

# COMMUNION AND AUTONOMY IN ANGLICANISM: NATURE AND MAINTENANCE

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A Paper for the Eames Commission<sup>1</sup>

1. This paper explores the nature of and relationship between communion and autonomy, namely: (a) global theological and conventional understandings about communion and autonomy in the worldwide Anglican Communion, as expressed in the decisions of the institutional instruments of Anglican unity;<sup>2</sup> and in public responses<sup>3</sup> to events in ECUSA and Canada;<sup>4</sup> (b) the canonical treatment of communion and autonomy in the laws of the individual Anglican churches, in the context of the principles of canon law common to the churches of the Communion; (c) where appropriate, the understanding of communion and autonomy in ecumenical dialogue between Anglicans and others, and in other Christian traditions themselves. One aim of the study is to identify a fundamental dissonance between theological and canonical understandings of worldwide communion and provincial autonomy; that is, how the disciplines of communion and autonomy at the global level have not been translated into the discipline of each Anglican church or province, and how this has contributed to current conflict.<sup>5</sup>

2. The paper suggests some ideas, which might be considered for possible incorporation into the domestic discipline of individual churches, for the maintenance and management of both communion and autonomy, the prevention of conflict, the resolution of conflict and the management of continuing conflict, and the monitoring of schemes for these. It is necessary for each church: to develop its understanding of communion and autonomy; to agree on the terms of their communion and autonomy; and to translate these understandings into a disciplinary regime within their own systems of internal law, in order to convert `bonds of affection` into `bonds of responsibility`.<sup>6</sup> Needless to say, it is also assumed that any ideas of communion and autonomy developed by Anglicans should be consistent with those employed in

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<sup>2</sup> That is: the statements of the Archbishop of Canterbury, the Lambeth Conference, the Primates Meeting and the Anglican Consultative Council.

<sup>3</sup> The responses surveyed are those which have been produced by ACNS.

<sup>4</sup> `Since the consecration of Gene Robinson...nine of the 38 worldwide Anglican provinces have declared themselves to be in "impaired" or "broken" communion with all or part of [ECUSA]: ACNS 3703, 9/12/03.

<sup>5</sup> A related theme is (a) the presence in global Anglicanism of a *ius commune* (the principles of canon law common to the churches, generated by the laws of churches themselves in an exercise of their own autonomy), and (b) the absence of a *ius communionis* within the law of each church (that is, a body of law which might be created by each church to translate global conventions about communion into a meaningful and binding reality for each church, and to enable that church to be responsible for its own maintenance of communion with other Anglican churches in an exercise of autonomy by that church).

<sup>6</sup> In short, for each church to develop, perhaps under the guidance of the Primates Meeting, its own *ius communionis*: see above n. 5.

ecumenical dialogue between Anglicans and churches of other traditions, as well, perhaps, as with ideas of communion in within other (non-Anglican) traditions.

## I. THE NATURE OF WORLDWIDE COMMUNION

The most obvious level at which Anglicans experience communion<sup>7</sup> is in the context of the institutional church: in province, diocese and parish. The communion of the faithful gathered in the particular church is understood to be grounded in the communion of the Godhead.<sup>8</sup> Communion seeks, in the corporate mission of the institutional church itself, to achieve (for example): witness to and proclamation of the gospel; celebration of the sacraments; and response to human needs in loving service.<sup>9</sup> The form of communion in the local church may be seen as multipartite: a network of relationships the subjects of which are all the faithful, ordained and lay, each playing their part in the life of the church.<sup>10</sup> The communion of the faithful, in which the bishop is seen as a focus of unity,<sup>11</sup> is manifested in common life and action, including: the participation of the faithful, ordained and lay, in the governance of the church (communion in government); the collaborative ministries of bishops, priests and deacons (communion in ministry); sharing in profession of the same faith (communion in faith); participation in common worship (communion in worship); and common accountability to the discipline of the church (communion in responsibility).<sup>12</sup> Communion may be most fully practised in the context of eucharistic community, through admission to share in the eucharist, and, formally, therefore, through the enjoyment of communicant status; yet, even exclusion from holy communion does not sever the bond of communion acquired in common baptism.<sup>13</sup> The particular church itself, then, through its polity, facilitates and orders the communion of the faithful.<sup>14</sup> The remainder of this section is about the experience of communion at the global level of the Anglican Communion.<sup>15</sup>

### 1. The Foundation of Communion

For Anglicans, the foundation of communion is the `divine communion`:<sup>16</sup> `the communion of the Godhead...is the source and ground of our communion`;<sup>17</sup> and

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<sup>7</sup> `The fellowship or mutual relation between members of the same church`; `An organic union of persons united by common religious faith and rites, a church or denomination, the organised body professing one faith`: OED.

<sup>8</sup> See eg, for the Church of England, *Bishops in Communion*, GS Mis 580 (2000), Chs. 1 and 2.

<sup>9</sup> See below I.2. for examples of these.

<sup>10</sup> See eg the idea that churches are `to promote within each of their territories a national expression of Christian faith, life and worship` (LC 1930, Res. 48,49); `The Conference calls on every Church member, clergy and laity alike, to take an active part in the mission of the Church` (LC 1958, Res. 58).

<sup>11</sup> See eg Wales, BCP 1984, 714: the bishop is to be `the centre of unity`; LC 1988, Res. 1.4: `the unity of the diocese`.

<sup>12</sup> For the canonical treatment of these communion acts and events, see generally N. Doe, *Canon Law in the Anglican Communion* (Oxford, 1998) 11f.

<sup>13</sup> *Ibid.*, Ch. 9.

<sup>14</sup> For an analysis of the idea of the communion of the faithful in the corporate canonical life of the particular church, see the study by E. Corecco, *Concilium* (1986) 3.

<sup>15</sup> See also *Women in the Anglican Episcopate: the Eames Commission* (Toronto, 1998) (hereafter WAEEC), para. 136: `While the diocese, with its bishop, has usually been regarded as a focus of communion, Christians are also related to each other within the wider communion of the province and of the world-wide communion of churches`.

<sup>16</sup> WAEEC, para 19.

communion is required by the *ius divinum*: 'God wills the full communion of all humankind with himself and among all peoples'.<sup>18</sup>

**(1) The Divine Communion:** Communion, *koinonia*, is understood 'to describe theologically the nature of the relationship of the three persons within the Holy Trinity: the relationship of the Father, Son and Holy Spirit. Its theological meaning has to do with love, with loving, interdependent relationship, with equality, with giving and receiving, with sharing life'.<sup>19</sup> 'the unity of will between Father and Son is an expression of the eternal communion of persons within the Trinity';<sup>20</sup> '[t]he death of Jesus, the Son of God, reveals the depth of communion that God seeks and offers to his people'.<sup>21</sup>

**(2) The Church as Communion with God:** The church is seen as in communion with God the Father through the Son and in the power of the Holy Spirit: '[t]he basis of the Christian Church is that spiritual reality of *koinonia* which is a sharing in the life of God the Trinity';<sup>22</sup> '[s]o we call relationships within the Church to be "communion", patterned after the intimate relationship within the Godhead'.<sup>23</sup> Communion with God and with each other is a gift and a divine expectation for the church, and is fully realised only in the Kingdom of God.<sup>24</sup> There is no discord in the communion of the Trinity.<sup>25</sup>

**(3) Anglican Churches join in Divine Communion:** Communion is genetic: '[t]he revealed faith, which is the foundation of Christian living, is also necessarily the

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<sup>17</sup> The Virginia Report (TVR) 2.9: 'our unity with one another is grounded in the life of love, unity and communion of the Godhead. The eternal, mutual self-giving and receiving love of the three persons of the Trinity is the source and ground of our communion, our fellowship with God and one another. Through the power of the Holy Spirit we are drawn into a divine fellowship of love and unity'.

<sup>18</sup> WAECC, para. 29.

<sup>19</sup> D. Hamid, 'Church, communion of churches and the Anglican Communion', 6 *Ecclesiastical Law Journal* (2002) 352 at 355.

<sup>20</sup> WAECC, para 17.

<sup>21</sup> WAECC, para. 18.

<sup>22</sup> WAECC, para. 35.

<sup>23</sup> D. Hamid, 'Church, communion', op cit., at 355: '[T]he Church is communion because of the way that she is related to, and gifted by, the Holy Trinity, and receives these same qualities from the life of God the Holy Trinity'; thus, 'the Church, as *koinonia*, is directed eternally towards the life of God, Father, Son and Holy Spirit, and the purpose of the Church is made clear, to bring all into communion with God, who gathers the whole creation under the lordship of Christ and binds us to his Son, through the power of the Holy Spirit'; '[T]ruly, our fellowship is with the Father and with his Son Jesus Christ' (1 John 1:2-3).

<sup>24</sup> WAECC, para. 22,23: 'communion with God: Father, Son and Holy Spirit' determines theologically our relationship with one another. Communion with God and one another is both a gift and divine expectation for the Church; 'all are invited to share in the inner life of the communion of Father, Son and Holy Spirit. Through the life, death and resurrection of Jesus Christ, the fullness of communion will be perfectly realised only in the Kingdom of God when all things will be subjected to Christ and, in him, to the Father so that God may be all in all'.

<sup>25</sup> *Bishops in Communion*, House of Bishops [of the Church of England] Occasional Paper (London, 2000) 2-6: 'Discord is not a possibility between the persons of the Holy Trinity, whose communion arises from the Father as the sole cause and origin'. 'Through its exalted head, the Church and its members are already in communion with the Trinity'. '[W]e declare to you what we have seen and heard so that you also may have fellowship (*koinonia*) with us; and truly our fellowship (*koinonia*) is with the Father and with his Son Jesus Christ' (1 John 1.2-3). 'As you Father are in me, and I am in you, may they also be in us' (John 17.21).

foundation of that unity which spans time and space<sup>26</sup> through baptism, Christians are united with God the Holy Trinity and brought into a relationship of communion with all the baptised through the ages and across the world<sup>27</sup>; and communion is centred upon, and built up in, the eucharist<sup>28</sup>, by which individuals are united and stamped with their Christian identity<sup>27</sup>. Consequently: the Churches of our Anglican Communion are joined in the communion of God through Our Lord Jesus Christ by the gracious power of the Holy Spirit<sup>28</sup>; [a]ll the various elements of visible communion are gifts of the risen Christ, through the power of the Holy Spirit, to the Church<sup>29</sup>. Anglican churches do not incorporate these theological ideas about the source of communion into their laws, though some of them have appeared in responses to current events in ECUSA, of churches,<sup>30</sup> of archbishops,<sup>31</sup> and of bishops.<sup>32</sup>

**(4) Ecclesial Communion as Ecclesial Agreement:** At the institutional level, ecclesial communion is founded on agreement between churches: this has been the Anglican understanding in the ecumenical context.<sup>33</sup> In this institutional sense, it is possible to see the form of communion as covenant-like: communion is quasi-contractual in form (but not in source or substance).<sup>34</sup> Ecclesial communion between Anglicans also has a canonical basis.<sup>35</sup> Statements in the law of an Anglican church that that church is in communion with the See of Canterbury are grounded upon bilateral agreement between that church and Canterbury, and this is expressed in the law as an exercise of the will of that church. Similarly, that the law of a church provides that that church is in communion with other Anglican churches is grounded in mutual agreement to that effect, and recognition in the law of that church is an

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<sup>26</sup> WAEEC, para. 28.

<sup>27</sup> Ibid., para. 25.

<sup>28</sup> LC 1998, Res. III.8(d).

<sup>29</sup> WAEEC, para. 27.

<sup>30</sup> Province of Congo: 'The Anglican Communion is a precious gift from Christ Himself that needs to be jealously protected and promoted by each and every faithful Anglican Church': ACNS 3730, 5/1/04: Statement of House of Bishops.

<sup>31</sup> R. Williams, 'The structures of unity', *New Directions* (2003): '[T]he life of faith begins from nowhere in this world. It is a supernatural gift. Consequently, the Church too is a supernatural body; the sacraments are God's ordinances, not simply a set of identifying rituals, the Bible is the Word written, not simply an historical deposit. Most importantly of all, unity is not human consensus but a common identity through incorporation into the risen and glorified Christ'.

<sup>32</sup> G. Rowell, *Times*, 8/11/03: "Communion"...translates...*koinonia*, which means a being or unity held in common...a life of interrelatedness, a fellowship or belonging-togetherness. For Christians, the fundamental communion is that of God's own communion, whose very life as Holy Trinity is a communion, a web of love...*perichoresis*, a round dance of interwoven love'; '[C]ommunion is first of all a gift and a sharing in the life of God. It is no accident that Christians speak as they share the bread and wine of the Eucharist of "receiving Communion". It is that gift which enables us to live in communion, but it is also a gift which is holy, for it is grounded in the goodness of God...[C]ommunion is something we receive, and that the communion we receive is always about our being changed...There can be no true communion without sanctification'.

<sup>33</sup> LC 1958, Res. 14: for example, inter-communion is 'established by agreement between two...Churches'; see also, for the role of agreement in the idea of intransitivity: *Growth in Communion*, para. 160: 'relations of communion established by new ecumenical agreements'.

<sup>34</sup> A quasi-contractual understanding of the form of communion (see below for forms of communion), raises questions about repudiation or rescission of the communion relationship: in the law of contract, rescission involves the right of a party to an agreement to treat the agreement as rescinded if the other party has failed to perform a fundamental term of the agreement. *Quaere*: is the legal doctrine of rescission of relevance and value in cases involving claims of impaired communion.

<sup>35</sup> Communion between Anglican churches exists because sometimes their laws so provide.

expression of the will of the church.<sup>36</sup> At the level of individual churches, laws do not clearly prescribe which authority within them has the right to determine whether that church is in communion with another Anglican church.<sup>37</sup> The laws do, however, deal with Anglican relations with other churches: an Anglican church is in communion with another church when so recognised by a designated authority within the church, such as: the central church assembly or synod;<sup>38</sup> the bishops collectively;<sup>39</sup> the archbishops;<sup>40</sup> or the episcopal assembly with the consent of the general synod.<sup>41</sup>

There would seem to be, then, no obvious legal evidence to suggest that each church is canonically required to consult fellow Anglican churches in its establishment of communion with another Anglican church.<sup>42</sup> Similarly, at the global level, recognition of communion may be determined by reference to admission to the Lambeth Conference (subject to the agreement by invitation of the Archbishop of Canterbury,<sup>43</sup> though the Lambeth Conference itself may have a part to play in invitations).<sup>44</sup> By way of contrast, the scheme which regulates admission to and representation on the Anglican Consultative Council seems to require multipartite agreement: inclusion of a church on the list in the schedule to the ACC constitution, which indicates being in communion, is by approval of the Council and its decision must be ratified by a two-thirds majority of the Primates.<sup>45</sup>

## 2. The Purposes of Communion

Several ideas have been developed by Anglicans about the purposes of communion, and the purposes of the Anglican Communion itself. They include the following. First, the purpose of communion is **to fulfil the will of God** - communion between Anglicans seeks to fulfil the imperative of the *ius divinum*: 'God wills the full communion of all humankind with himself and among all peoples';<sup>46</sup> '[t]he great purpose of God in history is to unite the peoples of the earth through the reconciling sacrifice of Christ (Eph 1:9-10; 2.13-22)'; as such, '[s]taying together is pointless

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<sup>36</sup> See below as to the form of communion.

<sup>37</sup> As general laws of a church contain statements that a church is in communion with others, and as the laws are generally in the keeping of the central church assembly (eg provincial synod), so it might be assumed that the establishment of communion relations is in the keeping of that assembly.

<sup>38</sup> See eg Wales: N. Doe, *The Law of the Church in Wales* (Cardiff, 2002) 281; New Zealand, Can. XIII.6: the church recognises as being in full communion with itself '[t]he Church of England and all other Churches of the Anglican Communion, and such other Churches as shall be recognised by General Synod from time to time as being in full communion'.

<sup>39</sup> Central Africa, Res. of Provincial Synod

<sup>40</sup> England, Overseas and Other Clergy (Ministry and Ordination) Measure 1967, c.6(2): 'If any question arises whether, for the purposes of this Measure, a Church is in Communion with the Church of England...it shall be determined by the Archbishops of Canterbury and York, whose decision shall be final'.

<sup>41</sup> Scotland, Can. 15: for impaired communion under this canon, see below for degrees of communion.

<sup>42</sup> The laws of churches seem to present it, once presumably agreement is reached with the other church, as a matter for unilateral action.

<sup>43</sup> LC 1897, Res. 2: 'on the invitation of the Archbishop of Canterbury, if he is willing to give it'.

<sup>44</sup> LC 1988, Res. 12.2: 'all United Churches with which the Churches of the Anglican Communion are in full communion be invited to full membership in the Lambeth Conference and the Primates Meeting (as is already the case with the Anglican Consultative Council)'.

<sup>45</sup> ACC Constitution, Art. 3(a); also 'With the assent of two-thirds of the Primates of the Anglican Communion, the council may alter or add to the schedule' (3(a)).

<sup>46</sup> WAEEC, para. 29.

unless it is staying together because of the Body of Christ.<sup>47</sup> In short, communion is a calling,<sup>48</sup> and its function is to achieve the purpose for which the church exists.<sup>49</sup>

Secondly, communion exists **to express catholicity**: the Anglican Communion (as mediated through its instruments) exists to express itself as the one, holy, catholic and apostolic church.<sup>50</sup> Communion amongst Anglican churches is understood to serve as a step towards the establishment of communion between all Christian churches<sup>51</sup> (an idea shared with Lutherans).<sup>52</sup> It has been said, indeed, that '[h]uman beings long for communion. It is that for which we were made'.<sup>53</sup> Thirdly, therefore, the Anglican Communion exists for **mutual interdependence**: it exists for the member churches to assist each other to fulfil the mission of the church.<sup>54</sup>

However, the absence of a more detailed treatment of the purposes of the worldwide Anglican Communion,<sup>55</sup> as it functions at the global level, may be contrasted with ideas about the canonical purposes of particular churches at the local level, as expressed in their legal systems; for example: '[to] give glory to God through united and common witness and proclamation of the Gospel of our Lord Jesus Christ'; to 'strengthen and further the Church's fellowship and partnership'; 'to make disciples of all nations';<sup>56</sup> 'to minister the doctrine and sacraments and discipline of Christ';<sup>57</sup>

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<sup>47</sup> Gomez and Sinclair, *To Mend the Net* (2001) 2.5.

<sup>48</sup> *Bishops in Communion* (2000) [Church of England] 6: 'This communion of baptized believers with Christ and with one another is expressed in a visible human community. It is a community called to live a Christ-like life, whose members participate in one another's joys and sorrows, and bear one another's burdens for the good of the whole (Philippians 2.1-5). There is mutual giving and receiving of spiritual and material goods, not only between individuals but also between communities, on the basis of a fellowship that already exists in Christ. In this communion, God is known to be all in all (Ephesians 1.23;3.19). It is the will of God for the whole creation that not only the Church, but all things should attain their unity and communion in Christ (Ephesians 1.10;4.1-16). The Church, therefore, as communion, "is sent into the world as a sign, instrument and first fruits of a reality which comes from beyond history - the kingdom, or reign, of God".'

