imperial decree (θέσπισμα) which convened a synod did not imply a legal procedure in itself. Moreover there is a religious connotation in the term θέσπισμα.<sup>9</sup> Etymologically it is connected with θέμις and θεσπίζω both of which are religious and distinct from νόμος, law. It is not an accident such a term was chosen since the emperor refers to his convocation of the synod of 451 by adding a direct reference to God:

Αὐτοκράτορες Καίσαρες Οὐαλεντινιανὸς καὶ Μαρκιανὸς νικηταὶ τροπαιοῦχοι ἀεισέβαστοι τῆι ἁγίαὶ συνόδωι τῆι ἐν Νικαίαι κατὰ βούλησιν θεοῦ καὶ θέσπισμα ἡμέτερον συναχθείσμη. (Chal. 2.1.1.30.5-7 Schwartz).

We, the emperors Caesars Valentinian and Marcian, victorius, triumphant and eternally august to the holy synod gathered in Nicaea by God's will and by our decree.

The expression could seem ambiguous, since the role of God could refer to the fact they all arrived in Nicaea or that they were convened there. In any case it appears to be a formula which occurs occasionally. The meaning of the formula becomes clearer in the actual horos of the synod of 680:

Ἡ ἁγία καὶ μεγάλη καὶ οἰκουμενική σύνοδος, ἥ κατὰ θεοῦ χάριν καὶ πανευσεβὲς θέσπισμα τοῦ εὐσεβεστάτου καὶ πιστοτάτου μεγάλου βασιλέως Κωνσταντίνου συναχθεῖσα ἐν ταύτῃ τῇ θεοφυλάκῳ καὶ βασιλίδι Κωνσταντινουπόλει νέα Ῥώμη ἐν τῷ σεκρέτῳ τοῦ θείου παλατίου τῷ ἐπιλεγομένῳ Τρούλλῳ ὤρισε τὰ ὑποτεταγμένα· (Const III 18.768.1-5)

The holy, great and ecumenical synod, which was gathered by the grace of God and the most pious decree of the most revered and faithful great emperor Constantine in this God-protected and imperial capital of Constantinople, New

8. F. Lauritzen, Алексей Студит и Сиро-Якобитская община [Alexios Studites and the Syro Jacobite community] in Церковно-исторические исследования в контексте современной науки, Moscow 2011, 161-164.

9. σὺ δ' ἐξέλίσσεις πῶς θεοῦ θεσπίσματα; (Euripides, Supplices 141 Diggle in J. Diggle, Euripidis fabulae, vol. 2. Oxford 1981), στρατεύονται δέ, ἐπεῖν σφραγὶς ὁ θεὸς οὗτος κλεῦναι διὰ θεσπισμάτων, καὶ τῆ ἄν κλεῦναι, ἐκείσε. (Herodotus Historiae 2.29.27-29 Legrand in Ph.-E. Legrand, Hérodote. Histoires, Paris 1930-1954.

Rome in the secretum of the divine palace known as the Trullo defined the following:

This decree reveals that it is the actual synod rather than the arrival which is referred to by the verb and by the terms of convocation. The term χάρις in the formula is used in nearly all the synods (431, 451, 536, 680). The term βούλησις is used only in 431 and 451. The emperor issues a θέσπισμα to convene the synod. He is the cause of gathering, but this is not the first step in the process. Indeed it is the grace of God or his will which initiates the action. Therefore there are two steps for the convocation of an ecumenical synod. The first is the will or grace of God who initiates the action and the imperial edict which physically convenes the participants. This dichotomy is present in all the documents of ecumenical councils.

One should not forget an important parallel offered by Novel 105 of Justinian promulgated in 5<sup>th</sup> July 535. This text describes the emperor as an intermediary in God's legislation on earth:

Πάντων δὲ δὴ τῶν εἰρημένων ἡμῖν ἢ βασιλέως ἐξηγήσθω τύχη, ἧ γε καὶ αὐτοῦς ὁ θεὸς τοὺς νόμους ὑπέθηκε νόμον αὐτὴν ἔμψυχον καταπέμψας ἀνθρώποις· Novel 105 p. 507.7-10 Kroll Schöll in W. Kroll and R. Schöll, *Corpus iuris civilis*, vol. 3. Berlin 1895.

