

# Canon Law and Covenant in Anglicanism

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The church has always had norms of conduct designed to assist its mission and witness to Jesus Christ. Alongside the normative texts of scripture and liturgy the church also has its law-books. Recent years have witnessed a rising tide of interest in these – the study of the internal laws and other regulatory instruments of Christian churches (ecclesionomology) as distinct from study of other systems of religious law (such as Jewish Law or Islamic law), and religion law (i.e. national State laws and international laws on religion). Today, learned societies, university courses and secondary literature are growing to promote the study of systems of canon law (such as in the Catholic and Orthodox traditions), as well as systems of church order (such as in the reformed Protestant traditions) – and a similar trend may be discerned within global Anglicanism. This chapter examines elements of the legal systems of Anglican churches (the so-called ‘provinces’ of the Anglican Communion), as well as two related developments in the last ten years – the articulation of principles of canon law common to the churches of the Anglican Communion, and the move towards adoption by each church of the Anglican Communion Covenant. The chapter also sets these three Anglican phenomena in the wider context of other Christian traditions and draws some conclusions about the role of law in the wider ecumenical enterprise.

## I. The Legal Systems of Anglican Churches

At the international level, the Anglican Communion has no formal body of law applicable globally to its forty-four churches in communion with the See of Canterbury. Whereas each church is autonomous (with its own legal system), the Communion is held together by “bonds of affection”: shared loyalty to scripture, creeds, baptism, Eucharist, historic episcopate, and its institutional instruments of communion – the Archbishop of Canterbury, Lambeth Conference, Anglican Consultative Council, and Primates’ Meeting; but these cannot make decisions binding on churches. Instead, law operates at the level of each provincial, national or regional church. The general law within each church, typically provincial, is created by a synod or other assembly of bishops, clergy and laity, and laws at more localized levels (such as law created by the diocesan synod of bishop, clergy and laity) must be consistent with the general law. Some churches have a code of canons only, but most have a constitution, canons, and other instruments, including rules, regulations, and liturgical norms found in service books. Alongside these other sources may include customs, decisions of church courts, and, more rarely, the English Canons Ecclesiastical 1603, or even pre-Reformation Roman canon law (Doe 1998a). In addition, churches today increasingly use ecclesiastical quasi-legislation – informal administrative rules designed to supplement formal laws; these resemble laws (with prescriptive language) but do not bind in the same way as laws properly so-called (Doe 1998b).

Typically, *constitutions* deal with faith and doctrine, governmental and institutional organisation (legislative, administrative, judicial), appointment of bishops, and discipline; *canons* address functions of ordained and lay ministers, and liturgical and sacramental matters; and usually *rules* and *regulations* deal in detail with matters of procedure and property. However, the law itself has its limits: it cannot encompass all ecclesial life, and functions predominantly in the public sphere. In turn, the purposes of law are shaped by how each church views the church universal (ecclesiology) and itself as an institution (its ecclesiality). Consequently, church law and theology are closely related. Whilst Anglicans have not yet developed a systematic theology of canon law – as distinct from recognizing

theology *in* canon law (Doe 1990: 328) – they do see law as the servant of the church with a theological foundation, rationale and end, intended to express these publicly along with the practical policies of a church. Law exists to uphold the integrity of the faith, sacraments, and mission, to protect ecclesial order, to support communion among the faithful, to put into action Christian values, and to prevent and resolve conflict. As such, human church law should reflect the revealed will of God, and provincial laws often present scripture as the ultimate standard in matters of faith; but there is no clear evidence of a general Anglican practice that divine law vitiates contrary canon law (Principles 2008: Part I).

At the practical level, the laws of Anglican churches define the rights and duties of both the institutions and the members of each church (and as such clarify roles and responsibilities). However, in some churches the laws bind only ordained ministers, but in others they bind both ordained and lay persons. Often church members must undertake to comply with the law, and in all churches canonical obedience requires clergy to obey the lawful and honest directions of their bishops. For the resolution of conflict, courts and tribunals are ordered hierarchically and their jurisdictions carefully prescribed; and failure to comply with law may result in proceedings before these for offences and the imposition of sanctions (typically seen as medicinal and corrective, such as rebuke, suspension and exclusion) (Doe 1998a). Finally, unlike the Church of England (Hill 2007), most Anglican churches function in civil law as voluntary associations – their internal rules have the status of terms of a contract entered into by the members (the doctrine of consensual compact) and are enforceable in matters of property in State courts (Doe 1998a and 2002b; and Cox 2008).