<sup>49</sup> D. Hamid, 'Church, communion', op cit., at 355: 'the Church, as *koinonia*, is directed eternally towards the life of God, Father, Son and Holy Spirit, and the purpose of the Church is made clear, to bring all into communion with God, who gathers the whole creation under the lordship of Christ and binds us to his Son, through the power of the Holy Spirit'. '[T]ruly, our fellowship is with the Father and with his Son Jesus Christ' (1 John 1:2-3). 'So we call relationships within the Church to be "communion", patterned after the intimate relationship within the Godhead'.

<sup>50</sup> WAECC, para. 26: 'Structures, or bonds of communion, are the instruments for maintaining and strengthening the visible communion of the Church, for the world wide Church must experience and express itself as the One, Holy, Catholic and Apostolic Church'.

<sup>51</sup> 'The Conference makes this statement praying for and eagerly awaiting the time when the Churches of the present Anglican Communion will enter into communion with other parts of the Catholic Church not definable as Anglican in the above sense, as a step towards the ultimate reunion of all Christendom in one visibly united fellowship': LC 1930, Res. 49.

<sup>52</sup> LWF, 30: development of LWF communion is 'a contribution to the one ecumenical movement'.

<sup>53</sup> G. Rowell, *Times*, 8/11/03.

<sup>54</sup> WAECC, para. 36: 'The different Provinces have come to a greater realisation that they need each other's spiritual, intellectual and material resources in order to fulfil their task of mission. Each Province has something distinctive to offer the others, and needs them in turn to be able to witness to Christ effectively in its own context'.

<sup>55</sup> A doctrine about the purposes of the Anglican Communion is implicit, needless to say, in the purposes of its instruments of unity (eg in the resolutions of the Lambeth Conference, in terms of the subjects it treats and the actions it takes).

<sup>56</sup> South East Asia, Const. Preamble.

<sup>57</sup> Sudan, Declaration of Fundamental Principles, 1.

to effect `educational, medical, social, agricultural and other service`;<sup>58</sup> to respond to human needs by loving service, seeking `to transform unjust structures of society, caring for God`s creation, and establishing the values of the Kingdom`.<sup>59</sup>

### 3. The Maintenance of Communion

Structural questions about the maintenance of communion between Anglican churches are dealt with in Part II in the context of limits on the exercise of autonomy. However, it may be noted at this point that Anglicans have several ideas about the means by which worldwide communion is maintained: (1) the communion is sustained by God;<sup>60</sup> (2) worldwide communion is maintained by the instruments of faith;<sup>61</sup> (3) communion is held in place by common patterns of worship, prayer, friendship and service to others;<sup>62</sup> (4) churches are held together by the need for interdependence;<sup>63</sup> (4) communion is sustained by the moral authority of the institutional instruments of Anglican unity: Archbishop of Canterbury, Primates Meeting, Lambeth Conference, and Anglican Consultative Council,<sup>64</sup> and the principles of canon law common to the churches of the Communion may be a fifth instrument of Anglican unity.<sup>65</sup> The idea of a responsibility to maintain communion also appears in the Lutheran tradition,<sup>66</sup> and in the Roman Catholic Church.<sup>67</sup>

### 4. The Forms of Communion

Understandings of communion at the global level embrace a number of forms of communion as a relational phenomenon:

**(1) Bipartite Communion:** Communion is seen as a bipartite relationship between one particular institutional church only and Canterbury: `[T]he Anglican Communion

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<sup>58</sup> North India, Const. II.I.II.

<sup>59</sup> New Zealand, Const. Preamble.

<sup>60</sup> See eg LC 1998, Res. III.8(d): `the Churches of our Anglican Communion are joined in the communion of God through Our Lord Jesus Christ by the gracious power of the Holy Spirit`.

<sup>61</sup> LC 1998, Res. III.8(d): the Conference affirms that `our communion together is maintained in the life of the truth of Christ by the gift if the Holy Scriptures, the Apostles and Nicene Creeds, the sacraments of Baptism and Eucharist, and the historic episcopate`.

<sup>62</sup> LC 1998, Res. III.8(f): the churches are `held in *koinonia* by our liturgical tradition and common patterns of worship, by prayer and the communion of the saints, the witness of the heroes and heroines of our history, the sharing of the stories of our faith, and by our interdependence through exchanges of friendship between our dioceses and by service to others in the name of Christ`.

<sup>63</sup> WAEEC, para. 36: `While the Provinces are autonomous in matters of order and discipline, they are held together by the visible bonds of communion and thus in a real sense belong to one another: they are interdependent. The life of the Communion is held together in the creative tension of provincial autonomy and interdependence.`

<sup>64</sup> LC 1998, Res. II.6: this `reaffirms the primary authority of the Scriptures`; see also the Chicago-Lambeth Quadrilateral.

<sup>65</sup> Report of the Primates` Meeting 2002: `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"`. Indeed: `The existence of these principles both demonstrates and promotes unity within the Anglican Communion`: Legal Advisers` Consultation (2002), Proposition 6.

<sup>66</sup> See eg the Lutherans understand that `we also have a greater responsibility to develop our communion fellowship worldwide. Not for the sake of confessionalism but for the sake of Christian unity`: LWF, BM 2003, 22.

<sup>67</sup> Code of Canon Law (1983), c. 209: `Christ`s faithful are bound by an obligation, even in their own patterns of activity, to maintain communion with the Church`.

is a fellowship, within the one Holy Catholic and Apostolic Church, of those duly constituted dioceses, provinces and regional Churches *in communion with the See of Canterbury*;<sup>68</sup> [i]ts centre of unity is the See of Canterbury. To be Anglican it is necessary to be in communion with that See.<sup>69</sup> This formula suggests that a church is a member of the Anglican Communion if it is in communion with Canterbury. But the formula does not state that all Anglican churches are in communion with each other (by virtue of the communion of each with Canterbury). Indeed, the idea of intransitivity suggests that if Anglican church X is in communion with Canterbury, and Anglican church Y is in communion with Canterbury, this does not necessarily mean that churches X and Y are in communion with each other;<sup>70</sup> to be in communion with each other, individual churches would need to take the required action.<sup>71</sup>

On the canonical level, the laws of most churches make no explicit reference, in their provisions on self-identity, to the See of Canterbury:<sup>72</sup> most churches do not expressly present themselves canonically as in communion with Canterbury, though this bilateral relationship has been understood as an unwritten principle of law.<sup>73</sup> However, the bipartite model appears in the laws of some Anglican churches which, for example, declare [the] Church to be, and desire that it should continue, in full communion with the Church of England,<sup>74</sup> or that the church will maintain communion with the sister Church of England.<sup>75</sup> Intransitivity is implicit in these canonical approaches, as is the legal principle of privity.<sup>76</sup> The bipartite model also surfaces in understandings of communion in the ecumenical context: full communion is a relationship *between two distinct churches or communions*.<sup>77</sup>

**(2) Multipartite Communion:** Communion appears in the form of a multipartite relationship in the laws of many churches. The law presents a church as in: in communion with all churches of the Anglican Communion;<sup>78</sup> in full communion with the Church of England and all other Churches of the Anglican Communion,<sup>79</sup> in communion with the See of Canterbury and with all Dioceses, Provinces and regional Churches which are in full Communion with the See of Canterbury;<sup>80</sup> as in full communion with itself the Churches of the Anglican Communion<sup>81</sup> or as in

<sup>68</sup> LC 1930, Res. 49.

<sup>69</sup> Virginia Report, 37, citing LC 1930.

<sup>70</sup> Conversely, according to the doctrine of transitivity, if two churches are in communion, they ought to be in communion with all churches with which either is in communion: *Growth in Communion*, Report of the Anglican-Lutheran International Working Group 2000-2002 (Geneva, 2003) para. 159.

<sup>71</sup> *Growth in Communion*, op cit., para. 164.

<sup>72</sup> See eg Australia, Japan and Melanesia.

<sup>73</sup> That Communion with the See of Canterbury is a necessary part of the self-understanding of each member church of the Anglican Communion has been proposed as a principle of canon law common to the churches of the communion: see [www.acclawnet.co.uk](http://www.acclawnet.co.uk).

<sup>74</sup> Canada, Declaration of Principles, Solemn Declaration, 1.

<sup>75</sup> Ireland, Const. Preamble and Declaration, III: and with all other Christian Churches agreeing in the principles of this Declaration.

<sup>76</sup> In the (common) law of contract, the doctrine of privity means that an agreement, as a general rule, cannot impose duties or confer rights arising under it on any person not party (or privy) to it: see, for example, G.H. Treitel, *The Law of Contract* (8<sup>th</sup> edn., London, 1991) 523.

<sup>77</sup> *Growth in Communion*, Report of the Anglican-Lutheran International Working Group 2000-2002 (Geneva, 2003) para. 45; see also *ibid.*, para. 113 Cold Ash Statement (1983).

<sup>78</sup> Korea, Const., Fundamental Declaration.

<sup>79</sup> New Zealand, Cans. G.XIII.6.

<sup>80</sup> Nigeria, Const. I.3(1).

<sup>81</sup> Scottish Episcopal Church, Can. 15: for the list see the Schedule to the canon.



communion with the Church of England and with all churches in communion therewith so long as communion is consistent with the Fundamental Declarations contained in this Constitution<sup>82</sup> These canonical formulae indicate, therefore, the idea that one Anglican is in communion with another Anglican church (a) when its law so provides and/or (b) if that other church is in communion with Canterbury.

**(3) Communion Membership:** In some cases, the law identifies a church with Canterbury and other churches, without explicit reference to its own direct communion with Canterbury or others, but through a general statement of membership of the Anglican Communion; typically: the church `is a constituent member of the Anglican Communion, a Fellowship...of those duly constituted Dioceses, Provinces, and regional Churches in communion with the See of Canterbury`;<sup>83</sup> or a `part` of the Anglican Communion`<sup>84</sup> or, in one case, `in communion with the Anglican Communion throughout the world`.<sup>85</sup>

Canonical communion forms, then, may be bipartite, multipartite, or based on membership ideas. Such provisions do not appear in the formal laws of the majority of Anglican churches, nor is it common for the formal law even to define the Anglican Communion,<sup>86</sup> though there are some multipartite understandings of the Anglican Communion as `a family of churches in full communion with one another`.<sup>87</sup> Indeed, in one church, the law defines the Anglican Communion as `a federation of autonomous provinces which maintain fraternal contact on a global level`.<sup>88</sup> In contrast to the ecumenical context,<sup>89</sup> the multipartite forms might represent a claim or assumption of transitivity in inter-Anglican relations:<sup>90</sup> `if two churches are in communion, they ought in principle to both be in communion with all churches with which either is in communion`.<sup>91</sup> Finally, the multipartite model appears in other Christian traditions: for example, the Lutheran World Federation is currently working on its development as a `Lutheran Communion`<sup>92</sup> to develop the federation `as a worldwide communion`<sup>93</sup> `a communion of churches`.<sup>94</sup>

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<sup>82</sup> Australia, Const., Pt I.6.

<sup>83</sup> ECUSA, Const. Preamble.

<sup>84</sup> Venezuela, Const. Art. 1: `The Anglican Church in Venezuela is an ecclesiastical jurisdiction which forms an indissoluble part of the Anglican Communion`.

<sup>85</sup> Hong Kong, Const. Preamble.

<sup>86</sup> Definition of the Anglican Communion is usually left to catechetical documents: see eg New Zealand, Prayer Book 1989, 936.

<sup>87</sup> See eg Wales, BCP 1984, 692, Catechism: `The Anglican Communion is a family of Churches within the Catholic Church of Christ, maintaining apostolic doctrine and order and in full communion with one another and with the See of Canterbury`.

<sup>88</sup> Chile, Can. A.7.

<sup>89</sup> For example: `Within our present structures of decision making, relations of communion established by new ecumenical agreements cannot be transitive. If they were, then a pair of Anglican and Lutheran churches would each be able to bring the other into communion with all the churches of their own world family without the consent of these other churches`: *Growth in Communion*, op cit., para. 160; intransitivity is considered anomalous: para. 165.

<sup>90</sup> `There are good theological reasons to think that communion between churches is transitive...All communion is communion within Christ's one body, which cannot be divided`: *Growth in Communion*, op cit., para. 159.

<sup>91</sup> *Growth in Communion*, op cit., para. 159. See, however, below for degrees of communion.

<sup>92</sup> See *From Federation to Communion* (1997) and LWT Report 26, 1988: *Toward a Lutheran Communion; The Lutheran Understanding of Communion* (A Statement of the Working Group on Ecclesiology, March 1996).

<sup>93</sup> LWF, 17.

Nevertheless, the canonical contribution to communion must be put in perspective as a means to an end: `it is clear that a juridical notion of simply being "in communion" or "out of communion" with another church has been shown to be insufficient`.<sup>95</sup>

## 5. The Subjects of Communion

A number of ideas have been developed by Anglicans about the subjects of global communion: that is, those entities capable of being party to a communion relationship.

**(1) The Institutional Church: Institutional Communion:** As has already been seen, the most common understanding of communion at the global level is that it is a relationship between two institutional churches;<sup>96</sup> typically: the law of an Anglican church provides that the church is in communion with `the Church of England and all other Churches of the Anglican Communion`.<sup>97</sup> Indeed, the law of one Anglican church contemplates that the Anglican Communion itself may be a subject of communion with a particular province.<sup>98</sup> Also, insofar as institutional Anglican churches are territorial units (provinces, dioceses, etc), such provisions suggest that communion is a relationship between territorial units: that a diocese in one institutional church is capable of having a communion relationship with a diocese in another Anglican church is implicit in the notion of paired or partner dioceses.<sup>99</sup> In any event, the notion that communion is `a relationship between two distinct churches or communions` also appears in Lutheran tradition,<sup>100</sup> and in the Roman Catholic tradition.<sup>101</sup>

**(2) Individual Ecclesiastical Persons: Personal Communion:** Anglicanism has developed the idea that communion between the individual and God involves communion between individuals as members of the church.<sup>102</sup> Also: `[w]hile the diocese, with its bishop...[is] a focus of communion, Christians are also related to each other within the wider communion of the province and of the world-wide communion of churches`.<sup>103</sup> This admits the possibility that global communion involves individuals in one institutional Anglican church being in communion with individuals in another Anglican church (transprovincially) - in the same way that individuals within an institutional church are sometimes expressed canonically as

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<sup>94</sup> LWF, 21 and 29: according to its constitution, `The Lutheran World Federation is a communion of churches which confess the triune God, agree in the proclamation of the Word of God and are united in pulpit and altar fellowship`.

<sup>95</sup> WAEEC, para. 56.

<sup>96</sup> Be they a province, a diocese or a regional church: see LC 1930, Res. 49.

<sup>97</sup> New Zealand, Cans. G.XIII.6.

<sup>98</sup> Hong Kong, Const. Preamble: the province is `in communion with the Anglican Communion throughout the world`. *Quaere*: does this suggest that the instruments of Anglicanism (such as the ACC or the Lambeth Conference) can be subjects of communion?

<sup>99</sup> See LC 1998.

<sup>100</sup> *Growth in Communion*, para. 45.

<sup>101</sup> LG 23: `it is an established fact of experience that, in ruling well their own portions of the universal church, [bishops] contribute efficaciously to the welfare of the whole Mystical Body, which, from another point of view, is a corporate body of Churches`; see also *Code of Canon Law: Text and Commentary*, Coriden et al (eds) (1985 edn), p.142: `the Church is a communion of churches`.

<sup>102</sup> The Virginia Report (TVR) 2.9: `our unity with one another is grounded in the...communion of the Godhead`; `the Trinity is the source...of our communion, our fellowship with God and one another`.

<sup>103</sup> WAEEC, para. 136.

being in communion with each other.<sup>104</sup> Indeed, the Primates have understood themselves to be in communion,<sup>105</sup> and means are to be explored for bishops 'to gather in inter-regional groupings...for communion'.<sup>106</sup> The idea has also been used by the Lambeth Conference in relation to the admission of Anglicans from fellow Anglican churches in a host Anglican church: the basis of admission is that the individuals involved have communicant status.<sup>107</sup> The basic idea surfaces implicitly in the laws of Anglican churches.<sup>108</sup> It also appears explicitly in the laws of other Anglican churches in the ecumenical context: members of a partner non-Anglican church are treated as members (in the domestic communion) of the Anglican church in question.<sup>109</sup>

The notion of communion as a relationship between individual persons at a global level is fully developed in the Roman Catholic Church:<sup>110</sup> individual members of the Catholic faithful are in communion with the Church,<sup>111</sup> the bishops are in communion with the pope;<sup>112</sup> and the bishops are in communion with each other.<sup>113</sup> The subjects of communion have been summed up as the faithful, the particular churches, the ministers; as such, Roman Catholics speak of the communion of the faithful, the communion of the [particular] churches, and the communion of ministers.<sup>114</sup>

## 6. The Substance of Communion

Anglicans have developed several distinct (but associated) ideas about the substance of communion. These include the propositions that communion consists, variously, in: a process; unity; agreement; mutual recognition; acceptance; commonality; the presence of diversity and difference.<sup>115</sup>

**(1) Communion as Process:** The Anglican Communion, as a fellowship (or communion) of churches, is seen as 'a communion still learning what it means to

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<sup>104</sup> See eg Wales, Can. 26-4-1973: this canon states that Church of South India is under 'the jurisdiction of Bishops in the historic succession', and that 'all ordinations in [it] are episcopal and all ministers are in communion with their bishop'.

<sup>105</sup> Statement, Primates Meeting 15-16/10/03: the primates 'have also been renewed and strengthened in our Communion with one another through our worship and study of the Bible'.

<sup>106</sup> LC 1998, Res. III.9.

<sup>107</sup> LC 1968, Res. 45,46: 'it is a general principle of the Church that Anglican communicants receive Holy Communion at the hands of ordained ministers of their own Church or of Churches in communion with therewith'.

<sup>108</sup> For example: England, Can. B15A: there shall be admitted to holy communion 'baptised persons who are communicant members of other Churches which subscribe to the doctrine of the Holy Trinity'.

<sup>109</sup> See eg Wales, Porvoo Canon (28-9-1995): the Church in Wales commits itself 'to regard baptised members of other churches as members' of the Church in Wales.

<sup>110</sup> The church considers that there exists a relationship between the church and all humankind: *Lumen Gentium*, 1: '[T]he Church in Christ is in the nature of sacrament - a sign and instrument that is of communion with God and of unity among all men'; 13: 'All men are called to this catholic unity, which prefigures and promotes universal peace', and 'in different ways to it belong, or are related: the catholic faithful, others who believe in Christ and finally, all mankind, called by God's grace to salvation'.

<sup>111</sup> Code of Canon Law, c. 205.

<sup>112</sup> Code, c. 204.2, see also c.333.1.

<sup>113</sup> Code, c. 336.1: bishops are members of the College of Bishops 'by virtue of sacramental consecration and hierarchical communion with the head and members of the college'.

<sup>114</sup> E. Corecco, 'Ecclesiological bases of the Code', *Concilium* (1986) 3 at 7.