The Emperor, however, is not subject to the rules which we have just formulated, for God has made the laws themselves subject to his control by giving him to men as an incarnate law (tr. Scott in S. P. Scott, *The Civil Law*, XVII, Cincinnati, 1932).

The emperor absolves his function of legislator since he has been sent as living law, νόμος ἔμψυχος. In the Byzantine mind it is clear that it is God who convenes a council. The term θέσπισμα is an imperial edict issued because of his personal power deriving from God.

At this point the obvious question is: how does God officially inform the emperor of the need of a council? The acts of the synod of 680 give an answer. The emperor wrote a letter to the pope of Rome on the suggestion of the patriarch of Constantinople.<sup>10</sup> The emperor says that humans can only act imperfectly while God acts with perfection. He then points out the presence of a division

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10. Const III proem1.4.1-7.

within the church, a schism.<sup>11</sup> Indeed the term schism is present in all the ecumenical synods<sup>12</sup> and seems to be a motor for initiating a synod. Thus the clergy and specifically the patriarchs write a letter to the emperor indicating the presence of a division within the church which spans across the jurisdictions of the patriarchates. The aim is for the emperor to conduct an investigation. The implication is that God does not wish to see his church divided.<sup>13</sup> Thus the very fact of their being a visible schism, requires the emperor to convene a synod. The role of the emperor is investigation into the reason for the schism with all parts concerned. The result is a common decree which has been wished by God and thus is voted in the presence of the holy ghost:

Ἡ ἅγια σύνοδος εἶπεν·

Ἀρκούντως μὲν ἔχει τὰ μέγρι τοῦ νῦν πραχθέντα τὲ καὶ διηγωνισμένα καὶ εἰς τὴν παροῦσαν δογματικὴν ζήτησιν συντείνοντα, καθ' ἑτέραν δὲ τῆ ἐπιφοιτήσεως τοῦ παναγίου καὶ ζωοποιοῦ πνεύματος ὄρον τὸν τῆ ὀρθοδοξία συμβαίνοντα συνοδικῶς ψηφιοῦμεθα. (Const III 16.704.9-12).

The Holy Synod said:

What has been done, elaborated concerning the present dogmatic investigation until now is enough. In the next session we will vote as an assembly with the presence of the Holy and Life-giving Spirit the definition which concerns orthodoxy.

The invocation of Holy Ghost for the act of voting indicates the instrumental aspect of the emperor's gathering of participants. Indeed the emperor seems to simply supervise the discussion among different parties and that the success of the investigation is marked by a common document voted by those present,

11. δι' αὐτὴν τὴν ἀλήθειαν τὸ τοὺς καθ' ἡμᾶς ἀρχιερεῖς καὶ τὸν ὀρθόδοξον ἡμῶν λαὸν διὰ τινος καινοφωνίας σχίσματι περιπεσεῖν καὶ τοῦ ἐπιχάρμα γενέσθαι τοῖς τὲ ἀσεβέσι καὶ αἰρετικοῖς (Const III proem 1.2.18-20 Riedinger).