## **II. Principles of Canon Law Common to Anglican Churches**

Recent global tensions in the Anglican Communion have stimulated discussion of how the laws of churches may contribute to more visible international ecclesial unity in Anglicanism. In 2001, on the basis of a paper discussed at the event (Doe 2002a: 241), the Primates' Meeting decided to explore whether there is an unwritten common law (or *ius commune*) shared by the churches of the Communion. An Anglican Communion Legal Advisers' Consultation in 2002 tested and then accepted the hypothesis. The Primates' Meeting (2002) discussed a report on the Consultation and concluded: "The Primates recognized 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'". Later in 2002 the Anglican Consultative Council (ACC) welcomed the establishment of a Network of Anglican Legal Advisers to produce "a statement of principles of Canon Law common within the Communion" and in October 2003, the Primates' Meeting urged completion of the work as did the Lambeth Commission in 2004. A Network drafting group met in 2005 and 2006, and after extensive consultation *The Principles of Canon Law Common to the Churches of the Anglican Communion* was launched at the Lambeth Conference in 2008 (Principles 2008). In 2009, the ACC expressed its gratitude to the Network for its work, commended the Principles for study in every province, invited the provinces to submit comments on the document, requested a report on these, and encouraged provinces to use the Network as a resource in dealing with legal issues in those provinces (ACC-14, Resolution 14.20 (5 May 2009)).

The Legal Advisers' Consultation, in 2002, formulated six conclusions which became fundamental to the project. First, "there are principles of canon law common to the churches within the Anglican Communion". In point of fact, the category "the principles of canon law" had previously been formally recognised by at least four Anglican churches as well as by other churches (Doe 2003: 4). Moreover, many Anglican churches explicitly appeal to principles in their own laws, as the foundation for more detailed rules, giving the latter shape, coherence, and purpose. Principles of canon law are in the nature of general propositions or

maxims, expressing fundamental ecclesial or theological values, and rooted in the inherited canonical tradition. Principles differ from *rules* (particular norms), enjoy a dimension of weight, and may be shared with secular legal systems. Secondly, “the existence of the principles can be factually established”. The principles of canon law are induced from the profound factual similarities between the actual laws of each church. Their recognition is a scientific task - an exercise in careful observation and comparison of legal texts. Often legal similarities are generated by the churches using a common historical source, such as a Lambeth Conference resolution, rubrics of the Book of Common Prayer 1662, or even the Canons Ecclesiastical 1603 (Consultation 2002).

Thirdly, “each church contributes through its own legal system to the principles of canon law common within the Communion”. The Anglican *ius commune*, as the collective effect of similarities between legal systems, is not imposed from above. The immanence of common principles in actual legal similarities means that each church is the legislator of the *ius commune*. Whenever a church legislates, it contributes to the store of principles and its law may function as a precedent for other churches. Whilst churches are autonomous, as a matter of practice they often adopt or adapt provisions in the legal systems of fellow churches; and unilateral legislative adoption by another church may augment the authority of the principle.

Fourthly, “the principles have a strong persuasive authority and are fundamental to the self-understanding of each church in the Communion”. Whilst most principles may derive from similarities between written laws, some are based on unwritten assumptions implicit in written laws, and frequently churches portray a legal principle as having a deeper authority, beyond that of the formal law in which it appears. Accordingly, the principles have the appearance of laws (they are perceptive, prohibitive, or permissive), but are not themselves laws: they are principles of law (Doe 2008a: 97).

Fifthly, “the principles have a living force, and contain in themselves the possibility of further development”. The idea here is that each church through its own legislative activity may contribute to or subtract from the store of principles, particularly when such developments are replicated around the Communion. For example: churches are increasingly legislating to forbid racial discrimination in church membership and government; also, churches are developing rules on the admission of the unconfirmed to Holy Communion, particularly children. Such examples may indicate the evolutionary character of the Anglican *ius commune*.