<sup>115</sup> Communion as: 'The fellowship or mutual relation between members of the same church, or of bodies which recognise each other as branches of the Church Catholic': OED.

become more fully a communion<sup>116</sup>. This notion of communion as process is implicit, for example, in the recommendation that 'there should be a change in the name of the Anglican Consultative Council to the Anglican Communion Council, reflecting the evolving needs and structures' about equal representation from each province and broad representation on the executive.<sup>117</sup> It has been observed that: 'the unsteady, temporary and partial nature of communion within the Church is vastly understated and the remedies suggested to overcome division are too weak by far'.<sup>118</sup>

**(2) Communion as Unity:**<sup>119</sup> The notion of communion as unity is well-established. Frequent appeals are made to 'the unity of our Communion',<sup>120</sup> the communion as a 'union' of churches,<sup>121</sup> *koinonia* as unity held in common in the sense of relatedness,<sup>122</sup> and communion has been explored with reference to 'the unity and order of the church'.<sup>123</sup> However, sometimes 'unity' and 'communion' are distinguished.<sup>124</sup> Communion as unity is also used by other Christian traditions, such as the Lutherans,<sup>125</sup> and Roman Catholics for whom communion as unity is about the faithful 'being joined' (*coniunctum* or *iunguntur*).<sup>126</sup>

**(3) Communion as Commonality and Common Life:** Communion has been understood as having 'characteristics in common'.<sup>127</sup> This idea is directly associated with the notion of communion as community, common life and sharing: communion involves 'the unity and the community'.<sup>128</sup> The Primates, for example, meet 'to seek to discern in an atmosphere of common prayer and worship, the will and guidance of the Holy Spirit for the common life of the thirty-eight provinces which constitute our Communion',<sup>129</sup> and communion may be presented as a shared divine calling.<sup>130</sup>

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<sup>116</sup> WAEEC, para. 61.

<sup>117</sup> LC 1998, Res. III.6(d).

<sup>118</sup> D.W. Gomez and M.W. Sinclair (eds), *To Mend the Net* (2001) 2.2.

<sup>119</sup> 'The quality or condition of being one in mind, feeling, opinion, purpose, or action; harmonious combination together of the various parties or sections (of the Church...) into one body': OED.

<sup>120</sup> Statement, Primates Meeting 15-16/10/03: 'These actions threaten the unity of our own Communion as well as our relationships with other parts of Christ's Church, our mission and witness, and our relations with other faiths'.

<sup>121</sup> See Encyclical Letter of the Lambeth Conference 1878 with its 'Report of Committee on the best mode of maintaining union among the various Churches of the Anglican Communion': *The Six Lambeth Conferences 1867-1920*, pp.82-83.

<sup>122</sup> G. Rowell, *Times*, 8/11/03: '"Communion"...unity held in common...belonging-togetherness...a web of love...*perichoresis*, a round dance of interwoven love'.

<sup>123</sup> LC 1988, Res. 18.1: the Inter-Anglican Theological and Doctrinal Commission is to explore 'the meaning and nature of communion...with particular reference to the doctrine of the Trinity, the unity and order of the Church, and the unity and community of humanity'.

<sup>124</sup> LC 1998, Res. III.6.(e).

<sup>125</sup> 'The unity among Lutheran churches is not essentially different from the unity we share with other churches. But since we share the same confessional tradition, we are closer to each other than we are to other churches. Therefore we also have a greater responsibility to develop our communion fellowship world wide. Not for the sake of confessionalism but for the sake of Christian unity: LWF, 22.

<sup>126</sup> Vatican II, *Orientalium Ecclesiarum* (1964) 2: the Mystical Body of Christ, is made up of the faithful who are organically united in the Holy Spirit by the same faith, the same sacraments and the same government'; see also Code, cc. 205,206(2).

<sup>127</sup> LC 1930, Res. 49: 'The Anglican Communion is a fellowship...of dioceses, provinces or regional Churches...which have the following characteristics in common'.

<sup>128</sup> LC 1988, Res. 18.1: see above n. 123.

<sup>129</sup> Statement, Primates Meeting, October 2003.

**(4) Communion as Agreement in Mind and Action:** We have already seen the extent to which Anglicans see communion as being founded on agreement: this agreement is sometimes expressed as having both internal and external elements - it consists in a meeting of minds and shared action;<sup>131</sup> as it is sometimes expressed by others: 'to act jointly in common tasks'.<sup>132</sup> Nevertheless, it has been observed that communion 'is not the kind of contractual or treaty-based relationship that might be described as a "federation" or "association". "Communion" suggests a more intimate, familial or genetic relationship'. 'Communion is sacramental, ecclesial, mystical. The Anglican Communion existed even before we had a Lambeth Conference, and certainly before the ACC or the Primates' Meeting came to be'.<sup>133</sup>

**(5) Communion as Mutual Recognition:** It has been understood by Anglicans, in the ecumenical context, that communion involves 'the mutual recognition of the partners as belonging together in the one Body of Christ through faith and baptism. From this it follows that what the partners have in common is more important than what divides'.<sup>134</sup> Anglicans also see themselves as belonging to one another.<sup>135</sup> Moreover, a communion relationship may nevertheless exist even without the acceptance by a church (party to it) of all doctrinal opinion, sacramental devotion, or liturgical practice characteristic of the other, but implies that each believes the other to hold 'all the essentials' or 'the essentials' of the Christian faith.<sup>136</sup>

**(6) Communion, Diversity and Difference:** Communion between churches has been understood to involve, or to be consistent with, the accommodation of legitimate (conscientious) diversity,<sup>137</sup> creative diversity,<sup>138</sup> reception,<sup>139</sup> bearable anomalies,<sup>140</sup> unbearable anomalies, and mutual forbearance.<sup>141</sup>

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<sup>130</sup> For similar idea, see R. Williams, *New Directions* (2003): 'The task is to keep in focus the conviction that what makes a church a church, even through the struggles of major disruption and disagreement, is a shared divine calling...'

<sup>131</sup> Statement, Primates Meeting 15-16/10/03: communion is understood to involve '[A] deeper commitment to work together', and 'we affirm our pride in the Anglican inheritance of faith and order and our firm desire to remain part of a Communion', where 'what we hold in common is much greater than that which divides us in proclaiming the Good News to the world'.

<sup>132</sup> LWF, 29.

<sup>133</sup> See respectively: J. Rees, 'Some legal and constitutional considerations', 3.3; see also below no 138; and D. Hamid, 'Church, communion etc', 6 *EccLJ* (2002) 352 at 356.

<sup>134</sup> WAEEC, para. 33.

<sup>135</sup> WAEEC, para. 36: 'the Provinces...are held together by the visible bonds of communion and thus in a real sense belong to one another: they are interdependent. Each Province has something distinctive to offer the others, and needs them in turn to be able to witness to Christ effectively in its own context'.

<sup>136</sup> For 'all the essentials', see Wales, Can. 30-9-1937; for 'the essentials', see nn. 168,170.

<sup>137</sup> '[D]iversity is understood to be a desirable dimension of the catholicity of the Church, where judged to be genuine expressions of a faith held in common. A sufficient agreement in faith does not require us "to accept every doctrinal formulation characteristic of our distinctive traditions": *Growth in Communion*, op cit., para. 138: the inset quotation is from the Porvoo Common Declaration, para.33.

<sup>138</sup> Statement of the Archbishop of Cape Town: ACNS 3683, 23/11/03: 'God is the God of reconciliation (2 Cor 5:19) and in reality there is only one Church, only one body of Christ. The Church is not a club of like-minded people, a group of those who are happy to agree. We belong together whether we like it or not, and ultimately we cannot get away from one another...One of the main characteristics of our worldwide Anglican Communion down the centuries has been an element of creative diversity. We have lived with and disagreed on different issues at different times...We have achieved this by modelling that diversity on the Trinitarian nature of God...We must face the challenge to develop an ethic of together-in-difference...We have never been a denomination based around a single statement of faith or set of rules. Rather, we are held together through a shared past of deep

## 7. The Objects (or Manifestations) of Communion: Terms and Conditions

As a general principle, the relationship of communion exists when the substance of communion (unity etc) is manifested in the objects (or marks) of communion.

### (1) Anglican Approaches in Inter-Anglican Relations

Anglicans have developed concepts of the `common characteristics` of the churches of the communion,<sup>142</sup> and the `visible elements` of communion.<sup>143</sup> These represent a wide range of ideas about the objects, marks or manifestations of communion between Anglican churches, around the fundamental idea that the bonds of communion are faith, sacraments and ministry.<sup>144</sup> Moreover, these objects of communion may represent the prescriptive dimension of communion; they may be cast as both (i) the terms and conditions of communion, that is, the objective criteria to determine whether communion exists; and (ii) the requirements of communion, that is, those matters and responsibilities which are required by the relationship of communion: the rights and duties of communion.

**Unity in Faith:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it upholds and propagates the Catholic and Apostolic faith set forth in the Book of Common Prayer as authorised in that church.<sup>145</sup>

**Unity in Order:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it upholds and propagates the Catholic and Apostolic order set forth in the Book of Common Prayer as authorised that church.<sup>146</sup>

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historic roots, and through the maintenance and development of these relationships as the Anglican Communion has spread through the world into its many and still changing cultures. That is what Communion is all about. Relationships, not rules. We are a federation, a family, of 38 ecclesiastical provinces, bound together by bonds of affection and mutual commitment. We know that unity, especially unity in diversity, is often hard to maintain but Jesus would not have prayed for unity as he did at the Last Supper if it were easy`.

<sup>139</sup> LC 1988, Res. 1.3(a): reception includes `continuing consultation with other Churches`.

<sup>140</sup> Lambeth Conference 1998, Res. IV.1(c): `the process of moving towards full, visible unity may entail temporary anomalies, and...some anomalies may be bearable when there is an agreed goal of visible unity, but there should always be an impetus towards their resolution and, thus, towards the removal of the principal anomaly of disunity`.

<sup>141</sup> *Growth in Communion*, paras. 142-144; see also below n. 236.

<sup>142</sup> LC 1930, Res. 49: `[t]he Anglican Communion is a fellowship...of dioceses, provinces or regional Churches...which have the following characteristics in common`.

<sup>143</sup> WAECC, para. 35.

<sup>144</sup> WAECC, para. 37.

<sup>145</sup> LC 1930, Res. 49: `The Anglican Communion is a fellowship...of dioceses, provinces or regional Churches...which have the following characteristics in common: (a) they uphold and propagate the Catholic and Apostolic faith...as [it is] generally set forth in the Book of Common Prayer as authorised in their several Churches`.

<sup>146</sup> LC 1930, Res. 49: `The Anglican Communion is a fellowship...of dioceses, provinces or regional Churches...which have the following characteristics in common: (a) they uphold and propagate the Catholic and Apostolic...order as [it is] generally set forth in the Book of Common Prayer as authorised in their several Churches`.

**Unity in Expression of Faith, Life and Worship:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it promotes an `expression of Christian faith, life and worship`.<sup>147</sup>

**Unity in Mutual Loyalty:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it is bound with other Anglican churches `by mutual loyalty sustained through the common counsel of the bishops in conference`.<sup>148</sup>

**Unity in Confession:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it shares with it/them the `common confession of the apostolic faith expressed in the living Tradition of the Church in continuity with the normative record of Holy Scripture`.<sup>149</sup>

**Unity in Prayer:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it expresses a commitment to pray for fellow Anglicans.<sup>150</sup>

**Unity in Sacrament:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it participates in the celebration of the sacraments of baptism and eucharist.<sup>151</sup>

**Unity in Ministry:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it recognises a single interchangeable ministry as between Anglicans.<sup>152</sup> (However, it has been observed that `excessive concentration on the ordained ministry can mislead us into thinking that communion is only to be defined in terms of the interchangeability of ministries`.<sup>153</sup>)

**Unity in Care:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it expresses a commitment to care for fellow Anglicans, and share with them resources and goods.<sup>154</sup>

**Unity in Mission:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it shares `a commitment to mission`.<sup>155</sup>

**Unity in the Instruments of Faith:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if

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<sup>147</sup> LC 1930, Res. 49(b).

<sup>148</sup> LC 1930, Res. 49(c).

<sup>149</sup> WAEEC, para. 35.

<sup>150</sup> WAEEC, para. 35: `The fellowship of Anglicans is expressed in a commitment to pray for one another`.

<sup>151</sup> WAEEC, para. 35.

<sup>152</sup> WAEEC, para. 35.

<sup>153</sup> WAEEC, para. 60.

<sup>154</sup> WAEEC, para. 35: `The fellowship of Anglicans is expressed in a commitment...in mutual responsibility and care, in a sharing of the resources and goods and a commitment to mission`.

<sup>155</sup> WAEEC, para. 35: `The fellowship of Anglicans is expressed in...a commitment to mission`.

it maintains `the life of the truth of Christ by the gift of the Holy Scriptures, the Apostles and Nicene Creeds, the sacraments of Baptism and Eucharist, and the historic episcopate`.<sup>156</sup>

**Unity in Worship:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it shares with it/them `the liturgical tradition and common patterns of worship`.<sup>157</sup>

**Unity in Counsel:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it recognises `the role of the Archbishop of Canterbury as a personal sign of our unity and communion, and the role of the decennial Lambeth Conference and of extraordinary Anglican Congresses as called, together with inter-provincial gatherings and cross-provincial diocesan partnerships, as collegial and communal signs of the unity of our Communion`.<sup>158</sup>

**Unity in Polity:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it is an autonomous church with a system of polity shared by fellow churches and expressed through their structures of government and law in the principles of canon law common to the churches of the Communion.<sup>159</sup>

**Unity in Eucharistic Admission:** A church is a member of the Anglican Communion and in communion with Canterbury (and/or other Anglican churches) if it allows a member of another church freely to receive holy communion in the host church.<sup>160</sup>

No Anglican church has in its law a discreet, systematic or comprehensive compendium setting out these marks of unity, for the purposes of its own discipline, as the terms and conditions of its communion with other Anglican churches. Nevertheless, the laws of some churches contain some of these marks.<sup>161</sup> However, some of marks of communion may be recognised in the principles of canon law common to the churches of the Communion.<sup>162</sup> Models for a statement of the terms of communion may be found in Anglican laws incorporating ecumenical covenants.<sup>163</sup>

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<sup>156</sup> LC 1998, Res. III.8(d).

<sup>157</sup> LC 1998, Res. III.8(f).

<sup>158</sup> LC 1998, Res. III.6(e).

<sup>159</sup> See Report of Primates Meeting 2002 for the idea that these principles may be understood to constitute a `fifth instrument` of unity; see principles of law (op cit) Principle 8 on `Anglican polity`.

<sup>160</sup> WAECC, para. 60: `Lay people will still be free to receive the Holy Communion in Provinces of different principles and practice; and this as of right rather than by ecumenical hospitality. Further, the clergy and bishops of Provinces which differ will still themselves be free to receive Holy Communion together. This illustrates the fact that we are still in communion`.

<sup>161</sup> See also Part II below for the limits of autonomy. For the degree to which the laws of churches express these marks of unity, see N. Doe, *Canon Law in the Anglican Communion* (Oxford, 1998).

<sup>162</sup> See [www.acclawnet.co.uk](http://www.acclawnet.co.uk): Principle 3.3: `The Anglican Communion consists of those duly constituted national, regional, provincial churches and dioceses, in communion with the See of Canterbury, which uphold and propagate the historic faith and order as set forth in the Book of Common Prayer as authorised in the several churches of the Communion`.

<sup>163</sup> See eg Wales, Porvoo Canon (1995): 1. The churches party to the agreement recognise one another as churches belonging to the One, Holy, Catholic and Apostolic Church of Jesus Christ, and as truly participating in the apostolic mission of the whole people of God. They acknowledge that, in each of



## (2) Anglican Approaches in the Ecumenical Context

These prescriptive dimensions of communion are consistent with those appearing in ecumenical dialogue. For example, in Anglican-Lutheran dialogue,<sup>164</sup> full communion means the fundamental principle that each church `believes the other to hold the essentials of the Christian faith`. Consequently: (a) subject to such safeguards as ecclesiastical discipline may properly require, members of one body may received the sacraments of the other; (b) subject to local invitation, bishops of one church may take part in the consecration of the bishops of the other, thus acknowledging the duty of mutual care and concern; (c) subject to church regulation, a bishop, pastor/priest or deacon of one ecclesial body may exercise liturgical functions in a congregation of the other body if invited to do so and also, when requested, pastoral care of the other`s members; (d) it is also necessary and complement that there should be recognised organs of regular consultation and communication, including episcopal collegiality, to express and strengthen the fellowship and enable common witness, life and service`.<sup>165</sup> In short, communion is understood to be multidimensional, going beyond sacramental and ministerial unity.<sup>166</sup> The need to embody the communion in the law of each church has also been recognised.<sup>167</sup> Key concepts are diversity,<sup>168</sup> which is defined,<sup>169</sup> and freedom.<sup>170</sup>

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them, the Word of God is authentically preached, and the sacraments of baptism and the eucharist are duly administered. Each church shares in the common confession of the apostolic faith. In all the churches, ordained ministries are given by God as instruments of his grace: as such, these ministries possess not only the inward call of the Spirit, but also Christ's commission through his body, the church. The churches acknowledge that personal, collegial and communal oversight (*episcopate*) is embodied and exercised in each other in a variety of forms, and in continuity of apostolic life, mission and ministry. Indeed, they acknowledge that the episcopal office is valued and maintained in one another as a visible sign which expresses and serves church unity and continuity in apostolic life, mission and ministry. 2. The canonical commitments of the Church in Wales are: (1) to share a common life in mission and service, to pray for and with the other churches, and to share resources; (2) to welcome members of the other churches to receive sacramental and other pastoral ministrations in the Church in Wales; (3) to regard baptized members of the other churches as members of the Church in Wales; (4) to welcome *diaspora* congregations into the life of the indigenous churches; (5) to welcome persons episcopally ordained in all the churches to the office of bishop, priest or deacon to serve in that ministry in the Church in Wales without re-ordination; (6) to invite bishops normally to participate in the laying on of hands at the ordination of bishops in the Church in Wales; (7) to work towards a common understanding of diaconal ministry; (8) to establish appropriate forms of collegial and conciliar consultation on significant matters of faith and order, life and work; (9) to encourage consultations of representatives of each church, and to facilitate learning and exchange of ideas and information in theological and pastoral matters; and (10) to establish a contact group to nurture growth in communion and to co-ordinate the implementation of the agreement.

<sup>164</sup> *Growth in Communion*, para. 45: the fundamental principle is that full communion between churches means that each church recognises `the catholicity and apostolicity of the other`, `believing the other to hold the essentials of the Christian faith`. Consequently, in such a relationship: (a) communicant members of each church are able freely to communicate at the altar of the other; (b) there is `freedom of ordained ministers` to officiate sacramentally in either church; (c) `transferability of members; mutual recognition and interchangeability of ministries`; (d) freedom to use each other's liturgies; (e) freedom to participate in each other's ordinations and installations of clergy, including bishops; and (f) and `structures for consultation to express, strengthen and enable our common life, witness, and service, to the glory of God and the salvation of the world`.

<sup>165</sup> Cold Ash Statement (1983) of the Anglican-Lutheran Joint Working Group: *Growth in Communion*, op cit., para. 113.; see below n.236 for ARCIC.