12. ἐν ἧ ἀπεδόθη μοὶ γράμματα τῆς ἀγιότητός σου παρακελευόμενα πάντων μὲν ἐκτὸς τῶν σχισμάτων γίνεσθαι, συντίθεσθαι δὲ τῆ ἐν τῆ ἐν τῆ Νικαέων πόλει ἐκτεθείσῃ ὑπὸ τῶν τριακοσίων δέκα καὶ ὀκτὼ ἁγίων πατέρων ὀρθοδόξῳ πίστει. (Eph. 1.1.7.140.2-5); αὕτη δὲ ἡ διόρθωσις ἐτήρεϊτο τῆ φιλοχρίστῳ ἡμῶν βασιλείᾳ πρὸς τὸ μὴ σχίσμα γενέσθαι ἐν τῆ ὀρθοδοξίᾳ, ἀλλὰ τὴν πίστιν στηριχθῆναι ὑπὸ τῆς θεϊότητος ἡμῶν. (Chalc. 2.1.2.116.8-10); μηκέτι ὑπεῖναι τρόπον δυνάμενον παρασπασμὸν ἢ σχίσμα τῆ ἁγία καὶ ἀμωμήτῳ ἡμῶν περιποιῆσαι πίστει. (Const III proem 1.4.18-20).

13. This could be based on the NT passage such as 1 Corinthians 10. However the passage is not quoted directly.

which needs the visitation of the Holy Ghost to be complete. Thus an ecumenical council is convened by God, because of a visible schism. The emperor physically convenes the synod and leads the investigation (ζήτησις), while God sends the Holy Ghost to guarantee the validity of the decree. Such a clear sequence of events, God, emperor, synod and holy ghost, indicates that there are two causes for the synod. The efficient cause which is God himself and the so called organic cause, or instrumental cause which is the emperor. The role of the emperor is that of investigating by having opposing parties discuss the question. The result of the assembly as mentioned before does not have a legal value unless the emperor successively decrees that the decisions have the force of law.

One should now turn to the so called local synods as defined by Theodore the Studite. The local synod as the name implies is a synod whose jurisdiction is limited. In the case of Constantinople, one may identify this local synod with one presided by the patriarch. One clear distinction is it is the patriarch which presides the sessions rather than the emperor. In the ecumenical councils there are specific references to the patriarch and his synod. For example in the ecumenical synod of 680 when describing the patriarch and his entourage:

παρὰ τὸ Ἄγαθωνος τοῦ ἁγιωτάτου πάπα τοῦ ἀποστολικοῦ θρόνου τῆς πρεσβυτέρας Ῥώμης καὶ τῆς ὑπ' αὐτὸν συνόδου (Const III 3.46.2-3).

From Agatho the most holy pope of the apostolic throne of the older Rome and from the synod under him.

Thus the expression is ὑπ' αὐτὸν σύνοδον indicates a jurisdiction presided by the patriarch and represented by his synod. In the same document of 680 one can see that each metropolis is described in this manner. Thus there seems to be a direct connection between one patriarch and one synod, as prescribed by canon law (canon 5 of Nicaea). The question emerges of who actually convenes the patriarchal synod. If one turns to the Lateran council of 649 held in Rome, during the first speech of the synod of 649, it is acknowledged that it was the pope who had convened the synod.

ἡ ὑμετέρα μακαριότης συνήγαγε πρὸς ἑαυτὴν τοὺς ὁσίους αὐτοῦ ἱερεῖς (Lat. 1.8.15-17).

Your beatitude gathered his blessed clergy before itself.

Such a formula is simple but reveals a difference between the ecumenical and the patriarchal synod. Indeed it would appear that it is not God who

convenes it, nor does the emperor, as instrument of God, physically invite the various participants. It is also striking that while ecumenical councils appear to have a strong presence of the laity, the synod of 649 does not have any laity indicated as present in the official documents. Thus a patriarchal synod is simply convened by the patriarch.

The acts of the synod of 1082 and 1166 are the only ones surviving for the middle byzantine period and are useful to establish the relation between emperor and patriarch. Officially, it appears that the emperor made a request to the patriarch that a synod be held to have an investigation. This explains also why the presiding authority was the patriarch and not the emperor. Thus one sees the reversal of the situation of an ecumenical synod where prelates ask the emperor to convene a synod. On the other hand the synod of 1166 shows the emperor Manuel I issuing an edict before the synod was convened by the patriarch. The synod simply read the imperial decree and signed it. Though the emperor carried the day, the procedure was formally respected since it was the patriarch who presided the synod which read out 'in session / ἐπὶ κοινοῦ' the document and then signed it. Both these middle byzantine synods illustrate that there was some external request presented to the patriarch who then convened a patriarchal synod.