Finally, “the existence of the principles both demonstrates unity and promotes unity within the Anglican Communion”. The principles might be perceived by some as a threat to the autonomy of the member churches, or as a stimulus for global divisions (Jones 2005: 117). However, the principles are themselves a product of the exercise of the autonomy of churches and of their promotion of communion through their contributions to the statement in which they are articulated. Provincial autonomy is unaffected: as we have seen, churches remain free legally to depart from or to add to them. Indeed, that legal systems converge in shared principles of canon law is a concrete expression of the very character of Anglicanism, its commitment to the values presented in them, and, in so far as each church contributes to them, the individual responsibility of each church for the shape and maintenance of Anglican identity. Indeed, first principles may be a useful resource for churches seeking to reform their laws – indeed they were invoked in a property dispute by the Supreme Court of British Columbia in the case of *Bentley v Anglican Synod of the Diocese of New Westminster* ([2009] BCSC 1608).

*The Principles of Canon Law* (2008) provide that: “A ‘principle of canon law’ is a foundational proposition or maxim of general applicability which has a strong dimension of weight, is induced from the similarities of the legal systems of churches, derives from the canonical tradition or other practices of the church, expresses a basic theological truth or

ethical value, and is about, is implicit in, or underlies canon law” (Principles 2008: 95). The hundred principles are arranged under eight Parts (with over six hundred micro-principles). Part I, ‘Order in the Church’ (Principles 1-8), deals with the necessity for law, and the sources, subjects, authority, application, and interpretation of law. Part II concerns ‘The Anglican Communion’ (9-14), its nature, the instruments of communion, provincial autonomy, and (e.g.) mutual respect. Principles of ‘Ecclesiastical Government’ are in Part III (15-25) on (e.g.): representative government, legislative competence, visitations, and courts and tribunals. Part IV addresses ‘Ministry’ (26-46): the laity, lay ministers and deacons, priests, bishops, and archbishops. ‘Doctrine and Liturgy’, Part V (47-59) covers the sources and development of doctrine and liturgy, public worship, and doctrinal and liturgical discipline. Principles on baptism, confirmation, Holy Communion, marriage, confession and burial are in Part VI, ‘The Rites of the Church’ (Principles 60-79). Part VII, ‘Church Property’ (80-92) treats ownership and administration, places of worship, records, funds, and stipends and pensions. Part VIII on ‘Ecumenical Relations’ features ecumenical responsibilities, recognition of churches, ecumenical agreements, and admission to Holy Communion (Principles 93-100).

Other than the sections on church order, and the Anglican Communion, the grouping of principles into these Parts is conditioned by the systematisation of laws employed by the churches of the Communion. The principles are derived from various sources. Most are from constitutions and canons, and many from norms in service books (which themselves enjoy canonical authority), for example, Principle 69 on the nature of marriage; and historical sources (which may be canonically recognised by the churches), such as the Book of Common Prayer 1662 (e.g. Principle 64.6: on baptism and confirmation of mature persons); the canonical tradition (e.g. Principle 25.6: *nemo iudex in sua causa* [an aspect of judicial impartiality]); divine law (e.g. Principle 47.2: the duty to proclaim the Gospel); or the practice of the church universal (e.g. Principle 60.1: baptism effects incorporation into the church of Christ). Others are rooted in a theological idea expressed in laws (e.g. Principle 53: worship as a fundamental action of the church); or from guidance issued by ecclesiastical authorities to supplement church law (e.g. Principle 43: the professional ethic of public ministry). Whilst the vast majority derive from similarities between the written laws of churches, some are based on unwritten assumptions, general propositions implicit in church laws. The juridical values of clarity, conciseness and consistency govern the form of the principles which themselves are cast in a variety of juridical formulae: most are permissions (“may”), many are precepts (“shall”, “must”), some are prohibitions (“shall not”, “no-one shall”); many are exhortations (“should”: aspirational); and some maxims (“is”).