<sup>166</sup> Cold Ash Statement (1983) of the Anglican-Lutheran Joint Working Group: *Growth in Communion*, op cit., para. 113: `Full communion carries implications which go beyond sharing the same eucharist. The eucharist is a common meal, and to share in it together has implications for a

### (3) The Marks of Communion in Other Traditions

**The Lutheran Communion:** `The Lutheran communion of churches finds its visible expression in pulpit and altar fellowship, in common witness and service, in the joint fulfilment of the missionary task and in openness to ecumenical cooperation, dialogue, and community`;<sup>171</sup> communion involves a commitment to help each other `to act jointly in common tasks`.<sup>172</sup> `The LWF is an expression and instrument of this communion. It assists it to become more and more a conciliar, mutually committed communion by furthering consultation and exchange among its member churches and other churches of the Lutheran tradition as well as by furthering mutual participation in each other`s joys, sufferings and struggles`.<sup>173</sup> `There is enormous diversity in this communion, with vastly different social locations, resources, and access to power. Lutherans are represented among the very rich and the very poor in this world. These together become part of an organic, living communion`.<sup>174</sup>

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sharing of life and of a common concern for the mission of the church. To be in full communion implies a community of life, an exchange and a commitment to one another in respect of major decision on questions of faith, order and morals. It implies, where churches are in the same geographical area, common worship, study, witness, evangelism, and promotion of justice, peace and love. It may lead to a uniting of ecclesial bodies if they are, or come to be, immediately adjacent in the same geographical area. This should not imply the suppressing of ethnic, cultural or ecclesial characteristics or traditions which may in fact be maintained and developed by diverse institutions within one communion`.

<sup>167</sup> Porvoo Common Statement, para. 28: *Growth in Communion*, para. 116: `These expressions of communion may need to be embodied in the law and regulations of the Church. For the fullness of communion all these visible aspects of the life of the Church require to be permeated by a profound spiritual communion, a growing together in a common mind, mutual concern and a care for unity (Phil. 2.2)`.

<sup>168</sup> CCM, para. 2: *Growth in Communion*, op cit., para. 115: `We therefore understand full communion to be a relation between distinct churches in which each recognises the other as a catholic and apostolic church holding the essentials of the Christian faith. Within this new relation, churches become interdependent while remaining autonomous. Full communion includes the establishment locally and nationally of recognised organs of regular consultation and communication, including episcopal collegiality, to express and strengthen the fellowship and enable common witness, life and service. Diversity is preserved, but this diversity is not static. Neither church seeks to remake the other in its own image, but each is open to the gifts of the other as it seeks to be faithful to Christ and his mission. They are together committed to a visible unity in the church`s mission to proclaim the Word and administer the Sacraments`.

<sup>169</sup> *Growth in Communion*, op cit., para. 138: `[D]iversity is understood to be a desirable dimension of the catholicity of the Church, where judged to be genuine expressions of a faith held in common. A sufficient agreement in faith does not require us "to accept every doctrinal formulation characteristic of our distinctive traditions"; the inset quotation is from the Porvoo Common Declaration, para.33.

<sup>170</sup> Waterloo Declaration, para. 7: *Growth in Communion*, op cit., para. 117: `Full communion is understood as a relationship between two distinct churches or communion in which each maintains its own autonomy while recognising the catholicity and apostolicity of the other, and believing the other to hold the essentials of the Christian faith. In such a relationship, communicant members of each church would be able freely to communicate at the altar of the other, and there would be freedom of ordained ministers to officiate sacramentally in either church. Specifically, in our context, we understand this to include transferability of members; mutual recognition and interchangeability of ministries; freedom to use each other`s liturgies; freedom to participate in each other`s ordinations and installations of clergy, including bishops; and structures for consultation to express, strengthen, and enable our common life, witness, and service, to the glory of God and the salvation of the world`.

<sup>171</sup> Seventh Assembly: *Growth in Communion*, para. 220.

<sup>172</sup> LWF, 29.

<sup>173</sup> LWF Report 19/29, para. 176.

<sup>174</sup> LWF, 15.

**The Roman Catholic Church:** In the Roman Catholic Church the baptised faithful are in full communion when (or if) they share: profession of the same faith; participation in the sacraments; and submission to the same system of governance: `Those baptised are in full communion with the Catholic Church here on earth who are joined (*iunguntur*) with Christ in his visible body, through the bonds of profession of faith, the sacraments and ecclesiastical governance`. <sup>175</sup> And *communicatio in sacris* is `a mutual sharing in sacred things`. <sup>176</sup>

## 9. The Degrees of Communion

It has been understood that `[n]o Province or individual bishop still less priest or lay persons, can meaningfully declare themselves to be categorically out of communion with another Province or bishop`. <sup>177</sup> However, Anglicans have developed the notion that there can exist degrees of communion.

**(1) Communion and Full Communion:** Each of these is both a theological and a canonical category. As has been seen, <sup>178</sup> the laws of churches describe their relationship with either Canterbury or with other Anglican churches as one of (simply) communion, <sup>179</sup> or as one of full communion. <sup>180</sup> Yet, the standard Lambeth Conference definition of the Anglican Communion refers only to member churches being `in communion` with Canterbury (not full communion). <sup>181</sup> In other words, from the individual legal systems of individual churches, <sup>182</sup> there is currently no obvious uniform canonical formula to describe the relationship of communion between particular Anglican churches, though the Lambeth Conference has understood full communion as `unrestricted *communio in sacris* including mutual recognition and acceptance of ministries`. <sup>183</sup> It would also seem to be the case that most churches through their laws do not define the terms and conditions of either `communion` or `full communion` in the sense of the relationship between Anglican churches; those laws which do so admit only sacramental and ministerial reciprocity subject to the domestic discipline of the host church. <sup>184</sup> Models do, however, exist for a canonical definition of communion (and full communion), <sup>185</sup> into which might be woven the Anglican understandings of the marks and manifestations of communion (see above). In the ecumenical context of Anglican-Roman Catholic relations, the idea of `full and visible communion is of a eucharistic communion of churches`. <sup>186</sup>

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<sup>175</sup> Code of Canon Law, c. 205.

<sup>176</sup> Eg OE, 26.

<sup>177</sup> WAEEC, para. 56.

<sup>178</sup> See above, Part I.4.

<sup>179</sup> Australia, Const. Pt. I.6.

<sup>180</sup> Eg Nigeria, Const. I.2; Scotland, Can. 15.

<sup>181</sup> `[T]he Anglican Communion is a fellowship...of those duly constituted dioceses, provinces and regional Churches in communion with the See of Canterbury`: LC 1930, Res. 49.

<sup>182</sup> The following provision is rare: New Zealand, Can. G.XIII.6.1: full communion is defined as `a relationship of unrestricted *communio in sacris* including mutual recognition of ministries`.

<sup>183</sup> LC 1958, Res. 14.

<sup>184</sup> Eg Wales, Can. 26-4-1973: this governs full communion with the United Church of South India, a member of the Anglican Communion.

<sup>185</sup> See above n. 163 for an actual canon which might serve as a possible model.

<sup>186</sup> Statement: Communion in Mission (Mississauga, Canada, 2000) para. 13.

**(2) The Highest Possible Degree of Communion:** The Lambeth Conference has urged maintenance of `the highest possible degree of communion with the provinces`.<sup>187</sup> This concept does not appear in the formal laws of Anglican churches. Might it mean substantial compliance with ideas about the marks of communion?

**(3) Inter-Communion:** For the Lambeth Conference, inter-communion is `varying degrees of relation other than "full communion" and established by agreement between two...Churches`.<sup>188</sup> This species of communion is also a known canonical category; but usages may be confused. In one Anglican church, canonical inter-communion simply means allowing members of each church to receive the sacraments of the other (but not interchange of ministers),<sup>189</sup> and inter-communion is the communion relationship which that church enjoys with some other member churches of the Anglican Communion.<sup>190</sup>

**(4) Impaired Communion:** For the Lambeth Conference the `terminology of "impairment" may be used or other language such as "restricted" or "incomplete communion" may be preferred. In either case, communion is less than it was`.<sup>191</sup> There is insufficient evidence to conclude that the concept of impaired communion (as between churches) is a canonical category in contemporary Anglicanism.<sup>192</sup> The obvious and nearest canonical equivalent is that of exclusion from holy communion under the law of the particular church, which usually deals in detail with: the grounds; the administrator, the procedure and appeals; restoration; and the effects of loss of communicant status.<sup>193</sup> Yet, as a result of recent events in ECUSA, Anglicans have understood impaired communion in the following ways:

***The cause of impairment:*** Views include the idea that a church subject to an impairment declaration (by another church) has by its own action rendered itself in a state of impaired communion: the assumption is that a declaration is only confirmation of this.<sup>194</sup> There is modest canonical support for this view.<sup>195</sup>

***The meaning of impaired communion:*** Views include ideas that impaired communion is: `not in communion, namely, Communion *in sacris*`;<sup>196</sup> `we cannot share fellowship, ministry, eucharist or gifts`;<sup>197</sup> if `there is restriction in the elements

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<sup>187</sup> LC 1988, Res. 1.1.

<sup>188</sup> LC 1958, Res. 14.

<sup>189</sup> LC 1958, Res. 14: full communion is `unrestricted *communio in sacris*`, which includes `mutual recognition and acceptance of ministries`.

<sup>190</sup> Namely: the Church in Wales has a relation of inter-communion with the Lusitanian Church and with the Spanish Reformed Episcopal Church.

<sup>191</sup> WAECC, para. 57.

<sup>192</sup> The following provision is rare: Scotland, Can. 15.1: the Episcopal Synod may act (subject to consent of General Synod), `should any Church...take such action as shall have rendered itself...in a state of impaired communion with this Church`.

<sup>193</sup> See N. Doe, *Canon Law in the Anglican Communion* (1998) 266ff.

<sup>194</sup> ACNS 3703, 9/12/03: Kenya: the province will continue supporting `those Bishops, Clergy and laity in various dioceses in ECUSA who continue to uphold the historic faith and order of the Church`, but those who supported the consecration `have by their own action impaired communion`. This is analogous to automatic (self-imposed) excommunication in Roman Catholic canon law.

<sup>195</sup> Scotland, Can. 15.1: `any Church...take such action as shall have rendered itself...in a state of impaired communion`.

<sup>196</sup> ACNS 3703, 9/12/03: Tanzania.

<sup>197</sup> ACNS 3735, 12/1/04: House of Bishops of the Province of the Southern Cone of America.

of communion, separated groups interpret the Tradition over and against each other.<sup>198</sup>

***The grounds for impaired communion:*** Views have included the ideas that impaired communion exists because of, variously: misinterpretation of scripture; breach of tradition; departure from the moral teaching, practice and common understanding of the Anglican Communion; an act as contrary to Holy Scripture, and to moral law in the Third World;<sup>199</sup> the premature nature of the action (of consecration); failure to comply with warnings;<sup>200</sup> and error in the decision.<sup>201</sup>

***The subjects of impaired communion:*** Views include the idea that impaired communion affects relations, variously: between only bishops, priests, and deacons (ie not the laity);<sup>202</sup> with those who have affirmed [which might include laity] or participated in the consecration of Gene Robinson, [and] with those who perform or permit blessings of same-sex unions outside historic Christian marriage, [and] with clergy who are sexually active outside marriage;<sup>203</sup> with the Diocese of New Hampshire [and] with all the bishops and dioceses in ECUSA that have joined in the consecration;<sup>204</sup> with any other Province that shall follow suit (but will continue to have partnership with Americans opposed to the consecration).<sup>205</sup>

***The authority and procedure to declare impaired communion:*** The authority to declare a state of impaired communion has been assumed by: individual primates; the province;<sup>206</sup> and an episcopal synod acting with a provincial synod standing committee.<sup>207</sup> Questions arise as to the lawfulness of such declarations. (1) As has already been seen, canonical authority and procedures exist in churches for the

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<sup>198</sup> WAEEC, para. 28.

<sup>199</sup> ACNS 3730, 5/1/04: Statement of the House of Bishops of the Anglican Province of the Democratic Republic of the Congo.

<sup>200</sup> ACNS 3735, 12/1/04: House of Bishops of the Province of the Southern Cone of America: 'The recent unilateral actions of [ECUSA], in consecrating a bishop who is sexually active outside marriage, and the recognition of same-sex blessings have created a deeply painful and divisive situation'. 'In the light of Tradition, it reveals a misinterpretation of the clear witness of God's Word and a deaf ear to the heartfelt pleas of the entire Communion...[D]espite repeated warnings, ECUSA's leaders have shown selfish indifference to the difficulties and confusion their actions have now brought this and other provinces'. 'Their action is a clear departure from the moral teaching, practice and common understanding of the Anglican Communion, clearly expressed by the Lambeth Conference of 1998...ECUSA's action has forced painful division in the Communion and a schism of their own making'. 'Because of its precipitous action [ECUSA] has fomented needless division and denied the Tradition of the Church catholic'. 'ECUSA cannot represent the Anglican Communion in any legitimate or moral sense'. '[W]e reject as sin those acts which separate us from God and from each other'.

<sup>201</sup> ACNS 3735, 12/1/04: House of Bishops of the Province of the Southern Cone of America.

<sup>202</sup> ACNS 3703, 9/12/03: Tanzania: not in communion (ie communion *in sacris*) with bishops who consecrate homosexuals to the episcopate, ordain them to the priesthood and diaconate, license them to minister, or permit the blessing of same sex unions in their dioceses, as well as all homosexual priests and deacons and clergy who bless same sex union.

<sup>203</sup> ACNS 3735, 12/1/04: House of Bishops of the Province of the Southern Cone of America.

<sup>204</sup> ACNS, 3703, 9/12/03.

<sup>205</sup> ACNS 3703, 9/12/03: Uganda, Statement of House of Bishops.

<sup>206</sup> ACNS 3703, 9/12/03: The Anglican Church of Kenya 'will not recognise the ministry of this one Bishop'.

<sup>207</sup> ACNS 3703, 9/12/03: The House of Bishops and Standing Committee of the Province of the West Indies: declared a state of 'impaired communion' under which it will 'maintain a formal relationship with [ECUSA], as part of the Anglican Communion, while keeping the matter under critical review'.

establishment of (and occasionally for the alteration in) relations of communion - but these seem to contemplate only relations between the Anglican church in question and non-Anglican churches;<sup>208</sup> they are silent as to relations with another Anglican church.<sup>209</sup> (2) If, as is the case for very many churches, the relationship of full communion is embodied in the law of the church, then it might be that alteration of that relationship must be effected by altering the law, in accordance with the procedures necessary for amendment.<sup>210</sup> (3) If the relationship of communion, which is embodied in the law of a church, is bilateral, between that church and Canterbury, and the law of that church is silent about its communion with another church which is the subject of its declaration of impairment, then it might be that such a declaration is otiose.<sup>211</sup> (4) the doctrine of intransitivity suggests that a declaration of impaired communion by one church towards another does not affect the relationships of communion between the latter and other churches in the communion.

***The effect of impaired communion:*** Views include ideas that: the ministry of a bishop will not be recognised;<sup>212</sup> primates will not recognise the office and ministry of a bishop;<sup>213</sup> the person will not be recognised as a bishop;<sup>214</sup> or 'as a Bishop in the Anglican Communion';<sup>215</sup> '[w]e cannot accept the ministry of Canon Gene Robinson as a Bishop';<sup>216</sup> a province 'cannot accept this consecration as a valid one';<sup>217</sup> there is concern about 'retributive applications of canonical and secular legal procedures';<sup>218</sup> 'American priests would not be allowed to work or visit the church in Nigeria, nor would Nigerian priests be able to work in ECUSA';<sup>219</sup> and, the effects are unclear.<sup>220</sup> It has also been stated that: 'When one of the bonds of that unity is restricted or impaired, the possibility of living and growing as the body in the apostolic Tradition is weakened, and thus the visible communion diminished'.<sup>221</sup>

<sup>208</sup> Typically the power is vested in the archbishops (as in England) or in an episcopal assembly acting with the consent of the general synod (as in Scotland), or in the central assembly (as in Wales).

<sup>209</sup> In other words, there is no obvious formal authority in the law to issue such a declaration.

<sup>210</sup> See eg Nigeria, Const. I.2: 'The Church of Nigeria shall be in full Communion with the See of Canterbury and with all Dioceses, Provinces and Regional Churches which are in full Communion with the See of Canterbury'.

<sup>211</sup> For examples of such relations, see above Pt. I for the forms of communion.

<sup>212</sup> ACNS, 3703, 9/12/03: 'In this case, the ministry of this one bishop will not be recognised by most of the Anglican world, and many provinces are likely to consider themselves out of communion with [ECUSA]. This will tear the fabric of our Communion at its deepest level, and may lead to further division on this and further issues as provinces have to decide in consequence whether they can remain in communion with provinces that choose not to break communion with the [ECUSA]'.

<sup>213</sup> ACNS 3703, 9/12/03: '[T]he overwhelming majority of the Primates of the Global South cannot and will not recognise the office and ministry of Canon Gene Robinson as a bishop'.

<sup>214</sup> ACNS 3703, 9/12/03: Nigeria: 'We and our people will not recognise Gene Robinson and his ministry as bishop'.

<sup>215</sup> ACNS 3703, 9/12/03.

<sup>216</sup> ACNS 3703, 9/12/03.

<sup>217</sup> ACNS 3735, 12/1/04: House of Bishops of the Province of the Southern Cone of America.

<sup>218</sup> ACNS 3735, 12/1/04: House of Bishops of the Province of the Southern Cone of America.

<sup>219</sup> ACNS 3703, 9/12/03.

<sup>220</sup> ACNS 3703, 9/12/03: Global South statement attributed to Archbishop Akinola: 'We cannot now uniformly define the further implications of this impairment of communion created by ECUSA'; 'As each province lives into the "emerging" character of this impairment of communion according to the theological and legal demands of their respective churches, we pledge support of each other in our common response to the wilful decision of ECUSA authorities to oppose the Communion's teaching'.

<sup>221</sup> WAEEC, para. 28.

***The degrees of impaired communion:*** Views include the idea that impaired communion may exist in degrees, such as: this Province now shares only a profoundly impaired communion with ECUSA.<sup>222</sup>

***The subjects, scope, and limits of impaired communion:*** Views include the idea that impaired communion: is consistent with maintenance of a formal relationship with [ECUSA], as part of the Anglican Communion, while keeping the matter under critical review;<sup>223</sup> [w]e remain in full fellowship, ministry and eucharistic celebration with the bishops, clergy and laity of ECUSA who have stood firm against these unacceptable acts;<sup>224</sup> the province will remain in fellowship with those in the United States who oppose Gene Robinson's consecration;<sup>225</sup> moral, pastoral, and spiritual support will be provided for opponents to homosexuality;<sup>226</sup> one province seriously warns any of its Dioceses or Parishes that have fellowship with any such groups that are involved in active homosexuality for the purpose of material interest and support.<sup>227</sup> However, for the Lambeth Conference, in cases of impaired communion those involved must show respect and courtesy.<sup>228</sup> Indeed, those declaring impaired communion may nevertheless continue to regard themselves as in communion with prescribed classes in the other church.<sup>229</sup> This idea seems to contemplate a view of communion as interpersonal rather than institutional.<sup>230</sup>

***The enforcement of impaired communion:*** The obvious basis of enforcement of impaired ministerial communion is the principle of canon law that: "No bishop, priest or deacon coming from another diocese, which includes a diocese in another Anglican church, shall minister in the host diocese without the permission of the host diocesan bishop."<sup>231</sup>

***Being out of communion:*** Views include the idea that: a province is no longer in communion with the Presiding Bishop of ECUSA and all those Bishops and Dioceses who voted for the confirmation of [the] election and those who joined in the consecration.<sup>232</sup>

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<sup>222</sup> ACNS 3735, 12/1/04: House of Bishops of the Province of the Southern Cone of America.