The reason why there may be no direct reference to God convening the synod is also because a patriarchal synod may refer specifically to the regular synod known as the permanent synod (σύννοδος ἐνδημοῦσα).<sup>14</sup> This would imply that the synod would meet regularly and cases would be brought before it, rather than a reason being expressed formally beforehand to justify the meeting. This would explain such texts as the following:

Προκαθημένου Ἀλεξίου, τοῦ ἁγιοτάτου καὶ οἰκουμενικοῦ πατριάρχου, ἐν τοῖς δεξιοῖς μέρεσι τῶν κατηγουμενείων, συνεδριαζόντων αὐτῷ θεοφιλεστάτων μητροπολιτῶν, Νικολάου, Ἀγκύρας, Κωνσταντίνου, Πατρῶν, Λαυρεντίου, Δυρραχίου Καὶ Κωνσταντίνου, Χωνῶν, παρισταμένων ἐκκλησιαστικῶν ἀρχόντων, παρέστη Ἰωάννης Κουβουκλείσιος, ὁ ἐξ Εὐρίπου ὀρμώμενος, καὶ τοιόνδε προεβάλετο πρόβλημα. ([grumel 844] synod of 1038).

14. J. Hajjar, *Le synode permanent (Synodos endemousa) de l' Eglise byzantine des origines jusqu' au XI<sup>e</sup> siècle*, Rome 1962 and F. Lauritzen, *Synod decrees of the eleventh century (1025–1081)*. A classification of the documents of the Synodos endemousa, *Byzantinische Zeitschrift* 105. 1(2012) 101-116.



Alexios the most holy ecumenical patriarch was presiding in the right part of the galleries. The most god loving metropolitans were seated with him: Nicolas of Ankyra, Constantine of Patrae, Laurentius of Dyrrachium and Constantine of Chonae. Ecclesiastical leaders were present. John Cubuclisius was present, having come from Euripus, and indicated this problem.

The person brought forth a problem before the synod which was already meant to meet. This means that the patriarchal synod would gather automatically according to canon law, but would not be aware of the subjects discussed. The convocation was automatic and not dependent on the issues discussed during the session. This point specifically defines an important difference: the ecumenical council is an exceptional meeting decided by God. The patriarchal synod is not decided by God but occurs automatically, according to the church calendar. In the patriarchal synods one sees that the actual voting is considered divine in itself. Thus the discussion, decision and voting is similar to an ecumenical synod. However it is the patriarch who leads the investigation.

Thus the situation would seem clear. Byzantine synods are divided into two types: ecumenical and local. The first is convened by God and assembled and presided by the emperor, the second is convened by the patriarch. This alters the composition of the synod. The first has representatives of the five patriarchates and each of their synods. The second has only the prelates of the jurisdiction.

This standard situation finds an interesting and indirect confirmation in the tomos of the synod of 1341 which ultimately condemned Barlaam for his attack on Palamas and hesychasm. A complicated point is that Barlaam refused to undergo the investigation during the synod without the emperor. According to the scheme mentioned earlier, this would cause a problem since it would no longer be a patriarchal synod. The tomos actually describes this situation also to justify the presence of the emperor which was not meant to be usual in such investigations internal to an ecclesiastical jurisdiction:

οὐ μὴν ἀλλὰ καὶ εἰς τὴν ἐκκλησίαν τοῦ Θεοῦ παρελθὼν καὶ τὰ περὶ τούτου ἀνενέγκας τῇ ἡμῶν μετριότητι, κατηγορῶν μάλιστα τοῦ τιμιωτάτου ἐν ἱερομονάχοις κυρ Γρηγορίου τοῦ Παλαμᾶ ἐζήτησε μετακληθῆναι καὶ αὐτοὺς εἰς τὴν καθ' ἡμᾶς ἱεράν καὶ θεῖαν σύνοδον. Μετακληθέντων τοίνυν ἕτερον ὁ Βαριλάμ ἐτράπετο, ἀποφεύγων καὶ μὴ καταπειθεῖς ὅλως γινόμενος εἰς τὴν

