

The Windsor Report 2004

Canon Law and Covenant

113. Recent years have seen a revival of interest in, and the academic study of, the Canon Law of Anglican churches (their constitutions, canons and other regulatory instruments). In particular, the Primates' Meeting at Kanuga 2001 considered acknowledgement of the existence of an unwritten *ius commune* of the worldwide Anglican Communion, and initiated a process leading to the Anglican Communion Legal Advisers' Consultation in Canterbury (March 2002). The Consultation concluded: there are principles of canon law common to the churches within the Anglican Communion; their existence can be factually established; each province or church contributes through its own legal system to the principles of canon law common within the Communion; these principles have a strong persuasive authority and are fundamental to the self-understanding of each of the churches of the Communion; these principles have a living force, and contain in themselves the possibility of further development; and the existence of these principles both demonstrates unity and promotes unity within the Anglican Communion.

114. At their meeting in Canterbury, April 2002, “[t]he Primates recognised that the unwritten law common to the Churches of the Communion and expressed as shared principles of canon law may be understood to constitute a fifth 'instrument of unity'...to provide a basic framework to sustain the minimal conditions which allow the Churches of the Communion to live together in harmony and unity”[\[76\]](#). On the primates' recommendation, the Anglican Consultative Council (Hong Kong, September 2002) approved the establishment of the Anglican Communion Legal Advisers' Network “to produce a statement of the principles of canon law common to the churches, and to examine shared problems and possible solutions”[\[77\]](#). In October 2003, the primates urged the Network 'to bring to completion' this work[\[78\]](#). This Commission fully endorses this and strongly recommends completion of the Statement of Principles of Canon Law as soon as possible, and is glad to learn of a Network meeting planned for the end of 2004.

115. The primates at Kanuga 2001 also considered the following propositions:

- The principles about communion, autonomy, discernment in communion and inter-Anglican relations, enunciated at global level by the Instruments of Unity, have persuasive moral authority for individual churches; they do not have enforceable juridical authority unless incorporated in their legal systems (and generally they are not incorporated).
- This may be contrasted with the juridical experience of the particular church, in which enforceable canon law, the servant of the church, seeks to facilitate and order communion amongst its faithful.

- The canon law of each church should reflect and promote global communion.
116. At present individual canonical systems are ambivalent to global communion, rarely centripetal (looking outward), mostly neutral (internal), and sometimes centrifugal (keeping other provinces at a distance). No church has a systematic body of 'communion law' dealing with its relationship of communion with other member churches. Surprisingly, then, inter-Anglican relations are not a distinctive feature of provincial laws. This may be contrasted with the increasing bodies of ecumenical law in Anglican churches facilitating communion relations between Anglicans and non-Anglicans.
117. This Commission recommends, therefore, consideration as to how to make the principles of inter-Anglican relations more effective at the local ecclesial level. This has been a persistent problem in Anglicanism contributing directly to the current crisis, and could be remedied by the adoption by each church of its own simple and short domestic 'communion law', to enable and implement the covenant proposal below, strengthening the bonds of unity and articulating what has to-date been assumed. Our opinion is that, as some matters in each church are serious enough for each church currently to have law on those matters - too serious to let the matter be the subject of an informal agreement or mere unenforceable guidance - so too with global communion affairs. The Commission considers that a brief law would be preferable to and more feasible than incorporation by each church of an elaborate and all-embracing canon defining inter-Anglican relations, which the Commission rejected in the light of the lengthy and almost impossible difficulty of steering such a canon unscathed through the legislative processes of forty-four churches, as well as the possibility of unilateral alteration of such a law.
118. This Commission recommends, therefore, and urges the primates to consider, the adoption by the churches of the Communion of a common Anglican Covenant which would make explicit and forceful the loyalty and bonds of affection which govern the relationships between the churches of the Communion. The Covenant could deal with: the acknowledgement of common identity; the relationships of communion; the commitments of communion; the exercise of autonomy in communion; and the management of communion affairs (including disputes). *A possible draft appears in [Appendix Two](#)*. We emphasise that this is only a preliminary draft and discussion document, and at this stage it would be premature for any church to adopt it. To the extent that this is largely descriptive of existing principles, it is hoped that its adoption might be regarded as relatively uncontroversial. The Covenant could be signed by the primates. Of itself, however, it would have no binding authority. Therefore the brief 'communion law' referred to above (paragraph 117) might authorise its primate (or equivalent) to sign the Covenant on behalf of that church and commit the church to adhere to the terms of the Covenant^[79]. As it is imperative for the Communion itself to own and be responsible for the Covenant, we suggest the following long-term process, in an educative context,

be considered for real debate and agreement on its adoption as a solemn witness to communion:

- discussion and approval of a first draft by the primates
- submission to the member churches and the Anglican Consultative Council for consultation and reception
- final approval by the primates
- legal authorisation by each church for signing, and
- a solemn signing by the primates in a liturgical context.

119. This Commission believes that the case for adoption of an Anglican Covenant is overwhelming:

- The Anglican Communion cannot again afford, in every sense, the crippling prospect of repeated worldwide inter-Anglican conflict such as that engendered by the current crisis. Given the imperfections of our communion and human nature, doubtless there will be more disagreements. It is our shared responsibility to have in place an agreed mechanism to enable and maintain life in communion, and to prevent and manage communion disputes.
- The concept of the adoption of a covenant is not new in the ecumenical context. Anglican churches have commonly entered covenants with other churches to articulate their relationships of communion. These ecumenical covenants provide very appropriate models from which Anglicans can learn much in their own development of inter-Anglican relations.
- Adoption of a Covenant is a practical need and a theological challenge, and we recognise the process may lead to complex debate. A Covenant incarnates communion as a visible foundation around which Anglicans can gather to shape and protect their distinctive identity and mission, and in so doing also provides an accessible resource for our ecumenical partners in their understanding of Anglicanism.
- The solemn act of entering a Covenant carries the weight of an international obligation so that, in the event of a church changing its mind about the covenantal commitments, that church could not proceed internally and unilaterally. The process becomes public and multilateral, whereas unilateralism would involve breach of obligations owed to forty-three other churches. The formality of ratification by the primates publicly assembled also affords a unique opportunity for worldwide witness.

- A worldwide Anglican Covenant may also assist churches in their relations with the States in which they exist. At such moments when a church faces pressure from its host State(s) to adopt secular state standards in its ecclesial life and practice, an international Anglican Covenant might provide powerful support to the church, in a dispute with the State, to reinforce and underpin its religious liberty within the State.
- As with any relational document of outstanding historical importance, which symbolises the trust parties have in each other, some provisions of a Covenant will be susceptible to development through interpretation and practice: it cannot predict the impact of future events. For this reason the draft Covenant is designed to allow the parties to it to adjust that relationship and resolve disputes in the light of changing circumstances.

120. Whilst the paramount model must remain that of the voluntary association of churches bound together in their love of the Lord of the Church, in their discipleship and in their common inheritance, it may be that the Anglican Consultative Council could encourage full participation in the Covenant project by each church by constructing an understanding of communion membership which is expressed by the readiness of a province to maintain its bonds with Canterbury, and which includes a reference to the Covenant.