<sup>223</sup> ACNS 3703, 9/12/03.

<sup>224</sup> ACNS 3735, 12/1/04: House of Bishops of the Province of the Southern Cone of America.

<sup>225</sup> ACNS 3703, 9/12/03: South East Asia.

<sup>226</sup> ACNS 3730, 5/1/04: "The Anglican Province of Congo is in fellowship with all Parishes, Dioceses and Provinces of ECUSA and of the Anglican Church of Canada in opposition to homosexuality. It is happy to support morally, pastorally and spiritually all Christians from every part of the world within the network of theologically orthodox churches and dioceses in opposition to homosexuality."

<sup>227</sup> ACNS 3730, 5/1/04: Congo.

<sup>228</sup> LC 1988, Res. 1.2: "That bishops exercise courtesy and maintain communications with bishops who may differ, and with any woman bishop, ensuring an open dialogue in the Church to whatever extent communion is impaired."

<sup>229</sup> WAECC, para. 136: "During the process of reception, congregations and clergy who cannot accept the sacramental and teaching ministry of their woman diocesan bishop may, nevertheless continue to regard themselves as being in communion with the rest of the province, its house of bishops, and the woman diocesan concerned (without, for the time being, accepting her episcopal ministry), and with the world-wide communion of churches."

<sup>230</sup> They would thus seem to be contrary to the formal laws which treat communion as a relationship between two churches (ie as an institutional relationship): see Pt. I.5.1. This might suggest that canonically communion relations may be altered only with the institutional church *in toto*, and not with persons within them.

<sup>231</sup> For this and related principles, see draft statement of principles of canon law (op cit), Principle 14.

<sup>232</sup> ACNS 3703, 9/12/03.

**The restoration of (full) communion:** Views include ideas that communion may be restored on: repentance and amendment of life;<sup>233</sup> resignation of a presiding bishop;<sup>234</sup> but if there is no restoration, action for a realignment of the Anglican Communion.<sup>235</sup>

In short: whether one church (or persons within it) is separated from, or in a state of diminished communion with, another church (or persons within it) depends on the use of a *conjunctive* or *disjunctive* approach to the terms of communion (whether communion is about sharing `the essentials` or `all the essentials` of the faith etc: see above): (a) if communion subsists conjunctively in satisfying *all* the terms of communion (unity in faith *and* unity in ministry *and* unity in worship etc), then when a church does not share any one term, communion does not exist; and (b) if communion subsists disjunctively in satisfying one or more (but not all) of the terms of communion (eg unity in faith *and/or* unity in ministry *or* unity in worship etc), then when a church does share some (but not all) of these terms, with another church, communion still exists (albeit in a diminished form).<sup>236</sup>

## II. THE NATURE AND LIMITS OF AUTONOMY

Of the many fundamental principles of the canonical tradition relevant to a discussion of autonomy and its exercise, four stand out: what touches all must be approved by all;<sup>237</sup> in the exercise of rights, all the faithful must take into account the common good of the church, the rights of others, and their duties towards others;<sup>238</sup> no-one can

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<sup>233</sup> ACNS 3735, 12/1/04: House of Bishops of the Province of the Southern Cone of America: `It is our hope and earnest prayer that ECUSA will come to its senses, repent and turn back from its schismatic actions, but without renouncing their present position there is little hope of it. As a Province we believe institutional unity is meaningless unless it is based in the truth of the Holy Scriptures`.

<sup>234</sup> ACNS 3703, 9/12/03: Central Africa: Archbishop Malango in a letter to Presiding Bishop Griswold: `I call you to repent...Until that time, you have broken our fellowship. To sit with you and meet with you would be a lie. We are not one. We do not share the same faith or Gospel. You should resign and let someone else lead; someone who shares the faith of the Communion - the faith of the church catholic`.

<sup>235</sup> ACNS 3703, 9/12/03: `The declaration came December 2 following a meeting of the province`s synod: For PSEA `[I]f ECUSA refuses to repent, we will commit ourselves through our Primates to work with like-minded Primates for the realignment of the Anglican Communion`.

<sup>236</sup> *Quaere*: see eg ARCIC, *The Church as Communion* (1990) IV, 45: `[I]t is now possible to describe what constitutes ecclesial communion. It is rooted in the confession of the one, apostolic faith, revealed in the Scriptures and set forth in the Creeds. It is founded upon one baptism. The one celebration of the eucharist is its pre-eminent expression and focus. It necessarily finds expression in shared commitment to the mission entrusted by Christ to his Church. It is a life of shared concern for one another in *mutual forbearance*, submission, gentleness and love; in the placing of the interest of others above the interest of self; in making room for each other in the Body of Christ; in solidarity with the poor and the powerless; and in the sharing of gifts, both material and spiritual...*Also constitutive of life in communion is acceptance of the same basic moral values, the sharing of the same vision of humanity* created in the image of God and created in Christ and the common confession of the one hope in the final consummation of the Kingdom of God`. Is this a conjunctive or disjunctive view of communion?

<sup>237</sup> The *quod omnes tangit* rule: *Liber Sextus*, VI.D: *de regulis iuris*, reg. 29; see eg J. Brundage, *Medieval Canon Law* (London, 1985) 106.

<sup>238</sup> See eg Roman Catholic Code of Canon Law (1983), c. 223.1.



be obliged to do the impossible;<sup>239</sup> and: it is not lawful for the Church to ordain any thing that is contrary to God`s Word written.<sup>240</sup>

## 1. The Nature of Autonomy

**(1) The Meaning of Autonomy:** The following outlines the common understandings of autonomy in language and law.

**Autonomy is the Right of Self-Government:** In the English language, autonomous means `making or having one`s own laws`.<sup>241</sup> The autonomy of a body or institution means: `The right of self-government, of making its own laws and administering *its own affairs*` (italics added)<sup>242</sup>; autonomy is `[s]ometimes limited by the [adjectives] local, administrative, when the self-government is only partial`.<sup>243</sup> In turn, autonomic means: `[o]f, pertaining to, or possessing autonomy; self-governing; independent`,<sup>244</sup> and autonomic laws are: `a body of law created by a body or persons within the community on which has been conferred subordinate and restricted legislative powers`,<sup>245</sup> and `laws made by subjects as private persons in pursuance of legal rights` (external to the subjects); autonomism is the `principle or system of autonomy or self-government`; and to autonomize` is `to make autonomous, to confer the right of self-government upon`.<sup>246</sup> An autonomous (or autonomic) body is one which is self-governing.<sup>247</sup> Autonomy may also be contrasted with: independence,<sup>248</sup> federation,<sup>249</sup> association,<sup>250</sup> sovereignty,<sup>251</sup> or autocephaly (in Orthodox tradition).<sup>252</sup>

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<sup>239</sup> *Liber Sextus* (1298), 6. See A. Gauthier, *Roman Law and Its Contribution to the Development of Canon Law* (Ottawa, 1996).

<sup>240</sup> Thirty-Nine Articles of Religion, Art. XX.

<sup>241</sup> *Oxford English Dictionary* (2<sup>nd</sup> edn., Oxford, 1989): *auto* - self, own; *nomos* - law.

<sup>242</sup> OED; `Liberty to live after ones owne lawe`: Cockeram (1623). `Liberty to follow one`s will, personal freedom`; and in biology: `[t]he condition of being controlled by its own laws, and not subject to any higher one`.

<sup>243</sup> Thus, eg: `English boroughs have a local autonomy, the British colonies an administrative autonomy; "political " autonomy is national independence`: OED.

<sup>244</sup> OED; `Them that would...make the Church autonomically...or chief Governour of itself`: Baxter (1659).

<sup>245</sup> Walker, *Oxford Companion to Law* (1980), `autonomic law`.

<sup>246</sup> J. Austin, *Lectures on Jurisprudence* (London, 1880)

<sup>247</sup> OED.

<sup>248</sup> `The condition or quality of being independent; the fact of not depending on another; exemption from external control`: OED.

<sup>249</sup> `The action of federating or uniting in a league or covenant. Now chiefly...the formation of a political unity out of a number of separate states, provinces or colonies, so that each retains the management of its internal affairs`: OED; loosely, the Anglican Communion might be described as a federation, insofar as autonomy means `the management of [the] internal affairs of a province.

<sup>250</sup> `A body of persons who have combined to execute a common purpose`: OED; loosely, the Anglican Communion might be described as an association.

<sup>251</sup> That is; `supremacy...in respect of power...supreme dominion, authority to rule`: OED.

<sup>252</sup> J.H. Erickson, *The Challenge of Our Past: Studies in Orthodox Canon Law and Church History* (Crestwood, NY, 1991) 91-2,110: `In present-day Orthodox usage, a church is termed "autocephalous" [lit: `self-headed`] if it possesses: (1) the right to resolve all internal problems on its own authority, independently of all other churches, and (2) the right to appoint its own bishops, among them the head of the church, without any obligatory expression of dependence on another church`, and is regarded by some as `the spiritual counterpart of the sovereign nation-state`.

In public international law, autonomy is understood as the 'right to self-government';<sup>253</sup> and the principle of self-determination is: 'the right of cohesive national groups ("peoples") to choose for themselves a form of political organisation and their relations to other groups. The choice may be independence as a state,<sup>254</sup> association with other groups in a federal state, or autonomy or assimilation in a unitary (non-federal) state'.<sup>255</sup>

**Autonomy as Authority over Internal Affairs:** As the right to self-government, autonomy is a form of limited authority: an autonomous body is one which is capable only to make decisions for itself in relation to its own affairs at its own level (unlike a sovereign body).<sup>256</sup> Autonomy does not include the right of a body or community to make decisions which will affect subjects involving others external to that body. An autonomous body cannot make laws, for example, on matters which fall outside its own internal affairs (ie the affairs of the people or places over which it has competence) and which touch the affairs of others a wider community of which it forms part: competence to deal with matters external affairs involving others is usually reserved to a superior (sovereign) body; or else the autonomous body must act consistently with the interests of the wider community of which it forms part.<sup>257</sup>

**The Nature of Internal Affairs:** In a polity which consists of autonomous bodies, the key question is: what constitutes an internal matter? Needless to say, the laws of sovereign states define the competence of autonomous communities (within them) to govern themselves: matters of mutual concern within the wider state are outside the competence of those communities.<sup>258</sup> Moreover, whilst external intervention in the affairs of a sovereign state is generally not permitted, the position with autonomous bodies is rather different. As a general rule, autonomous bodies have a right to freedom from intervention of the wider community in relation to the *internal* affairs of that autonomous community (ie those affairs which do not affect others outside); but if an autonomous community trespasses on matters of shared concern to the wider community of which it forms part, then external intervention is permissible.<sup>259</sup>

**(2) The Principle of (Provincial) Autonomy:** It may be understood as a principle of canon law common to the churches of the Communion that: 'Each member church in the Anglican Communion is self-governing. Every church has the right to order and

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<sup>253</sup> I. Paenson, *Manual of the Terminology of Public International Law (Peace) and International Organisations* (1983), 66,68.

<sup>254</sup> This involves 'the requirement of the capacity to enter into relations with other states': I. Brownlie, *Principles of Public International Law* (5<sup>th</sup> edn., Oxford, 1998) 599; in this sense, provincial churches enjoy a certain independence.

<sup>255</sup> I. Brownlie, *Principles of Public International Law* (5<sup>th</sup> edn., Oxford, 1998) 599.

<sup>256</sup> Compare: a sovereign body, as a general principle, has authority to legislate for the internal affairs of the territory in which it is located as well as for the external affairs of others in a community to which it is related but legally superior; the sovereignty of the UK parliament, for example, is understood to include the power to legislate (eg extra-territorially, but its authority may be limited by external laws when incorporated into UK law (eg European law).

<sup>257</sup> An obvious example is the competence of the Scottish Parliament: this has authority only on those matters devolved to it; it cannot legislate on reserved matters dealing with issues concerning the whole of the UK, of which Scotland is part. UK matters are reserved to the UK (Westminster) parliament.

<sup>258</sup> This is the position, for example, with the autonomic communities of Spain.

<sup>259</sup> For example: if the Scottish parliament exceeds its powers, by dealing with matters reserved to the UK parliament, relief is available by way of judicial proceedings.

regulate *its affairs* through its own system of government and law.<sup>260</sup> This principle of autonomy is often linked to the principle of subsidiarity;<sup>261</sup> it is summed up in the idea that 'the true constitution of the Catholic Church involves the principle of the autonomy of particular Churches based upon a common faith and order'.<sup>262</sup> The churches 'promote within each of their territories a national expression of Christian faith, life and worship'.<sup>263</sup> Autonomy, which implies local ecclesial unity,<sup>264</sup> might also be understood as derivative (not inherent to a province).<sup>265</sup>

**(3) Canonical Expressions of Autonomy:** The principle finds canonical expression in the legal systems of the churches;<sup>266</sup> typically, laws provide that the church is: 'a fully autonomous part of the Anglican Communion';<sup>267</sup> 'a fully autonomous member within the Anglican Communion';<sup>268</sup> '[i]n explaining the meaning of the standards of faith, teachings, sacraments and Discipline...and in dealing with all questions on these matters and those of worship, the Church of the Province is not bound by any decisions except those of its own Church Courts provided in this Constitution'.<sup>269</sup> Less typically, the idea of independence, rather than autonomy, is asserted.<sup>270</sup> The united churches too have separate, autonomous juridical identity.<sup>271</sup> Like secular States, Anglican churches have territorial and jurisdictional borders.<sup>272</sup>

In addition to the concept of provincial autonomy,<sup>273</sup> the autonomy of the diocese<sup>274</sup> is also implicit in laws, for example in those dealing with the competence of provincial synods: the provincial synod must give to all dioceses 'the greatest possible liberty compatible with the unity and good order of the Church...and to ensure the fullest consultation with them in matters of legislation'; but dioceses are autonomous

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<sup>260</sup> www.acclawnet.co.uk: Principle 4.1 and 2.

<sup>261</sup> Virginia Report, Ch. 4.

<sup>262</sup> LC 1930, Res. 48,49.

<sup>263</sup> LC 1930, Res. 49.

<sup>264</sup> LC 1998, Res. III.2: the Lambeth Conference 'is committed to maintaining the overall unity of the Anglican Communion, including the unity of each diocese under the jurisdiction of the diocesan bishop'. At the global level, the principle is obviously perceived as having a theological dimension, but its status at this level, as issuing from the moral authority of the Lambeth Conference, is moral, not legal. At the local ecclesial level, when expressed in the law of a particular church, the principle has a legal status within that church, where it also functions as a political fact (see below).

<sup>265</sup> The autonomy of a province is sometimes acquired from another institutional church: eg the disestablished Church in Wales was established as a province by declaration of the Archbishop of Canterbury on 10 February 1920.

<sup>266</sup> At the global level, we might also say that each of the institutional instruments of unity is autonomous: eg that the Primates Meeting is autonomous, or that the ACC is autonomous.

<sup>267</sup> South East Asia, Const. Fundamental Declarations, 5.

<sup>268</sup> Hong Kong, Preface, 2: having independent ecclesiastical authority vested in the General Synod.

<sup>269</sup> Melanesia, Const. Art. 2.

<sup>270</sup> Korea, Const. Preface: 'in a spirit of self-reliance, self-support and self-sustainment, the Anglican Church of Korea becomes independent and promulgates this new Constitution and Canons'.

<sup>271</sup> North India, Const. I.IV.4: 'The Church of North India shall be an autonomous Church and free from any control, legal or otherwise, of any Church or Society external to itself'.

<sup>272</sup> For example, deposition of a priest in one Anglican church does not, as a matter of law, bind in another Anglican church: see eg England, Clerical Disabilities Act 1870.

<sup>273</sup> ACC -4, 1979, B: a province is a 'self-governing Church'.

<sup>274</sup> 'The balance between provincial authority and diocesan autonomy may vary from province to province according to the constitutions agreed upon in each case' (LC 1930, Res. 53(d)).

communities to the extent that diocesan authorities have jurisdiction over the affairs of the diocese (but not over affairs of concern to the wider provincial community).<sup>275</sup>

The very existence of canon law is an implicit declaration of a church's autonomy, its power of self-governance.<sup>276</sup> As a consequence of law, each church institutionalises its own separate identity from other Anglican churches;<sup>277</sup> rather than law spelling out the part the particular church is to play in the global communion, laws convey a sense of isolation of the particular church; the robust canonical expression of autonomy might be understood to act as a centrifugal force at the global level.<sup>278</sup>

**(4) Internal Provincial Affairs and External Communion Concerns:** Most actions performed by ecclesiastical authorities within a particular church, in exercise of its autonomy properly so-called, are internal: they deal with the domestic affairs of the church, and they do not involve or affect other churches.<sup>279</sup> However, some ecclesiastical acts performed within an autonomous church may be understood to have a wider nature and effect; they may be classified as *communion acts*: acts which may be seen as acts of the whole communion or of the church universal, or as acts which touch or affect relations with the Anglican Communion, ecumenical partners, and the church universal,<sup>280</sup> such as ordination,<sup>281</sup> or scriptural interpretation.<sup>282</sup> On the one hand, it is arguable that as such matters are not solely the internal affairs of a church, strictly they fall outside its autonomous competence.<sup>283</sup> On the other hand, that a church should be able to decide on such matters is consistent with autonomy provided that church acts compatibly with the interests and instruments of the wider communion.<sup>284</sup>

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<sup>275</sup> West Africa, Const. Art. XXIII.1; see also South East Asia, Const. Art. XVI; see N. Doe, *Canon Law in the Anglican Communion* (1998) 54-55.

<sup>276</sup> Sometimes the concepts of autonomy and belonging to the global communion are juxtaposed: typically, 'the Province is a *fully autonomous part* of the Anglican Communion': South East Asia, Const. Fundamental Declarations, 5.

<sup>277</sup> It is in line, of course, with understandings of the Lambeth Conference about the very nature of Anglican churches: see above.

<sup>278</sup> The robust way in which autonomy is expressed in the canon law of a particular church, and the exercise of that autonomy, generate the possibility of separation of that church from both the moral order of the Anglican Communion and from other Anglican churches.

<sup>279</sup> Matters of church property are typical: the property belongs to the local church. See also, Virginia Report, LC 1998, 44: Subsidiarity means that 'a central authority should have a subsidiary function, performing only those tasks which cannot be performed effectively at a more immediate or local level'.

