



TRINITY COLLEGE
THE UNIVERSITY OF MELBOURNE

ANGLICAN CANON LAW: IDENTITY, ECCLESIOLOGY AND ECUMENISM

Professor Mark Hill QC

The second Sharwood Lecture in Church Law: February 2019

Table of Contents

Institutional Anglicanism	2
The Purpose of Canon Law	3
Historical excursus: questions of principles	4
Principles of Canon Law Common to Anglican Churches	7
Anglican/Roman Catholic Dialogue	9
Comparative Canon Law in the Ecumenical Endeavour	10
Conclusion	11
Appendix: A Statement of Principles of Christian Law	13

ABSTRACT

One of the unusual features of the Anglican Communion is the manner in which its component provinces (including the Anglican Church of Australia) are autonomous yet at the same time remain in communion one with another and with the See of Canterbury. Emerging as an additional 'instrument of unity' for the Communion are identifiable Principles of Anglican Canon Law, drawn from common features of the particular laws of each province. These contribute to the self-understanding of Anglican identity and have a significance in terms of the ecclesiology of the Communion and its constituent parts. The 2019 Sharwood Lecture addresses how the Principles of Anglican Canon Law and a subsequent Statement of Christian Law provide a fruitful subject for study as a form of applied ecclesiology, and bring vision and vitality to the ecumenical endeavour.¹

It is both an honour and a pleasure to have been selected to deliver the 2019 Robin Sharwood Lecture in Church Law and to follow in the footsteps of the Honourable Keith Mason AC, QC who delivered the inaugural Lecture last year,² setting the bar very high indeed. I wish to acknowledge the generosity of the Robin Sharwood Bequest, which over time will create a lasting body of learning on various aspects of the long-neglected subject of Church Law, and to thank Christopher Roper, its executive officer, for his organisation of this evening's event.

The theme for my lecture is the contribution of Anglican Canon Law to the self-understanding of the Anglican Communion.³ I will draw on some two decades of achievement by the Colloquium of Anglican and Roman Catholic Canon Lawyers, supplemented more recently by that of the Panel of Experts in Christian Law. The cumulative effect of these scientific studies has been to identify the extent to which principles of Anglican Canon Law, or of Christian law more generally,⁴ can be used as a means to deepen our understanding of ecclesiology and to give vigour and traction to the ecumenical endeavour.⁵

I will begin, for the benefit of those more familiar with a global and hierarchical model (such as Roman Catholicism) or a congregational paradigm (like the Baptist federation and most other protestant churches) by providing a brief overview of the juridic nature of Anglicanism. I will then discuss the existence of principles within the English common law and explain how this long-established practice has recently been applied to the laws of Anglican churches, acknowledging the ground-breaking work of my friend and colleague, Professor Norman Doe. The concluding section of this lecture will focus on the ecclesiological and ecumenical merits and future potential of what, for shorthand, I will refer to hereafter as the Principles Project.

¹ I am grateful to Professor Norman Doe of the Centre for Law and Religion at Cardiff University, and the Right Reverend John Ford, Bishop of the Murray, for commenting on an early draft of this paper, and for their fellowship and friendship over more than two decades.

² K Mason, 'Clergy Status in the Age of the Royal Commission', 2018 Sharwood Lecture in Church Law (Trinity College, University of Melbourne, 2018).

³ For a discussion of the place of canon law in ministerial training see M Hill, 'Canon Law: The Discipline of Teaching and the Teaching of the Discipline' in T Harris (ed), *Studies in Canon Law and Common Law in Honor of R H Helmholz* (Berkeley, Robbins Collection, 2015) 337-353.

⁴ The focus of this paper will be the contribution of the Principles of Anglican Canon Law (2008) to the bilateral conversations of the Anglican and Roman Catholic Colloquium on Canon Law, but mention will also be made of the value of the subsequent Principles of Christian Law (2016) to the wider ecumenical movement.

⁵ See in particular, N Doe, 'The Ecumenical Value of Comparative Church Law: Towards the Category of Christian Law' (2015) 17 *Ecclesiastical Law Journal* 135-169.

Institutional Anglicanism

At the international level, the Anglican Communion has no formal body of law applicable globally to all its forty or so provinces,⁶ each of which are in communion with one other and with the See of Canterbury.⁷ Whereas each province is autonomous, with its own separate legal system, the Communion itself is held together by so-called ‘bonds of affection’: shared loyalty to scripture, creeds, baptism, Eucharist, the historic episcopate, and its institutional instruments of communion – the Archbishop of Canterbury, Lambeth Conference, Anglican Consultative Council, and Primates’ Meeting. None of these institutional instruments of communion can make decisions binding on individual Provinces which continue to be independent, autonomous and self-governing.⁸

Decisions of the Lambeth Conference for example are to be afforded considerable respect, but they have no direct binding authority on any Province unless and until incorporated into its provincial canon law. Some find this concept a frustrating fudge, others see it as liberating and inherently Anglican. Both viewpoints, I anticipate, will be vocally represented at the forthcoming Lambeth Conference in the summer of 2020.