σύνοδον ἀπαντῆσαι καὶ τοῖς κατηγορηθεῖσι παρ' αὐτοῦ μοναχοῖς εἰς λόγους ἐλθεῖν καὶ ἀντικαταστήναι αὐτοῖς, ἐφ' οἷς κατ' αὐτῶν συνεγράφατο, πρόφασιν μὲν τῆς ἀποφυγῆς ποιούμενος τηνικαῦτα τὴν βασιλικὴν ἀποδημίαν, τῇ δ' ἀληθείᾳ ἑαυτοῦ καταγνοῦς καὶ τὸν ἐντεῦθεν ἔλεγχον δεδιώς (Registrum 132.31-41).

And yet he came to the church of God and brought up this matter to our person. He mostly accused the most esteemed monk Gregorios Palamas and tried to have me and those at our holy and divine synod summon him. Once summoned Barlaam turned away and left since he was not persuaded that he would answer to the synod and that he would discuss with the monks he had accused and that he could resist them, on the charges he accused them. He explained his departure by the absence of the emperor, recognizing the truth of Palamas and fearing his refutation.

One sees that Barlaam initiated the accusation when the synod had already met. Thus he entered a *synodos endemousa* session and accused Palamas of heresy. This act may have been unexpected or even unwarranted. Moreover Barlaam left before the investigation was complete, he wrote and accused them from outside and explained that he wanted the emperor to be present. The point raised in this passage indicates the will of Barlaam to disrupt the normal course of gathering a synod. If a point was raised during a synod, this was a patriarchal synod. If a synod was convened for a reason of schism it was an ecumenical synod but then required representatives of other churches too.

Even the council of Florence (1438-1439) reveals, at least from the Greek point of view, the problem of the convener. Letters were exchanged between the pope, patriarch and emperor saying that the union of the churches was a good deed. After this exchange of letters the Greeks indicate their point of view of a correct convening of a council:

Ἀντιγράφουσι τοίνυν ὁ βασιλεὺς τε καὶ ὁ πατριάρχης καὶ εὐχαριστοῦσι τῷ πάπᾳ ὑπὲρ ἧς ἔδειξεν ἔχειν περὶ τὴν ἔνωσιν προθυμίας· εἶτα παραδηλοῦσιν, ὅπως οὐκ ἔστι δυνατόν ἄλλως ταύτην γενέσθαι, εἰ μὴ σύνοδος γένηται οἰκουμενική, καὶ ἐξετάσῃ καλῶς τὰ τῆς διαφορᾶς ἐλευθέρως, ἀβιάστως καὶ ἀφιλονείκως, καὶ εἴ τι ἂν ἀποδειχθῇ διὰ μαρτυριῶν καὶ παραστάσεων τῶν ἁγίων τῆς Ἐκκλησίας διδασκάλων καὶ ὁμοφωνήσωσι πρὸς τοῦτο πάντες οἱ ἐν τῇ συνόδῳ καθαρῶς καὶ μετὰ πάσης ἐλευθερίας στεργθῇ παρὰ πάντων ἀνεκδοιάστω· καὶ οὕτως ἡ ἔνωσις ἐπακολουθήσει. Τὴν δὲ σύνοδον, ἔγραφον,

ὡς οὐ δεῖ ἀλλαγῶ γενέσθαι εἰ μὴ ἐν τῇ Κωνσταντινουπόλει διὰ πολλὰς καὶ ἀξιολόγους αἰτίας, αἱ εἰς πλάτος ἐν ἐκείνοις τοῖς γράμμασι περιέχονται ἐν τῷ ἱερῷ κώδικι σωζομένοις καὶ ὅτι ὁ βασιλεὺς δεῖ συνᾶξαι τὴν σύνοδον κατὰ τὸ ἀρχαῖον ἔθος αὐτοῦ καὶ προνόμιον, ἕτερος δὲ οὐδεὶς. (Syropoulos 2.8.110.1-9 Laurent in V. Laurent, *Les «Mémoires» du Grand Ecclésiarque de l'Église de Constantinople Sylvestre Syropoulos sur le concile de Florence (1438-1439)*, Paris 1971).