<sup>280</sup> Virginia Report, LC 1998, 44: 'Each level has its own integrity and its own demands. Some matters concern a single parish; some relate to a diocese; some would be appropriately addressed by a national or Provincial assembly; a very few would be better approached at a regional or international level; and some are matters for the Communion as a whole as part of the universal church'.

<sup>281</sup> See eg New Zealand, Prayer Book 1989, 887: the ordained minister is 'to serve...in the name of Christ and the universal church [which] is one of the responsibilities of the apostolic Church'.

<sup>282</sup> Statement, Primates Meeting 10-16/10/03: The Primates 're-affirm our common understanding of the centrality and authority of scripture in determining the basis of our faith. Whilst we acknowledge a legitimate diversity of interpretation that arises in the Church, this diversity does not mean that some of us take the authority of scripture more lightly than others. Nevertheless, each province needs to be aware of the possible effects of its interpretation of scripture on the life of other provinces in the Communion. We commit ourselves afresh to mutual respect whilst seeking from the Lord a correct discernment of how God's Word speaks to us in our contemporary world'.

<sup>283</sup> The *quod omnes tangit* rule of canonical tradition may be of relevance here: what touches all must be approved by all: see above n. 237.

<sup>284</sup> See the following section for examples of laws which do so provide.

Needless to say, these possibilities also raise major issues of policy. They also raise questions about legality and validity. When proponents act or effect change lawfully (in accordance with the law of the church), but opponents question the validity of the act or change by an appeal (typically) to an extra-legal value or principle, we have the persistent tension between legality and validity.<sup>285</sup> Yet it may be understood a principle of canon law that: 'The validity within a church of any ecclesiastical act is governed by the law of the particular church in which the act is performed'.<sup>286</sup> Also: 'Any legislative, executive, judicial or other decision or action duly authorised under the law of each particular church, is not of its own force binding in any other church of the Anglican Communion, unless its effect is recognised as such in a manner prescribed under the law of that other church'.<sup>287</sup>

## 2. The Limits of (Provincial) Autonomy

The Anglican understanding tends to see autonomy as the right of an ecclesiastical community to govern its own internal affairs in a manner compatible with the interests and concerns of the wider community; this idea also appears in the Eastern Catholic, Lutheran, and Roman Catholic traditions.<sup>288</sup> autonomy is by nature a form of limited governmental freedom. As a fundamental principle: 'it is not lawful for the Church to ordain any thing that is contrary to God's Word written'.<sup>289</sup> Limits to the exercise of autonomy seem to exist in two forms: internal and external.<sup>290</sup>

**(1) External Limits:** External limits to the exercise of autonomy might be understood to be found in the responsibility of churches to maintain the terms or commitments of communion.<sup>291</sup> Implicitly, therefore, each church must not act

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<sup>285</sup> LC 1988, Res. 1.5: the Conference recognises 'the serious hurt which would result from the questioning by some of the validity of the episcopal acts of a woman bishop, and likewise the hurt experienced by those whose conscience would be offended by the ordination of a woman to the episcopate. The Church needs to exercise sensitivity, patience and pastoral care towards all concerned'.

<sup>286</sup> www.acclawnet.co.uk: Principle 4.2. Whilst a church may not recognise the validity of the orders of a bishop in another church, this does not mean that the church must not recognise priestly or other acts of that bishop: eg baptisms.

<sup>287</sup> Principle 5.3.

<sup>288</sup> See below, section 4.

<sup>289</sup> Thirty-Nine Articles of Religion, Art. XXI. Needless to say, the principle raises large questions about scriptural interpretation, and the extent to which the Articles have been incorporated into the laws of churches (to function as a substantive limit on decision-making in the church), see N. Doe, *Canon Law in the Anglican Communion* (1998) 197. However, whilst divine law may be understood to be a source of laws and decisions in the particular church, there is no obvious legal evidence which indicates a general practice in the laws of churches that divine law binds directly in a juridical sense, nor that divine law vitiates (as in the ancient canonical tradition) contrary church laws and decisions: to this extent, Anglican polity may be understood today to be largely positivist in nature: see briefly, N. Doe, 'Canon law and communion', 6 *EccLJ* (2002) 241 at 242-3.

<sup>290</sup> See typically for this idea of limited autonomy: 'each province should have the right to make such adaptations and additions to the services of the Church as its peculiar circumstances may require. Provided, that no change or addition be made inconsistent with the spirit and principles of the Book of Common Prayer' (LC 1867, Res. 8).

<sup>291</sup> 'There are certain principles of church order which...ought to be distinctly recognised and set forth, as of great importance for the maintenance of union among the Churches of our Communion' (LC 1878, Rec. 1: the principles, in this and the following recommendations include eg mutual respect, territorial integrity, common work, sharing information).

contrary to, or must act in a manner consistent with the shared: faith;<sup>292</sup> order;<sup>293</sup> worship;<sup>294</sup> common counsel of the bishops in conference;<sup>295</sup> `apostolic faith expressed in the living Tradition of the Church in continuity with the normative record of Holy Scripture`;<sup>296</sup> commitment to pray for each other;<sup>297</sup> sacraments of baptism and eucharist;<sup>298</sup> ministry;<sup>299</sup> concern for the care of people;<sup>300</sup> mission;<sup>301</sup> `the life of the truth of Christ by the gift of the Holy Scriptures, the Apostles and Nicene Creeds, the sacraments of Baptism and Eucharist, and the historic episcopate`.<sup>302</sup> `the liturgical tradition and common patterns of worship`.<sup>303</sup> The counsel of the instruments of unity (eg the Archbishop of Canterbury);<sup>304</sup> the principles of canon law common to the churches of the Communion;<sup>305</sup> the spirit of being a eucharistic community.<sup>306</sup>

However, these external limits have the status merely of extra-legal conventions; they do not juridically bind each church, in the exercise of its autonomy - they are (simply) moral requirements which have no binding force unless and until incorporated into the domestic law of each church.<sup>307</sup> Currently, the law of no church explicitly provides that: no ecclesiastical authority shall act in a manner inconsistent with the terms of communion, the bonds of unity, shared by the churches of the Anglican Communion.<sup>308</sup>

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<sup>292</sup> LC 1930, Res. 49: the Anglican Communion consists of `dioceses, provinces or regional Churches...which...uphold and propagate the Catholic and Apostolic faith...as [it is] generally set forth in the Book of Common Prayer as authorised in their several Churches`.

<sup>293</sup> LC 1930, Res. 49: the Anglican Communion consists of `dioceses, provinces or regional Churches...which..uphold and propagate the Catholic and Apostolic...order as [it is] generally set forth in the Book of Common Prayer as authorised in their several Churches`.

<sup>294</sup> LC 1988, Res. 47: The Lambeth Conference resolves that `each province should be free, subject to essential universal Anglican norms of worship, and to a valuing of traditional liturgical materials, to seek that expression of worship which is appropriate to its Christian people in their cultural context`; see also LC 1930, Res. 49(b).

<sup>295</sup> LC 1930, Res. 49(c).

<sup>296</sup> WAECC, para. 35.

<sup>297</sup> WAECC, para. 35: `The fellowship of Anglicans is expressed in a commitment to pray for one another`.

<sup>298</sup> WAECC, para. 35.

<sup>299</sup> WAECC, para. 60.

<sup>300</sup> WAECC, para. 35: `The fellowship of Anglicans is expressed in a commitment...in mutual responsibility and care, in a sharing of the resources and goods and a commitment to mission`.

<sup>301</sup> WAECC, para. 35: `The fellowship of Anglicans is expressed in a commitment to pray for one another, in mutual responsibility and care, in a sharing of the resources and goods and a commitment to mission`.

<sup>302</sup> LC 1998, Res. III.8(d).

<sup>303</sup> LC 1998, Res. III.8(f).

<sup>304</sup> LC 1998, Res. III.6(e).

<sup>305</sup> See Report of Primates Meeting 2002 for the idea that these principles may be understood to constitute a `fifth instrument` of unity; see principles of law (op cit) Principle 8 on `Anglican polity`.

<sup>306</sup> WAECC, para. 60: `Lay people will still be free to receive the Holy Communion in Provinces of different principles and practice; and this as of right rather than by ecumenical hospitality. Further, the clergy and bishops of Provinces which differ will still themselves be free to receive Holy Communion together. This illustrates the fact that we are still in communion`.

<sup>307</sup> See N. Doe, `Canon law and communion`, 6 *EccLJ* (2002) 241 at 244.

<sup>308</sup> The laws of states contain analogous provisions: see eg UK Human Rights Act 1998, s. 6: `It is unlawful for a public authority to act in any way which is incompatible with a Convention right` (ie the European Convention on Human Rights).

**(2) Internal Limits:** By way of contrast, there is some (but by no means uniform) canonical evidence of a diversity of substantive and procedural limits operative in a binding manner under the laws of individual churches. And some of these limits, in some churches, represent the terms of communion (the marks of unity) as the basis for the limitation. The following examples may indicate best practice in the development by and within the particular churches their own communion law.

***The duty to maintain communion:***<sup>309</sup> The law of a church occasionally imposes on the church a duty to maintain communion with Canterbury and/or other Anglican churches: the church `should continue, in full communion with the Church of England`,<sup>310</sup> or the church `will maintain communion with the sister Church of England`,<sup>311</sup> or that its membership of the Anglican Communion as indissoluble.<sup>312</sup> Such laws are consistent with those dealing with basic ecumenical duties: to maintain fellowship,<sup>313</sup> or mutual understanding,<sup>314</sup> to seek unity,<sup>315</sup> to restore unity between churches,<sup>316</sup> or to heal divisions.<sup>317</sup> Some laws forbid schismatic conduct,<sup>318</sup> as does the canonical tradition,<sup>319</sup> and the modern laws of other churches.<sup>320</sup>

***The duty to govern compatibly with the instruments of unity:*** In the area of ecclesiastical government: sometimes the law of a church presumes a duty to act `in accordance with the accepted traditions and usages of the Anglican Communion`,<sup>321</sup> but this is not common. Sometimes, but this is rare, laws impose a duty on a church to co-operate with other Anglican churches.<sup>322</sup> However, there is more evidence that legislatures of individual churches (synods, councils and conventions) are limited in the exercise of their legislative power by the Anglican instruments of faith: the incorporation of these instruments in the constitutions of churches means that legislatures, on the face of it, are forbidden to make law which violates the Anglican instruments of faith; but, usually, there is no explicit mention of the Anglican

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<sup>309</sup> It may be understood as an unwritten principle law that: `Each church recognises and should maintain its own communion with the See of Canterbury and with fellow churches in the Anglican Communion`: Principle 3.5.

<sup>310</sup> Canada, Declaration of Principles, Solemn Declaration, 1.

<sup>311</sup> Ireland, Const. Preamble and Declaration, III: `and with all other Christian Churches agreeing in the principles of this Declaration`.

<sup>312</sup> Venezuela, Const. Art. 1: `The Anglican Church in Venezuela is an ecclesiastical jurisdiction which forms an indissoluble part of the Anglican Communion`.

<sup>313</sup> South India, Const. II.2.

<sup>314</sup> Jerusalem and the Middle East, Const. Art. 5.

<sup>315</sup> South Africa, Resolution of Permanent Force of the Provincial Synod, 1 (1975).

<sup>316</sup> Korea, Fundamental Declaration of Faith and Rites.

<sup>317</sup> England, Can. A8.

<sup>318</sup> Eg England, Can. A8: `Of Schisms...it is the duty of clergy and people to do their utmost not only to avoid occasions of strife but also to seek in penitence and brotherly charity to heal such divisions`; see also: Southern Africa, Can. 37: schism is `acceptance or promotion of membership in a religious body` not in communion with the church.

<sup>319</sup> Canons Ecclesiastical 1603, c. 9: on censure of the authors of schism who `separate themselves from the communion of saints`.

<sup>320</sup> Roman Catholic Church, Code, c. 751: schism includes `the refusal...of communion with the members of the Church`.

<sup>321</sup> See eg South East Asia, Const. Preamble.

<sup>322</sup> Korea, Fundamental Declaration of Faith and Rites: `We believe that for the unity of Christ`s Church we must enter into co-operation with all churches on the basis of our faith and practice as a member Church of the Anglican Communion`.

Communion itself in provisions setting out these limitations.<sup>323</sup> Nevertheless, some laws prescribe that the Fundamental Declarations of a church cannot be altered without being `endorsed by the Archbishop of Canterbury as not affecting the terms of Communion between the Church of this Province, the Church of England and the rest of the Anglican Communion`;<sup>324</sup> in one church the law provides that for new legislation `ratification will be sought from the Anglican Consultative Council` – this is exceptional.<sup>325</sup> Occasionally, the law of a church provides that its central legislature shall be subordinate `to the higher authority of a General Synod of the Churches of the Anglican Communion`, were such an institution to exist.<sup>326</sup> Another feature of the centripetal force of individual canonical systems is their explicit (but occasional) incorporation of resolutions of the Lambeth Conference.<sup>327</sup>

***The duty to exercise ministry compatibly with the terms of communion:*** In the area of ministry, occasionally the law of a church requires bishops to `respect and maintain the spiritual rights and privileges of all Churches in the Anglican Communion`.<sup>328</sup> Some laws forbid the use of clerical titles without persons having been `ordained in conformity with the procedure acknowledged by the worldwide Anglican Communion`.<sup>329</sup> Sometimes, a prohibition against parallel episcopal jurisdictions surfaces in actual law.<sup>330</sup> In some churches the law provides that a diocesan bishop may be elected from that church `or from any Church in full communion` with it,<sup>331</sup> and in others, when the electoral college fails to elect a bishop, `the appointment shall be delegated to the Archbishop of Canterbury`.<sup>332</sup> Many churches have law requiring them to communicate externally information about new episcopal appointments.<sup>333</sup> Often laws provide for recognition of orders for the purposes of ministry in the host church, and these forbid the exercise of ordained ministry in a diocese of another church without the consent of the bishop of the host diocese.<sup>334</sup> Some laws provide for episcopal declarations that a bishop `will pay all due honour and deference to the Archbishop of Canterbury`,<sup>335</sup> and others recognise the Archbishop of Canterbury as having `the first place` among `the Metropolitans` or `the Primates of the Anglican Communion`.<sup>336</sup> Of course, in churches constituted as extra-provincial dioceses, the law provides for the Archbishop of Canterbury to exercise a general metropolitanical jurisdiction.<sup>337</sup>

<sup>323</sup> For entrenchment see eg Australia, Const. XI.66.

<sup>324</sup> Central Africa, Fundamental Declarations, VIII. and Can. 33.1-2.

<sup>325</sup> Southern Cone, Const. Art. 6.4.

<sup>326</sup> Southern Africa, Const. Art. VI.

<sup>327</sup> Eg for incorporation of LC 1948, Res. 37, on duties of church membership, see England, Act of Convocation, 1953-54, 173.

<sup>328</sup> West Indies, Cans. 8.

<sup>329</sup> Rwanda, Const. Art. 9.

<sup>330</sup> ECUSA, Cans. I.15.1,7.

<sup>331</sup> Southern Africa, Can. 4(1).

<sup>332</sup> Central Africa, Can. 3: the archbishop must act in conjunction with two other bishops of the Anglican Communion nominated by the college.

<sup>333</sup> See eg Central Africa, Can. 3.5.

<sup>334</sup> See eg England, Overseas and Other Clergy (Ministry and Ordination) Measure 1967: recognition is in the keeping of the archbishops; see also Can. C8.

<sup>335</sup> West Indies, Can. 8; this incorporates LC 1897, Res. 9.

<sup>336</sup> Sudan, Const. Art. 2: among the Metropolitans; South East Asia, Const. Fundamental Declarations, 2: among the Primates.

<sup>337</sup> Portugal (Lusitanian Catholic Apostolic and Evangelical Church), Const. Preamble, 7.



***The duty to maintain common doctrinal and liturgical standards:*** In the area of doctrine and liturgy, churches are united positively in that their laws agree about the sources of doctrine as normative in matters of faith: scripture, the creeds, the dominical sacraments and, for a large number, the Thirty-Nine Articles of Religion;<sup>338</sup> and sometimes the law provides that these are operative `as the Anglican Communion has received them`.<sup>339</sup> Whilst various models of doctrinal law exist in churches, some laws impose a duty on a church, in exercising a right to develop and modify liturgy, to avoid any change that would affect Holy Scripture and `other norms relevant to the faith of the Anglican Communion`.<sup>340</sup> The law of other churches disclaims their own right to depart from the standards of faith and doctrine.<sup>341</sup> The laws of most churches require clergy to assent or subscribe to broadly the same historic instruments of faith.<sup>342</sup>

Perhaps the best evidence that the Anglican Communion is a juridical reality in particular churches, is the incidence of provisions dealing with doctrinal controversies: the laws of some churches provide that, if a disagreement in the church persists then it is to be referred, either for determination by the Archbishop of Canterbury,<sup>343</sup> or for consultation with the Anglican Consultative Council,<sup>344</sup> or the Archbishop of Canterbury or the Primates of the Anglican Communion,<sup>345</sup> or the Archbishop of Canterbury assisted by `Bishops of the Anglican Communion`.<sup>346</sup> Similarly, in cases of liturgical disagreement within a church, laws sometimes provide for referral of the matter to the Archbishop of Canterbury,<sup>347</sup> or the archbishop and the primates of the Anglican Communion,<sup>348</sup> or, indeed, the Anglican Consultative Council.<sup>349</sup> In short: the canonical expression of bonds of communion is greater in some churches than others. A more extensive and uniform use of such provisions around the churches of the communion may be considered to represent best practice.

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<sup>338</sup> See N. Doe, *Canon Law in the Anglican Communion* (Oxford, 1998) Ch. 7.

<sup>339</sup> Melanesia, Const. Art. 1.A: `The Church of this Province has no right to alter or depart from these standards, but has the right to make alterations in its forms of worship and discipline, so long as these are agreeable to Holy Scripture and other standards of faith as the Anglican Communion has received them`.

<sup>340</sup> Rwanda, Const. Art. 6.

<sup>341</sup> See eg West Indies, Declaration of Fundamental Principles, (d)-(e): `We disclaim for ourselves the right of altering any...of the standards of Faith and Doctrine`.

<sup>342</sup> See N. Doe, *Canon Law in the Anglican Communion* (Oxford, 1998) 204-208; see also J. Fox (ed), *Render Unto Caesar: Church Property in Roman Catholic and Anglican Canon Law* (Rome, 2000).

<sup>343</sup> Central Africa, Const. Art. V: the archbishop is to act with two other bishops (one nominated by the bishop making the submission and the other by the Episcopal Synod); these must `determine the matter in accordance with the formularies and doctrinal teaching of the Church of England, and their decision shall be final`.

<sup>344</sup> Uganda, Const. Art. II; Indian Ocean, Const. Art. 7(iii).

<sup>345</sup> South East Asia, Const. Fundamental Declarations, 4,5,6: `whilst the Province is a fully autonomous part of the Anglican Communion, it shall nevertheless give due weight to the teaching and traditions of the Communion in the deliberations and decisions of its own ecclesiastical tribunals`.

<sup>346</sup> Southern Africa, Can. 41 (Of Appeals).

<sup>347</sup> Central Africa, Const. Art. 5.