The document *The Principles of Canon Law Common to the Churches of the Anglican Communion* has appeared at a time of great tension in the worldwide Anglican Communion. However, this project might have been undertaken, with the exactly the same results, at any time. The underlying idea is not revolutionary. For the most part, the document is simply a statement or description of facts derived from the convergences of Anglican legal systems. The *ius commune* is not a “top-down” binding global legal system imposed by a central Anglican authority (none is competent to do this) but a “grass-roots” development growing from the exercise by each church of its own autonomy through its legal system. The statement clearly shows how much Anglicans share and uses law as the medium. The principles also provide an accessible resource for ecumenical partners in developing their own understanding of Anglicanism from a global perspective. As such, the *ius commune* enriches rather than undermines traditional Anglican ecclesiology (Cameron 2008: 69).

### III. The Anglican Communion Covenant

The Lambeth Commission on Communion was established in 2003 to address “the legal and theological implications” of the decisions of the Episcopal Church (USA) to select a priest in a committed same sex relationship as a bishop, and of the Diocese of New Westminster (Canada) as to services for use in connection with same sex unions; its mandate was also to make “practical recommendations for maintaining the highest degree of communion possible in the circumstances resulting from these decisions”. Its *Windsor Report* (2004), proposed *inter alia* the adoption by the churches of the Communion of a covenant, and the report included a draft covenant (Doe 2004: 147). The Primates’ Meeting in 2001 had earlier considered a paper which (along with the principles of canon law project) proposed adoption of ‘a concordat for incorporation by individual churches in their own canonical systems’ seeking ‘to increase the profile of communion, to define their inter-church relations, and for the resolution of inter-Anglican conflict’ (published as Doe 2002a). *Towards an Anglican Covenant* (2006) took the proposal forward, and was endorsed by the Standing Committee of the ACC and Primates’ Meeting. A Covenant Design Group was set up, offered its first (Nassau) draft covenant in 2007, and its second in 2008, the St Andrews draft covenant (SADC) (Doe 2008b). This was discussed at the Lambeth Conference 2008. The Framework Procedures for the Resolution of Covenant Disagreements appended to SADC were dropped after criticism at the Conference as too juridical (for the procedure see Doe 2008b). The Group met later in 2008 to consider the Lambeth Conference’s reflections and produced its Ridley-Cambridge draft in 2009 (RCDC). Section 4 of this was revised after discussion of it by the ACC in May 2009 (ACC-14, Resolution 14). Once the Standing Committee agreed the final text in December 2009, The Anglican Communion Covenant (TACC) was circulated to the churches for ratification or rejection under their own particular formal processes.

Debate prior to circulation addressed such matters as (1) the nature of a covenant (as a solemn agreement based on a voluntary relationship responsive to God with an exchange of promises generating commitments); (2) the novelty in global Anglicanism of a formal ecclesial covenant (though the proposals stressed a covenant would simply articulate existing relationships of covenantal affection in Anglicanism); (3) the Anglican use of covenants internationally (the Chicago-Lambeth Quadrilateral seen as typical), nationally (each church has its own consensual compact: see above), and ecumenically; (4) the strategic purposes of a covenant such as unity (though many questioned the operational capacity of a covenant to achieve these); and (5) its affect on provincial autonomy (Doe 2008b). Nevertheless, today the Communion stresses that the Covenant reflects the call of Anglicans to be in communion in witness and mission so as to enrich the common life of the Communion and enable “the Churches to live together in mutual care and affection as one Communion...to witness...to the biblical commands of charity and unity” (TACC: QAA 2011, sections 3 and 4).

The Anglican Communion Covenant consists of a Preamble, four Sections and a Declaration. The Preamble sets out the reasons for covenanting: to proclaim the grace of God revealed in the gospel, to respond to the world’s needs, to maintain unity, and to attain the full stature of Christ. Sections I-III, on faith, mission and unity, consist of affirmations and (concomitant) commitments made by each signatory church. In the first section, “Our Inheritance of Faith”, each church affirms its communion in the one, holy, catholic and apostolic church, the catholic and apostolic faith revealed in scripture and set out in the catholic creeds and historic formularies of the Church of England (where acknowledged provincially), the Chicago-Lambeth Quadrilateral (scripture, creeds, sacraments and historic episcopate), shared patterns of worship, and its participation in the mission of the people of God. The footnotes to TACC: 1.1 refer to the Thirty-Nine Articles of Religion 1662 Book of Common Prayer, and Ordering of Bishops, Priests and Deacons, and Chicago-Lambeth Quadrilateral 1886/88. In living out this inheritance together in their varying contexts, each

church commits itself, *inter alia*, to act in continuity and consonance with scripture and the catholic and apostolic faith, order and tradition, as received by the churches, to faithful, coherent and respectful interpretation of scripture, and to sustain Eucharistic communion (TACC: 1.2.1-8).