The emperor and the patriarch write back and thank the pope for the intent he showed for unity; then they point out how it is not possible for it to happen, if the council is not ecumenical and if it does not investigate the matter of division well, freely, without pressure and calmly. And if something were accepted through the witness and indications of the holy teachers of the church and if everyone clearly agreed to this and it were freely and unconditionally endorsed by all, then unity would follow. They wrote that the council must not occur anywhere else, other than Constantinople, for many and worthy reasons which were included in their letters to a [great] length which are preserved in the holy register. They said the emperor must convene the council according the ancient and legal custom, and that no one else could.

One point made is, that if the synod is ecumenical only an emperor can call it. In other words the Greeks seem to indicate that they would be pleased to participate in a council but since the council would thus represent at least two patriarchal jurisdictions, it would automatically become ecumenical. For this reason it would have to be convened by the emperor. Thus one sees a clear similarity with the synod of 680, the preparation of the synod is discussed among concerned parties, with letters. In the byzantine tradition a synod which involved more jurisdictions had to be convened by the emperor.

This clear cut distinction between an ecumenical and patriarchal synod should not distract one from the difficulties encountered. Historical circumstances obviously stretch theoretical models. However in Byzantium one sees some interesting cases of theoretical discussions as well. In the 960s there was a reaction to the pre-eminence of the ecumenical patriarch in patriarchal synods. One of the metropolitans pointed out that he was the highest clergy of his jurisdiction and therefore he could not simply be one of the participants in a synod. The objection was answered by Nicetas, metropolitan of Amaseia who claimed that since the patriarch presided and was the first to speak he had the right to direct the voting:

Εἰ μὲν οὖν οὕτω γίνονται αἱ ψήφοι καὶ θεϊκῶς τε καὶ κανονικῶς ὁ πατριάρχης προκαθήμενος πρωτολογεῖ ἐν ταῖς ψήφοις, ὡς πρῶτος βουλευφόρος καὶ κεφαλὴ, συναινέσομαι καὶ ὡς πρωτοψήφῳ συμφηφιοῦμαι. (Nicetas Amasenus *Oratio de Suffragis* 162.1-3 Darrouzes in J. Darrouzès, *Documents inédits d'ecclésiologie byzantine* Paris 1966, 160-174).

If the votes occur in this way, both divinely and canonically then the patriarch speaks first during the votes, since he is first councillor and leader. I will approve together with him, since he is the first voter and I will vote with him.

This passage reveals that the vote was considered sacred also in patriarchal meetings. The argument rests on the fact the patriarch by procedure votes first. Moreover Nicetas emphasises the question by adding the term θεϊκῶς. To say that he presided divinely and canonically is quite unusual, it may even be unique. However the point remains that the aim of a synod, as is clear also from this speech, is to achieve a solution which is voted. He who convenes the synod is also the one who leads the gathering to vote. It appears to be in this sense that the patriarch may even obtain the term divine. What God is actually willing is the vote and that according to human questions of jurisdiction, this vote will actually receive the visitation of the Holy Ghost as is clearly described in the ecumenical synod of 680.

It is for these reasons that one may safely say that the question 'who calls a synod?' is fundamental in Byzantium. A synod remains an act of procedure and bureaucracy. The divine aspect of it is limited to the voting, both in the ecumenical synod and the patriarchal council. This seems to imply that a synod vote represents a mysterious manifestation of God's presence which leads the gathering and the final decision and leaves the rest to humans.