<sup>348</sup> South East Asia, Fundamental Declarations, 4: the Provincial Synod may consult in cases concerning `adherence to...the principles of worship` the Archbishop of Canterbury or the Primates of the Anglican Communion.

<sup>349</sup> Uganda, Const. Art. 3(i).

**(3) External Intervention in Internal Affairs of Autonomous Provinces:** As autonomy is the right of a church (province) to govern its own internal affairs, it follows that no external body may intervene in *these* affairs.<sup>350</sup> At the global level, there are principles which provide that: each church should respect the autonomy of each other church;<sup>351</sup> two bishops should not exercise jurisdiction in the same place;<sup>352</sup> no bishop, priest or deacon may minister in a diocese without the permission of the host bishop;<sup>353</sup> and so on. These limits aim both to order and to enable communion. It is currently understood that external intervention in (a) the domestic affairs and (b) the communion affairs of a church is possible only when the law of that church so provides.<sup>354</sup> However, external intervention in relation to communion matters within a church, as a possibility, might be viewed as not inconsistent with the understanding of autonomy as the inability to decide on matters concerning the wider community of which the autonomous community forms part.<sup>355</sup>

### 3. Autonomy, Ecclesiastical Conflict and Its Management

**(1) The Anatomy of Conflict:** Conflict, within a particular church or between one church and another, commonly results from the exercise of autonomy,<sup>356</sup> the freedom afforded by the local juridical order, and the unenforceability of standards contained in the global moral order, institutionalises the possibility of conflict.<sup>357</sup> So do the laws of particular churches: law may create divisions within churches, or else it fails, for one reason or another, to assist in their resolution. In turn, internal conflict reverberates in other Anglican churches; it causes divisions between churches and, ultimately problems for the Anglican Communion itself. Internal conflict may also cause litigation in the courts of the State,<sup>358</sup> giving rise to issues of freedom of religion under civil law.<sup>359</sup> Sometimes conflict is actual, sometimes perceived.<sup>360</sup> Needless to say, the subjects of conflict cover a wide range of matters.<sup>361</sup> Above all, internal

<sup>350</sup> It may be understood as a principle of canon law that: 'Each church is free from control by any decision of an ecclesiastical body external to itself, unless that decision is authorised under or incorporated into its own law': Principle 4.5.

<sup>351</sup> LC 1978, Recommendations, 1.

<sup>352</sup> LC 1897, Res. 24; LC 1968, Res. 63.

<sup>353</sup> LC 1878, Res. 1.

<sup>354</sup> See below for laws of Anglican churches allowing for the exercise of metropolitan jurisdiction by the Archbishop of Canterbury.

<sup>355</sup> See above Part II.1; *quaere*: is there a doctrine of necessity in the canonical tradition?

<sup>356</sup> More precisely, the exercise of autonomy means the exercise of powers by ecclesiastical authorities, legislative, executive and sometimes judicial.

<sup>357</sup> J. Setien, 'Tension in the church', 8(5) *Concilium* (1969) 35.

<sup>358</sup> For England, over the legislation concerning the ordination of women as priests, see eg *R v Ecclesiastical Committee of Both Houses of Parliament, ex p Church Society* (1994) 6 Admin LR 670; for other examples see generally N. Doe, *Canon Law in the Anglican Communion* (Oxford, 1998) xix-xxv: many of these cases originated in disputes arising from the effects and application of church law.

<sup>359</sup> In short, excessively robust, weak or unclear canon law frustrates and even marginalises those who consider their rights as neither respected nor protected. Discriminatory and inflexible canon law marginalises minorities within churches. Canonical powers may be abused or misused. Canon law institutionalises tensions within churches. But canon law can also be remedial – it can mend divisions by a sensitive distribution and enforcement of rights and duties. Provisions in laws which forbid discrimination (eg on grounds of race) may represent best practice: see eg Tanzania, Const. II.5 or ECUSA, Cans. I.17.5.

<sup>360</sup> See N. Doe, 'Canon law and communion', op cit., 246ff.

<sup>361</sup> They include: the content of laws, executive and judicial decisions in the church; ministerial appointments; decisions as to suitability of ordination candidates; eligibility for ecclesiastical office; the validity and legality of action; the conduct of ministers; the timing of decisions; the extent of

conflict extends to the worldwide communion when it concerns *communion matters* (see above).

**(2) The Prevention of Conflict:** Laws aim to prevent internal conflict in a number of ways. Substantive mechanisms include the imposition of duties to comply with the standards of the church and the distribution of either freestanding or correlative rights.<sup>362</sup> Procedural mechanisms include: participation in decision-making (through membership of or representation in church bodies); rights to consultation, advice, direction and objection; rights of ecclesiastical authorities to delay action;<sup>363</sup> systems of pastoral exhortation, typified in the function of visitation;<sup>364</sup> and anti-discrimination laws.<sup>365</sup> However, there is little obvious evidence of schemes involving the wider Anglican community beyond the particular church to prevent conflict.<sup>366</sup> The doctrine of reception might also be developed in this regard,<sup>367</sup> and the incorporation into the laws of churches of explicit general provisions requiring the exercise of canonical discretions to be compatible with the terms and conditions of communion.<sup>368</sup>

**(3) The Resolution of Conflict:** The laws of churches contain a wide range of structures to resolve conflict, including: systems of administrative hierarchical recourse (when it is sometimes claimed that canonical discretions are misused); disciplinary visitatorial powers; quasi-judicial appeal systems; and, as a last resort, full judicial determination in tribunals and courts.<sup>369</sup> The exercise by the Archbishop of Canterbury of metropolitan authority in a church other than the Church of England is permitted explicitly in the laws of only a very few churches: in some the archbishop has a general metropolitan authority over a wide range of (communion) matters (which include doctrine and discipline), but in most the authority is more restricted.<sup>370</sup> Nevertheless, outside these circumstances, it may be understood as a principle of canon law that: `Any legislative, executive, or other decision or action duly authorised under the law of each particular member church, should be respected by all other

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consultation in decision-making; the authority and interpretation of scripture, tradition and reason. See generally eg J. Behrens, `Alternative Dispute Resolution in the Church` (University of Wales, Cardiff, PhD Dissertation, 2002).

<sup>362</sup> For example: standards implicit in ecclesiastical offences to direct the conduct of clergy.

<sup>363</sup> The following may be understood as communion acts: (a) in government: legislative, executive or judicial decision-making on inter-Anglican relations; (b) in institutional organisation: the formation of new provinces and dioceses; (c) in ministry: episcopal and archiepiscopal appointments; depositions from holy orders; (d) in doctrine: interpretations of scripture; (e) in liturgy: authorisation of new forms of worship; (f) in ritual: celebration of baptism, the eucharist (and perhaps marriage); (g) in ecumenical relations: the establishment of agreements with ecumenical partners.

<sup>364</sup> But laws of churches do not make express provision for consideration of objections from other Anglican churches to legislative or executive initiatives.

<sup>365</sup> See N. Doe, `Canonical approaches to human rights in Anglican churches`, in M. Hill (ed), *Religious Liberty and Human Rights* (Cardiff, 2002) 185.

<sup>366</sup> See, however, WAECC, para. 76: this recommends collegial ordinations to obviate the possibility of non-recognition of the validity of ordinations.

<sup>367</sup> WAECC, para. 41,42.

<sup>368</sup> To ensure, for example: that rights to ordain suitable candidates are exercised in a way compatible with the protection of the interests of the worldwide communion. See also Statement of Primates Meeting, 15-16/10/03: `In most of our provinces the election of Canon Gene Robinson would not have been possible since his chosen lifestyle would give rise to a canonical impediment to his consecration as a bishop`. *Quaere*: on what basis?

<sup>369</sup> See N. Doe, *Canon Law in the Anglican Communion* (1998) Ch. 3.

<sup>370</sup> See N. Doe, *Canon Law in the Anglican Communion* (1998) 343ff.

churches of the Anglican Communion and by their individual members`; and that: `No particular church, or any authority or person within it, shall intervene in the internal affairs of another church without the consent of that other church given in the manner prescribed by its own law`.<sup>371</sup>

**(4) The Management of Continuing Conflict:** Anglican systems are less well-developed in their management of continuing conflict. Depending on the type of conflict (action, people, process) they might include:<sup>372</sup>

**Alternative Episcopal Ministry:** For example:<sup>373</sup> `If an ecclesiastical unit in this diocese has a genuine conscientious objection to the ordained ministry of any person lawfully exercising ministry in this church, the diocesan bishop may (or shall) make provision for alternative episcopal ministry for that unit to the extent permitted by the law of this church`. Models exist.<sup>374</sup>

**Conditional Validity:** For example: `This church shall recognise the legality of an ecclesiastical act performed in another church in accordance with its law, and it shall presume the validity of such an act. However, if this church does not recognise unconditionally the validity of an ecclesiastical act performed in another church, it shall recognise the ecclesiastical act as conditionally validity. It shall then recognise the consequences which follow from that ecclesiastical act to the extent permitted by the law of this church`.<sup>375</sup>

**The Employment of Visits:** For example: `For the purposes of reception, "it may be creative for a Province to invite facilitators to visit from another Province of the Communion for three or three months to foster communication between polarized groups and to encourage reconciliation where communication has broken down"`.<sup>376</sup>

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<sup>371</sup> Op cit: Principle 5.2 and 3.

<sup>372</sup> R. Williams, `The structures of unity`, *New Directions* (2003): `[i]t is worth exploring `how "structural complexity" can witness to the supernatural character of the Church`.

<sup>373</sup> For episcopal visitors see ECUSA General Convention 1988: `The Presiding Bishop may designate members of the House of Bishops to act as Episcopal Visitors to provide episcopal sacramental acts for congregations of this Church upon the request and under the authority and direction of the Ecclesiastical Authority of a Diocese. Nothing in this provision shall be construed as abrogating the jurisdiction of the Bishop, or Article II, Section 3 of the Constitution and the Canonical relationships between the Diocesan Bishop and the Congregation, together with its clergy` (see WAEEC, para. 45); the diocesan bishop must notify the Presiding Bishop`s office in writing of all requests and arrangements made in each case; the presiding bishop must report in writing to each meeting of the House of Bishops; the provision is only to be used for the transition and incorporation of women into all ordained ministries and is not otherwise applicable`; a time limite was set on the application of the provision.

<sup>374</sup> LC 1988, Report of the Dogmatic and Pastoral Section, para. 151c: `Practical pastoral arrangements will need to be made both at provincial and diocesan levels for those who are conscientiously unable to accept a decision made at the provincial level`.

<sup>375</sup> WAEEC, para. 75: if a confirmation is performed by a bishop which another church does not recognised, the confirmed person is to be admitted to holy communion (on the basis of analogy to admission of an unconfirmed child); PM 1989, para. 75 (see WAEEC, para. 99): the Primates have agreed that : `persons confirmed by a woman bishop should not be excluded from Holy Communion`.

<sup>376</sup> WAEEC, para. 80.

***The Employment of Powers of Delay:***<sup>377</sup> `The Conference advises member Churches not to take action regarding issues which are of concern to the whole Anglican Communion without consultation with a Lambeth Conference or with the episcopate through the Primates Committeee`.<sup>378</sup>

***Personal Ecclesiastical Status:*** For example: `If this church does not recognise episcopal orders conferred on a person in a fellow church, in order to maintain communion, this church shall recognise that person as a priest who may exercise functions as such, in this church, to the extent authorised by the law of this church`; or: `If this province does not recognise presbyteral orders conferred on a person in a fellow church, in order to maintain communion, this church shall recognise that person as a deacon who may exercise functions as such, in this church, to the extent authorised by the law of this church`; or: `If this church does not recognise diaconal orders conferred on a person in a fellow church, in order to maintain communion, this church recognises that person as a lay person with lay status, in this church, to the extent authorised by the law of this church`.<sup>379</sup>

***Liturgical Celebration:*** For example: `If the orders of a bishop, priest or deacon ordained as such in another province are not recognised by this province, this province may nevertheless allow the person concerned, in this province, to preside at a eucharist or officiate at any service administered according to a rite of that other province, subject to the consent of the appropriate diocesan bishop of this province`.<sup>380</sup>

***Episcopal Care:*** `The bishop, as a symbol of the unity of the church,<sup>381</sup> having a particular responsibility to foster the communion and interdependence of the local church,<sup>382</sup> in order to maintain communion amongst the faithful, has a special responsibility towards those in the diocese who as a matter of conscience dissent in the life of the Church`;<sup>383</sup> or: `The bishop, as pastor, is an embodiment and agent of unity and continuity in the Church. Where a bishop ministers in dioceses and/or provinces in which there is a strong division of opinion concerning a matter, the bishop shall exercise special care to avoid becoming a focal point of dissension,<sup>384</sup> and shall seek to restore all people to unity with God and each other in Christ`.<sup>385</sup>

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<sup>377</sup> Statement, Primates Meeting 15-16/10/03: `[T]he actions of the diocese of New Westminster and [ECUSA] which appear to a number of provinces to have short-circuited that process, and could be perceived to alter unilaterally the teaching of the Anglican Communion on this issue. They do not. Whilst we recognise the juridical autonomy of each province in our Communion, the mutual interdependence of the provinces means that none has authority unilaterally to substitute an alternative teaching as if it were the teaching of the entire Anglican Communion`..

<sup>378</sup> LC 1978, Res. 11.

<sup>379</sup> WAEEC, para. 107: response from Nippon Sei Ko Kai.

<sup>380</sup> See similar scheme in the Scottish Episcopal Church: see WAEEC, para. 108.

<sup>381</sup> LC 1988, Mission and Ministry Section, Report, 61.

<sup>382</sup> WAEEC, para. 69.

<sup>383</sup> WAEEC, para. 44: `In [the] process of reception, bishops in particular have a special responsibility to be sensitive both to the mind of the synod and to the collegiality of the house of bishops. While they may express disagreement with the mind of their provincial synod, they ought not actively to obstruct that decision`.

<sup>384</sup> WAEEC, para. 70.

<sup>385</sup> WAEEC, para. 77.

**Religious Communities:** `This church may recognise the establishment of religious communities (being part of wider non-territorial congregations of such communities), within its territorial boundaries, which express their communion with this church and the worldwide Anglican Communion, outside of and apart from the structures of the dioceses and parishes of this church, through their own domestic constitutions and in relationship with their own episcopal visitors, who exercise jurisdiction within the community, appointed after consultation with the appropriate ecclesiastical authority of this church`.<sup>386</sup>

**Territorial Prelatures:** `A territorial prelature...is a certain portion of the people of God which is established within certain territorial boundaries and whose care, due to special circumstances, is entrusted to some prelate who governs it as its proper pastor, like a diocesan bishop`.<sup>387</sup>

**Rights of Conscientious Objection:** For example: `No member of this church shall be under any duty, whether by constitutional, canon or other form of church law or regulation, or by any administrative or judicial direction of a bishop, cleric or other ecclesiastical authority, or by other lawful requirement, to accept or assent intellectually to or to participate in any governmental, ministerial, liturgical, ritual, ecumenical, or proprietorial action authorised under the law of this church, to which that person has a conscientious objection`.<sup>388</sup>

**Primates Meeting Ministry:** The Lambeth Conference encourages development of a `collegial role for the Primates Meeting under the presidency of the Archbishop of Canterbury, so that the Primates Meeting is able to exercise an enhanced responsibility in offering guidance on doctrinal, moral and pastoral matters`.<sup>389</sup>

**Extraordinary Jurisdictions:** `In order to accommodate conscientious objection within this church, a competent ecclesiastical authority may establish an extra-diocesan/extra-parochial jurisdiction, which shall function outside the jurisdiction of the ordinary, in which the faithful may be joined, subject to the direct jurisdiction of a metropolitan authority of this or another church, visitable by the commissary of that metropolitan authority`.<sup>390</sup>

**Parallel Jurisdictions:** `This church recognises the ministry and jurisdiction of a bishop, in communion with this church, parallel the territorial jurisdictions which

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<sup>386</sup> This is based on the Anglican model for religious communities in the *A Handbook of Religious Life* (2004).

<sup>387</sup> Roman Catholic Code of Canon Law (1983) c. 370.

<sup>388</sup> See eg LC 1968, Res. 8: the Conference `holds that it is the concern of the Church...to uphold and extend the right of conscientious objection`, in relation to recourse to war`; and WAEEC, para. 44: `Sensitively and clearly expressed dissent can be creative to the forming of the mind of the whole Church, as it seeks critically to test and refine the truth; dissent should not be marginalized or excluded`; courtesy and respect are essential. `The fact that a synod has reached a decision does not foreclose the matter. Both sides need to work hard to ensure that the process of reception continues to be as open as possible, recognising that synodical decisions may indeed come to be overwhelmingly affirmed, or on the other hand, equally as overwhelmingly rejected`; see also LC 1958, Res. 21 for `the conscience of worshippers`.

<sup>389</sup> LC 1988, Res. 18.2(a).

<sup>390</sup> For peculiars in England, see M. Hill, *Ecclesiastical Law* (2<sup>nd</sup> edn., 2001) 3.97.

funcion in this church`. Parallel jurisdictions have been criticised,<sup>391</sup> but parallel `cultural` jurisdictions exist.<sup>392</sup>

***Associations of the Faithful:*** These are used in the Roman Catholic Church.<sup>393</sup> Missionary agencies may also provide a model.<sup>394</sup>

***The Principles of Canon Law:*** `Questions of the parity of our canon law, and the nature of the relationship between the laws of our provinces with one another have also been raised. We encourage the Network of Legal Advisers established by the Anglican Consultative Council, meeting in Hong Kong in 2002, to bring to completion the work which they have already begun on this question`.<sup>395</sup>

#### **4. Autonomy as Limited Self-Government in Other Traditions**

**(1) The Eastern Catholic Churches:** These are autonomous churches.<sup>396</sup> The baptised are in full communion with the Catholic Church when joined in the bonds of profession of faith, sacraments and ecclesial governance.<sup>397</sup> The source of the autonomy of Eastern Catholic Churches is that of each church itself: it is not a

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<sup>391</sup> WAEEC, para. 51: `Suspicion of parallel jurisdictions seems soundly based in an ecclesiology of "communion" which sees the bishop as the sacramental representative of the whole local ecclesial community, and that community itself as truly grounded in its social context and culture. The classical definition of schism was indeed the setting up of rival episcopal thrones in the same local community`.

<sup>392</sup> WAEEC, paras. 52-53: `[T]he Anglican Communion has more recently accepted th practice of parallel `cultural` jurusidctions`: eg diocese of Aotearoa in New Zealand, the Order of Eithiopia in Southern Africa, and the Navajoland Area Mission in the USA. In Europe, the two Iberian churches are extra-provincial of Canterbury and the diocese of Europe within the Province of Canterbury. These are in communion with each other.and recognise ministries etc. `Therefore we do not recommend parallel jurisdiction within the Provinces of the Anglican Communion as an appropriate pastoral solution`.

<sup>393</sup> See below, section 4(2).