Section II, “The Life We Share with Others: Our Anglican Vocation” deals with mission. Each church affirms that communion is not an end in itself but seeks to proclaim and witness to God and that God has been at work in Anglican history in shaping its worldwide mission; each church also confesses its failure to live up to that calling and undertakes to cooperate with other Anglicans in mission and with other Christians ecumenically. In turn, the covenantal commitments of each church are: to share its resources to evangelize, heal and reconcile the broken world; to engage in mission; to be humble and open to conversion; to renew structures for mission; and to root mission in the worship of God (particularly in Eucharistic communion) (TACC: 2.2.1-5; this largely based on the Five Marks of Mission, MISSIO Report 1999: ACC-6 and 8).

The third section, “Our Unity and Common Life”, deals with the exercise of provincial autonomy in the context of ecclesial communion. This builds on the principle of autonomy-in-communion in the *Windsor Report* (2004: para. 76). Each church affirms its call to live in peace and build up the common life of the Communion, its resolve to live in a communion of churches, and its autonomy (in government and law); it also affirms the absence of a central global authority in Anglicanism, the role of bishops and the threefold ministry, and the importance of the instruments of communion in global Anglicanism (Archbishop of Canterbury, Lambeth Conference, Anglican Consultative Council, and Primates’ Meeting) (TACC: 3.1.1-4). One task of the Inter-Anglican Standing Commission on Unity, Faith and Order is to study the role and responsibilities of the Instruments of Communion (See ACC-14: Res. 14.09 and 10). Next, each church commits itself to have regard for the common good of the Communion in exercising its autonomy, to support and receive the work of the instruments of communion with a readiness to reflect on their counsels, and to endeavour to accommodate their recommendations. Moreover, each church must respect the autonomy of all churches, uphold mutual responsibility and interdependence, seek to discern the will of God through listening, prayer, study and debate, and seek a shared mind (consistent with standards in canon law) in matters of common concern through consultation. Each church must also act with diligence, care and caution in matters which may provoke controversy “which by its intensity, substance or extent threaten the unity of the Communion and the effectiveness of its mission”. In conflicts, a church must participate in mediated conversations and bear in mind that the bonds of affection and love of Christ require maintenance of “the highest degree of communion possible” (TACC, 3.2.1-7).

Section four, “Our Covenanted Life Together”, deals with adopting the covenant and living together by it. Each church affirms a set of rudimentary principles and procedures for conflict-resolution and, reliant on the Holy Spirit, commits itself to their implementation, namely “to live more fully into the ecclesial communion and interdependence which is foundational to the Churches of the...Communion” Moreover, it goes on:

The Anglican Communion is a fellowship, within the One, Holy, Catholic and Apostolic Church, of national or regional Churches, in which each recognises in the others the bonds of a common loyalty to Christ expressed through a common faith and order, a shared inheritance in worship, life and mission, and a readiness to live an interdependent life (TACC, 4.1.1).

Adoption means that a church recognizes that the covenantal statement of faith, mission and interdependence of life is consistent with its own life, but such does not represent submission

to any external ecclesiastical jurisdiction. Every church of the Communion listed in the schedule of membership appended to the constitution of the ACC is invited to enter the covenant. However, if a church does not adopt the Covenant, this does not mean that it is no longer a part of the Anglican Communion; it may still retain its Anglican identity (TACC: QAA, sect. 6). The Covenant Working Party, in its Commentary on Revisions to Section 4 (2009) stated:

it is not appropriate to address this question within the text of the Covenant. Rather, there should be the flexibility for the Instruments of Communion to determine an appropriate response in the evolving situation that would accompany a process of reception and adoption of the Covenant.

The Covenant is active for a church when that church adopts it through procedures in its own constitution and canons. (The Windsor Report had proposed that each church enacts its own brief communion law authorising its primate (or equivalent) to sign on its behalf so committing it to the covenant terms (2004: para. 118)).