<sup>394</sup> ACNS 3699, 2/12/03: Mission Agencies of the Church of England: Common Mission: A Covenant. The eleven mission agencies have over recent years been growing together within the framework of the Church of England Partnership for World Mission (PWM). There has been a recognition of the need for `working together to speak with one voice and take joint action` and to work more closely with the Archbishop of Canterbury. The new covenant contains a common vision: `1. We believe in promoting confidence in the Gospel and an understanding of mission that is holistic and evangelistic with the context of the Five Marks of Mission of the Anglican Communion. . We believe that our task in proclaiming the Kingdom of God can only be undertaken in partnership and within the fellowship of the worldwide Church. We believe the Church is God`s instrument for mission and recognise and affirm the voluntary principle as a proven model for mobilising and ecouraging effective engagement`. The covenant contains a common commitment: `1. To increase co-operation while acknowledging the richness of our diversities. 2. To increase mutual support, discussion of common issues and the development of strategic co-operation through regular meetings of the General Secretaries [of each agency]. 3. To build up contact, regular meetings and working links between the Archbishop of Canterbury and the General Secretaries of the PWM agencies. 4. To ensure meetings of specialist staff to share concerns, models of good practice and engage in practical partnerships. 5. To issue agreed public statements, study and promotional materials on issues of common concern. 6. To consult as widely as possible on mission issues in the Anglican Communion and in collaboration with relevant commissions, working parties and networks authorised by the Primates Meeting and the Anglican Consultative Council`.

<sup>395</sup> Statement, Primates Meeting 10-16/10/03.

<sup>396</sup> See V. Pospishil, *Eastern Catholic Church Law* (1996).

<sup>397</sup> Code of the Eastern Catholic Churches (1990), cc.27-38.

concession of the Latin Church but a church *sui iuris*, of its own right.<sup>398</sup> Each church is understood as [a] community of the Christian faithful, which is joined together by a hierarchy according to the norm of law and which is expressly or tacitly recognised as *sui iuris* (‘self-governing’ or ‘autonomous’) by the supreme authority of the Church;<sup>399</sup> each church is recognised as autonomous with regard to its own government and discipline.<sup>400</sup> ‘These individual churches [which] differ somewhat among themselves in what is called “rite”<sup>401</sup>, namely in liturgy, in ecclesiastical discipline and in spiritual tradition, are none the less equally entrusted to the pastoral guidance of the Roman Pontiff; they are of equal rank, so that none of them is superior to the others because of its rite. They have the same rights and obligations’.<sup>402</sup> As such, each church (for example) adopts its own institutional form,<sup>403</sup> organises its own parishes and hierarchy, their prelates meet for consultation and to foster unity of action and strive together to meet their common tasks’.<sup>404</sup> The Eastern Code of 1990 ‘represents the common law of the Eastern Churches’,<sup>405</sup> and the Apostolic See is ‘the supreme arbiter of inter-church relations’.<sup>406</sup> ‘The Christian faithful have the right to worship God according to the prescripts of their own Church *sui iuris*, and to follow their own form of spiritual life so long as it is consonant with the doctrine of the Church’.<sup>407</sup> Moreover, in addition to a duty to maintain autonomy,<sup>408</sup> a law common to the churches prescribes: ‘The Christian faithful of any Church *sui iuris*, even the Latin Church, who have frequent relations with the Christian faithful of another Church *sui iuris* by reason of their office, ministry or function, are to be accurately instructed in the knowledge and practice of the rite of that Church in keeping with the seriousness of the office, ministry or function’.<sup>409</sup>

However, the exercise of autonomy by and within a *sui iuris* church is subject to limits. For example, in a patriarchal church, autonomy forbids the Roman Pontiff to intervene in the internal affairs of a church, and a patriarch has oversight of the metropolitan and bishops,<sup>410</sup> may erect and suppress provinces (with the consent of the synod of bishops and in consultation with the Roman Pontiff),<sup>411</sup> represents the

<sup>398</sup> R. Jones, *The Canon Law of the Catholic Church and the Church of England* (Edinburgh, 2000) 131.

<sup>399</sup> V. Pospishil, op cit., 110.

<sup>400</sup> *Codex Canonum Ecclesiarum Orientalium* [CCEO] (1990), c.27.

<sup>401</sup> CCEO, c.28.1: ‘A rite is the liturgical, theological, spiritual and disciplinary heritage, which is distinguished by the culture and the circumstances of the history of people, and which is expressed by each Church *sui iuris* in its own manner of living the faith’.

<sup>402</sup> Vatican II, *Orientalium Ecclesiarum* (1964), 3.

<sup>403</sup> They include patriarchal churches (CCEO, c.55), major archiepiscopal churches (CCEO, c.151), and metropolitan churches (CCEO, c.155).

<sup>404</sup> OE, 4.

<sup>405</sup> D. Motiuk, ‘The code of canons of the Eastern Churches: some ten years later’, 36 *Studia Canonica* (2002) 189 at 196. When Pope John Paul II represented the new CCEO he spoke of this and the Latin Code 1983 as ‘one *Corpus Iuris Canonici*’ in the Catholic Church.

<sup>406</sup> OE, 4.

<sup>407</sup> CCEO, c. 17; ‘The reference to prescripts of their own “Church *sui iuris*” necessarily includes the rules established by that Church’s liturgical, theological, spiritual and disciplinary heritage or “rite” (CCEO, c.28.1): J. Abbass, ‘Latin bishops’ duty of care towards Eastern Catholics’, 35(1) *Studia Canonica* (2001) 7 at 23,n.59.

<sup>408</sup> CCEO, c. 40.

<sup>409</sup> CCEO, c. 41.

<sup>410</sup> CCEO, c. 56.

<sup>411</sup> CCEO, c.146.



church,<sup>412</sup> and enjoys rights of visitation.<sup>413</sup> Yet: a patriarch must be in communion with the Roman Pontiff;<sup>414</sup> until he is in ecclesiastical communion with the Roman Pontiff, a newly elected patriarch cannot ordain bishops or convoke a synod of bishops;<sup>415</sup> a patriarch's interpretations of law are operative only until the next synod of bishops;<sup>416</sup> a patriarch must submit a written report on the state of the church to the Roman Pontiff very five years;<sup>417</sup> and the patriarch has a duty to resolve disagreements between bishops.<sup>418</sup> In short, the enjoyment of autonomy is compatible with the existence of both their own internal regulatory systems and an external regulatory system: it is a general principle that: 'For liceity they must follow the prescriptions of common and particular canon law'.<sup>419</sup>

**(2) The Lutheran Communion:** 'The member churches of the LWF are autonomous, with their own structures of ministry and governing bodies. Normally, church government is carried out by synods in which the ordained ministers and bishops/presidents have their part. The LWF does not have decision making power over the member churches'. 'On the other hand, no church is completely autonomous, since all churches live from traditions and spiritual sources that are not their own, but are shared gifts. Ordination to the ministry, in the Lutheran understanding, is not carried out simply from the particular church in which it takes place. Ordination is in principle an ecumenical action, since it is an authorization to preach the gospel and to administer the sacraments, which are gifts given to the universal church. This is reflected in baptism what is recognized ecumenically, and this recognition calls, in turn, for ever large measures of mutual recognition of ministries and eucharistic fellowship. The shared spiritual gifts, from which churches live, also call them to cooperation, mutual recognition, church fellowship and shared life in service'.<sup>420</sup>

In the development of communion between Lutheran churches '[t]he member churches remain autonomous'. 'The churches which form the communion are autonomous, otherwise they could not be part of the communion'. 'There is no autonomy without interdependency'. 'The fear of decisions made above the heads of the churches is unfounded'.<sup>421</sup> 'Autonomy is good when the congregation is healthy. When this is not the case, we need to see ourselves as being part of more...Autonomy contains a willingness to be accountable to others'.<sup>422</sup> 'The meaning of autonomy of the member churches' has arisen as an issue for serious consideration.<sup>423</sup>

'The governing bodies of LWF are responsible for taking appropriate decisions pertaining to the common life of the churches as a communion and to their membership in that communion. In the LWF the member churches have developed procedures for acting together in matters of common concern. These procedures also

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<sup>412</sup> CCEO, c. 79.

<sup>413</sup> CCEO, c.83.

<sup>414</sup> CCEO, c.600.

<sup>415</sup> CCEO, c. 77.

<sup>416</sup> CCEO, c.112.

<sup>417</sup> CCEO, c. 92.

<sup>418</sup> CCEO, c.1103.

<sup>419</sup> Eg in relation to sacramental discipline: OE, 14.

<sup>420</sup> LWF, 32.

<sup>421</sup> The Lutheran World Federation as a Communion of Churches [LWF] (Geneva, 2003) 22.

<sup>422</sup> LWF (2003) 23.

<sup>423</sup> LWF (2003) 27.

come into function (as in the case of apartheid) if certain teachings or practices in member churches are found - by the governing bodies of LWF - to be incompatible with membership of the communion<sup>424</sup>. Whilst the communion is composed of autonomous churches, the LWF has an Assembly (meeting every seven years) and a Council (meeting once a year):<sup>425</sup> In accordance with the LWF constitution,<sup>426</sup> These have the authority to make decisions that are binding for the communion that is the LWF<sup>427</sup>. They may make `decisions of structural and programmatic nature` and these governing bodies `have also taken some decisions pertaining to church discipline and doctrine`, resulting in both the suspension and restoration of member churches.<sup>428</sup> Decision of the LWF Council or Assembly `apply to the common life of the world communion as such. Decisions that have an impact on the common life of the communion can be reached if there is a firm basis for the decisions among the member churches`.<sup>429</sup>

**(3) The Roman Catholic Church:** The Roman Catholic Church, in its own theology and canon law, employs the concept of autonomy in both implicit and explicit ways. First, `the autonomy of the local Churches`,<sup>430</sup> namely, the diocese,<sup>431</sup> is based on the principle of subsidiarity.<sup>432</sup> Secondly, an exempt diocese is a diocese which is not part of the territory of the province in which it is situated; it may be established in exceptional circumstances and be subject to an external ecclesiastical authority.<sup>433</sup> Thirdly, public associations of the faithful enjoy a degree of autonomy: an association of the faithful is established by a competent ecclesiastical authority with prescribed aims.<sup>434</sup> Fourthly, the autonomy of institutes of consecrated life: `A true autonomy of life, especially of governance, is recognised for each institute. This autonomy means that each institute has its own discipline in the Church`;<sup>435</sup> in other words, `the right of each institute to have its own proper law and internal structures of government`.<sup>436</sup> The elected superiors and deliberative assemblies of the institute have authority to direct their activities and govern their members,<sup>437</sup> and they may be exempt from the

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<sup>424</sup> LWF, 32.

<sup>425</sup> LWF, 37.

<sup>426</sup> Amended at the Eighth Assembly (Curitiba, 1990).

<sup>427</sup> *Growth in Communion*, Report of the Anglican-Lutheran International Working Group 2000-2002 (Geneva, 2003) para. 222.

<sup>428</sup> *Growth in Communion*, op cit, para. 223. In 1977 the Sixth Assembly in Dar-es-Salaam decided that `the practice of racial discrimination in the Church brought into question the *status confessionis* of the churches concerned. On that basis the Eighth Assembly `suspended the membership of two member churches in South Africa. This membership has since been restored, after changes introduced`.

<sup>429</sup> *Growth in Communion*, op cit., para. 226.

<sup>430</sup> P. Huizing, `The central legal system and autonomous churches`, *Concilium* (1986) 23 at 30.

<sup>431</sup> Code, c. 369:

`A diocese is a portion of the people of God which is entrusted for pastoral care to a bishop with the cooperation of the presbyterate, so that, adhering to its pastor and gathered by him in the Holy Spirit through the gosepl and the Eucharist, it consistutes a particular church in which the one, holy, catholic and apostolic Church of Christ is truly present and operative`.

<sup>432</sup> J. Hite and D.J. Ward, *Readings, Cases and Materials in Canon Law* (Collegeville, MN, 1990) 230.

<sup>433</sup> Roman Catholic Church: Code, can. 431.2; eg diocese of Switzerland which is subject directly to the authority of the Holy See..

<sup>434</sup> Roman Catholic Code, ss.301,312-20.

<sup>435</sup> Code, c. 586.1.

<sup>436</sup> *Letter and Spirit*, para. 1150.

<sup>437</sup> Code, c. 596.

authority of the bishop.<sup>438</sup> However, the exercise of that autonomy is regulated by universal law and limited by a number of external controls. For example: the internal constitution of each institute must contain basic norms about governance, admission, formation and discipline of its members,<sup>439</sup> it must define the manner in which the evangelical counsels of chastity, poverty and obedience are to be observed in its way of life,<sup>440</sup> and while an institute may divide or suppress parts of itself, it cannot suppress the whole of the institute (this is reserved to the holy see).<sup>441</sup> The diocesan bishop must safeguard and protect this autonomy,<sup>442</sup> and there must be consultation between institute and bishop in relation to prescribed matters.<sup>443</sup> Yet, [t]he better to ensure the welfare of institutes and the needs of the apostolate, the Supreme Pontiff...with a view to the common good, can withdraw institutes of consecrated life from the governance of the local ordinary, and subject them to himself alone, or to some other ecclesiastical authority.<sup>444</sup> In Catholic universities, too, while retaining their own scientific autonomy, research and teaching must be conducted in the light of catholic doctrine.<sup>445</sup>

### III. CONCLUSION

The relationship between communion and autonomy in Anglicanism has been described as one of creative tension.<sup>446</sup> Each reality draws strength from the other.<sup>447</sup> And in the ecumenical context communion and autonomy have been understood as fully consistent with each other,<sup>448</sup> a consistency also recognised in other Christian traditions. Generally, communion may be classified as predominantly a theological category, and autonomy a juridical category.<sup>449</sup> Though communion also has a prescriptive dimension: it requires unity, common life and action (and these

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<sup>438</sup> Code, 591.

<sup>439</sup> Code, c.587.1.

<sup>440</sup> Code, c.598.1.

<sup>441</sup> Code, cc. 581,584,585.

<sup>442</sup> Code, c. 586.2.

<sup>443</sup> Eg religious apostolates: Code, c. 678.

<sup>444</sup> Code, c. 591.

<sup>445</sup> Code, c. 809.

<sup>446</sup> WAECC, para. 36: While the Provinces are autonomous in matters of order and discipline, they are held together by the visible bonds of communion and thus in a real sense belong to one another: they are interdependent. The life of the Communion is held together in the creative tension of provincial autonomy and interdependence. The different Provinces have come to a greater realisation that they need each other's spiritual, intellectual and material resources in order to fulfil their task of mission. Each Province has something distinctive to offer the others, and needs them in turn to be able to witness to Christ effectively in its own context.

<sup>447</sup> Report of Carrington Committee, in *The Lambeth Conference 1948* (London, 1948) 84: While all [provinces] are autonomous they are all interdependent, drawing inspiration each from all. They are not independent in any deivisive sense, but are interlocked by ties that bind them one to another in a single faith and order, in a common loyalty to our Lord and Master, as in an agreed purpose in world evangelism.

<sup>448</sup> *Growth in Communion*, Report of the Anglican-Lutheran International Working Group 2000-2002 (Geneva, 2003) para. 45: Full communion is a relationship between two distinct churches or communions in which each maintains its own autonomy while recognising the catholicity and apostolicity of the other, and believing the other to hold the essentials of the Christian faith.

<sup>449</sup> Virginia Report, LC 1998, Official Report, 36: while autonomy entails the legal and juridical right of each Province to govern its way of life, in practice autonomy has never been the sole criterion for understanding the relation of Provinces to one another. There has generally been an implicit understanding of belonging together and interdependence. The life of the Communion is held together in the creative tension of Provincial autonomy and interdependence.

may be expressed juridically); and autonomy has a theological side: autonomy must be exercised for the common good. Fundamentally, in Anglicanism: communion means that each Anglican church recognises that each other Anglican church holds the essentials of the Christian faith, and should hold to the terms of communion; and autonomy means that each church has the right to govern its own (internal) affairs, in a manner compatible with the terms of communion. Communion and autonomy have the same goals: fulfilment of the mission of the church. In this sense, autonomy may be understood as one means by which ecclesial communion is achieved.<sup>450</sup> In order to realise this relationship more fully, it may be thought that each church has a responsibility to develop within its own system of polity a body of communion law to commit itself to the terms and conditions of its relations with other Anglican churches,<sup>451</sup> and the permissible limits of its autonomy so that this may be exercised in a manner compatible with the spirit of worldwide communion.<sup>452</sup> The materials for such a body of communion law are abundant.

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<sup>450</sup> *The Truth Shall Make You Free, The Lambeth Conference 1988*, 104 (committee report): The primary function of autonomy is not, then, to provide ahead of time answers to all possible questions, but to ensure that when disagreement occurs it is settled in accord with principles according to which Christians normally discern the mind of Christ for them: that the solution is rooted in Scripture, consonant with the mind of the church, and "reasonable" in the sense that it speaks a language the world can understand - that it makes "good sense" even if the sense it makes is unexpected. At this level, authority in the Church refers not so much to an absolute right to decide, vested in some particular individual or group, as it does to a right to orchestrate argument and consultation with a view to a guaranteeing that what emerges from disagreement will be an understanding that grows out of the authentic sources of the Church's life. One inevitable result of such a process will be the exclusion of teachings or forms of behaviour seen at length to be inconsistent with Christian faith.

<sup>451</sup> The necessity for translation of communion relations to law has been recognised in the ecumenical context: see above, n. 167.

<sup>452</sup> See Appendix.

## APPENDIX: SCHEME PROPOSAL

Each church should have in place a binding scheme:

1. To represent best practice in relation to *the fulfilment and administration of communion* within the particular church and in its relations with other Anglican churches. The scheme should deal with, and express commitment to and respect for, the terms and conditions of communion. This might be based on the ecumenical models.
2. To represent best practice in relation to *the autonomy of the particular church and the exercise of autonomy* in the context of global communion: a structure to ensure autonomy is exercised with due regard and respect for the common good of the particular church, the autonomy of other churches, the global communion, and ecumenical relations.
3. To provide for best practice in relation to *the implications and effects of decisions* made in one church or province on the global communion (ie on other Anglican churches or provinces). The scheme should deal with the issue of the status in that church of ecclesiastical acts performed in another church.
4. To provide for best practice in relation to *the prevention of conflict, the resolution of conflict, the management of continuing disagreement, and unresolvable disagreement* concerning global communion issues both within a particular church and as between Anglican churches.
5. To review and monitor the implementation of the scheme in order to meet the expected outcomes of maintaining and promoting global communion.
6. To provide for the establishment *in that church* of a Provincial Anglican Communion Office:
  - (a) to promote, defend and maintain the bond of communion within the provincial church and between the provincial church and the rest of the Anglican Communion;
  - (b) to advise on the likely effects of a course of conduct or proposed decision in the province, or in dioceses within it, as to whether that decision is likely to affect relations between that church and other Anglican churches;
  - (c) to facilitate discussion and the opportunity to hear and entertain objections to the proposed action on the grounds of its compatibility with the terms and conditions of global communion;
  - (d) to presume that all ecclesiastical acts are consistent with the spirit of Anglicanism and to rebut that presumption by a determination made as a matter of conscience in good faith;
  - (e) to issue a declaration of compatibility between that proposed action and the terms of communion in the worldwide Anglican Communion);
  - (f) in cases of a negative response, to institute a confirmatory appeal to the Archbishop of Canterbury (or other external instrument of Anglican unity).