The next set of provisions deals with maintenance of the covenant and resolution of disputes; the covenanted position may be summed up in the maxim: the Communion guides; each church decides (CDG Report on the RCDC 2009 (2-4-2009) in relation to its Section 3), thus protecting provincial autonomy and giving no coercive or sanction-imposing jurisdiction to the central Instruments of Communion. Each church has a duty of “fidelity” to the Covenant. When questions arise about “the compatibility of an action by a covenanting Church with the Covenant, it is the duty of each covenanting Church to seek to live out the [covenantal] commitments”. If a shared mind is not reached, the Standing Committee (responsible to the ACC and Primates’ Meeting) must make every effort to facilitate agreement. It may request a church to defer a controversial action and if the church declines to do so, the Committee may (on the advice of the ACC and Primates’ Meeting) declare an action or decision “incompatible with the Covenant”. On this advice, the Committee must recommend to the churches and Instruments as to relational consequences which flow from such incompatibility – i.e. the extent to which the decision of the church in question impairs or limits the communion between that church and other Communion churches. Each church or Instrument then decides whether or not to accept the recommendations. Moreover, each church must have structures to oversee its own maintenance of the Covenant and to relate to the Instruments on Covenant matters (TACC: 4.2.9; for the original idea, see WDAC: Art. 25: the Anglican Communion officer). Finally, a church may withdraw from the Covenant, the Covenant may be amended with consent of three quarters of the churches (TACC, 4.4.2), and the signatories declare themselves to be “partakers” in the Covenant (Declaration). To alter or add to the Schedule of member churches of the ACC two-thirds of the Primates of the Anglican Communion must agree (ACC Const., Articles of Association: Art. 7.2). That the Covenant binds a church accords with the canonical principle (with its long historical and theological pedigree) *pacta sunt servanda*: agreements must be kept (Doe 2008b).

The Covenant represents a major historical development for worldwide Anglicanism. It raises a host of both theological and legal issues, ranging from the theological nature of communion, through the legal character of provincial autonomy, to the theological and juridical implications of covenanting. The initial Windsor proposal and draft covenant were not universally welcomed: some accepted the covenant principle and the draft; others, the principle but not the draft; and some rejected both (Doe: 2008b). Following publication of each draft, responses indicated a greater general sympathy for a covenant and voices rejecting the principle became fewer (See e.g. Covenant Working Party Commentary on Revisions to Section 4 (2009)). Respondents generally agreed about the voluntary and relational character

of a covenant with commitments (e.g. Williams 2006; Goddard 2008: 47), though several attacked analogies between a covenant and a contract as too juridical and likely to undermine the consensual character of Anglicanism (Lewis 2005: 601). Many felt that a covenant accords with the notion of the Communion as a consensual family of churches (Gladwin 2008: 3; Radner 2005: 609), and several likened it to covenant models in scripture, sacramental theology, ecumenism, and comparable global ecclesial communities – in which the parties are called to covenant, solemnly undertake commitments, and limit their autonomy by the duty to consider others (Doe 2008b).<sup>1</sup> However, others considered it at odds with the Anglican spirit, that it would translate bonds of affection into formal (juridical) commitments (Adams 2005: 70), that there are too many practical obstacles in the process of adoption (Tong 2005), that it will make divisions within the Communion more visible, and that it makes too many new demands on the Instruments of Communion (TACC: QAA: section 10). In any event, much depends on how it will be received in the life of the Communion.

### Conclusion

This chapter represents an exploratory examination of a vast field. However, three conclusions may be drawn. First, there would seem to be good reasons to study the individual legal systems of Anglican churches. Such study has until relatively recent years been much neglected. One may speculate on the reasons for this. Perhaps they have to do with the historical antithesis between grace and law, the view that law is essentially coercive (and that it frustrates the spirit in the life of the church), the dominance of theological study over the legal practicalities of ecclesiastical administration (law is for lawyers), and perhaps the assumption that ignorance of law tends to make it more difficult to question authority. On the contrary, law is not an end in itself but the servant of the church, existing to facilitate and order its communion and mission. It is important to note that the theological education recommended in recent years by Theological Education for the Anglican Communion (TEAC) involves indirectly a host of subjects related to canon law, though canon law itself remains largely un-named (see Doe 2009: 91). Canon law is in reality applied ecclesiology and its study tells us much about ecclesial governance, ministry, doctrine, worship and ritual in terms of the rights and duties of all the faithful. That law is a normal function of the church is underscored when Anglican churches are compared with churches of other Christian traditions: all churches have their laws and other regulatory instruments.

Secondly, comparative canon law enables an understanding of what Anglicans share in terms of systems of polity. *The Principles of Canon Law Common to the Churches of the Anglican Communion* indicates well a collective commitment by the churches of the Communion to a particular way of being part of the church universal. For this reason, the document also represents a major resource for ecumenical dialogue, and perhaps even a model for similar projects between ecumenical partners. So often canon law and other systems of church order can be perceived as obstacles to the advancement of fuller visible communion because of their need for clarity, certainty and stability. But the theological character of canon law (and opportunities for theological reflection upon it), its susceptibility to comparative study, and its capacity to point up in the form of principles what separated churches actually share normatively, call for a renewed appraisal of its place in ecumenical dialogue (Colloquium 2009: 284; Sagovsky 2011: 4; Leahy 2011: 15). Indeed, recognition of “the principles of church law and order” suggests that canon law and its equivalents may be seen as a generic phenomenon with an existence independent of the legal systems of particular but formally separated churches and communions (Doe 1999: 221).

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<sup>1</sup> For the *Concordate* of 1784 between Samuel Seabury, for the diocese of Connecticut, and the Scottish bishops, see Thomas 2004: 9; for the idea at the Lambeth Conference 1988 of a “common declaration”, see Hind 2008: 112; and contemporary programmatic covenants, Doe 2008b: ch. 3.



Thirdly, the Anglican Communion Covenant represents an historical landmark in global Anglicanism. It is generally understood that the absence of such an agreed framework to-date has significantly exacerbated recent conflicts in worldwide Anglicanism over human sexuality and same-sex partnerships. But conflicts have consequences. They jeopardise mission, damage ecumenical relations, and result in claims of impaired communion. They may also lead to laws created in other churches offering facilities for those who abandon Anglicanism (Doe 2011). It was this absence of an agreed global mechanism, and its consequences, which led the Lambeth Commission to suggest adoption by each church of an Anglican Covenant. Its critics see it as too strong – restricting the freedom of churches to innovate. Others see it as too weak – not giving the Instruments of Communion enough authority in controversial matters. Yet, its supporters see it as an adult way of setting out the basic ground rules by which the worldwide Anglican family should achieve its objectives and address making decisions on difficult issues. Indeed, that is the fundamental principle of the Covenant in terms of global Anglican polity – the Communion guides, each church decides. It also meets the need of ecumenical partners for a coherent view of global Anglicanism. Moreover, spiritual, sacramental and structural covenanting it is a well-trodden Christian path not least amongst the ecumenical partners of Anglicans. Importantly, the Covenant does not represent the Communion as the primary manifestation of Anglicanism with authority to limit the freedom (autonomy) of its churches (“red-light” model), nor the autonomous provincial church as the primary manifestation of Anglicanism with an unfettered freedom without any restraint possible from the global family (“green-light” model). Rather, the Covenant sees partnership between the Communion (the family) and each autonomous church as the primary manifestation of Anglicanism, one which protects the autonomy of the province (its legal freedom) subject to the competence of the Communion (through its instruments) to guide in a limited field of highly contentious matters of common concern (“amber-light” model) – in order to reconcile the legal category of autonomy and the theological category of communion. This is the Anglican canon. The Anglican principles project has also formed the basis of an ecumenical initiative to formulate a statement of principles of Christian law.<sup>2</sup>

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<sup>2</sup> See M. Hill and N. Doe, ‘Principles of Christian Law, 19 *Ecclesiastical Law Journal* (2017) 138-155: this deals with the work of the Christian Law Panel of Experts (2013-2016) and its *Statement of Principles of Christian Law* (Rome 2016) which is to be discussed in Geneva in November 2017 at a meeting with the director of the Faith and Order Commission of the World Council of Churches; this project is the result of debate about the thesis proposed in N. Doe, *Christian Law* (Cambridge: Cambridge University Press, 2013).

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