Rather than having a universal *Code of Canon Law* (as for example the Latin and Eastern Catholic Churches), Anglican canon law operates at a provincial level. The generally applicable law within each Province is created by a synod or other assembly of bishops, clergy and laity, and laws at more localized levels (such as those created by a diocesan synod) are supplemental to this general provincial law.⁹ Some Provinces have just a code of canons, but most have a constitution, canons, and other instruments, including rules, regulations, and liturgical norms found in service books. Alongside these, other sources may include custom and decisions of church courts or tribunals. In addition, we can discern the increased use of ecclesiastical *quasi-legislation* – informal administrative rules designed to supplement formal law. Whilst this soft law (as it is known) is generally couched in prescriptive language, it does not have the binding force of law although it may give rise to a legitimate expectation that it will be adopted and applied.

Typically, *constitutions* deal with faith and doctrine, governmental and institutional organisation, and discipline; *canons* address functions of ordained and lay ministers, together with liturgical and sacramental matters; whereas *rules* and *regulations* usually deal in detail with matters of procedure and property.

But the law itself has its limits. It cannot encompass all ecclesial life, and functions predominantly in the public sphere of church order. The enjoinder of Queen Elizabeth I not to make windows into people’s souls remains just as apposite today. Of course, church law and theology are closely related. Whilst Anglicans have not yet developed a systematic theology of canon law,¹⁰ they still see law as the servant of the church with a theological foundation, rationale and end. Law exists to uphold the integrity of the faith, sacraments, and mission, to protect ecclesial order, to support communion among the faithful, to put into action Christian values, and to prevent and resolve

⁶ Throughout this paper, I use the term Province to embrace each of the national or regional churches which together make up the Anglican Communion. This includes, of course, the Anglican Church of Australia.

⁷ Chile became the fortieth province when it was created in 2018, carved out of the territorially enormous Province of South America.

⁸ See G.K. Cameron, “A tortoise in a hurry: the ordering of the Anglican Communion”, in (2008) Vol 8 IJSCC 69.

⁹ For authoritative coverage, see N Doe, *Canon Law in the Anglican Communion* (Oxford University Press, 1998).

¹⁰ For some general observations on this subject see, M Hill, ‘Legal Theology’ (2017) *Journal of Law and Religion*, Vol. 32, No. 1, pages 59-63.

conflict. As such, humanly-created church law reflects (or certainly should reflect) the revealed will of God.

The laws of Anglican churches define the rights and duties of both the institutions and the members of each Province. In some, the laws bind only ordained ministers, but in others they apply to both ordained and lay persons. Often church members must give a promise or undertaking to comply with the law, and in all Provinces, the doctrine of canonical obedience requires clergy to obey the lawful directions of their bishop.

For the resolution of conflict, provision is generally made for the existence of courts or tribunals, with the extent of their jurisdiction and power carefully prescribed. A failure to comply with church law may result in proceedings before a church court or tribunal and the imposition of sanctions. These are typically seen as medicinal and corrective, such as rebuke, suspension and exclusion. Unlike the Church of England,¹¹ whose unique position as part of the establishment is an historical anachronism, most Anglican Provinces function in civil law as voluntary associations – their internal rules have the status of terms of a contract entered into by members under the doctrine of consensual compact (or quasi-contract) and are enforceable in State courts. This is particularly the case where church property is concerned, and is no different from the way that members of any secular association or members club must adhere to its rules and governing instruments.

The Purpose of Canon Law

The purpose of the law for Christians today is much the same as it was in the time of the early Church: to regulate the functioning of the community of faith and the conduct of its members by a combination of commands, prohibitions and permissions. Such purpose is realised in a number of ways: by God through revelation; by the Church through its internal mechanisms of government and by the State through secular legislation. Superficially, the law is concerned only with order and discipline,¹² but a closer analysis reveals that it touches upon spiritual, theological, pastoral and evangelistic concerns at the heart of the Christian faith.

The law ought not to be seen as a negative and oppressive force. The Dominican canonist Robert Ombres OP contrasts morality, religion and law, each of which, to a greater or lesser extent, is part of an individual's life experience. Contrary to the perception that law is an alien concept in the relationship between God and man, he indicates that law, as applied ecclesiology, contributes to sustaining, and expressing the freedom of, the children of God. The life of the Church is structured in its institutions and organisations as is thought pastorally appropriate in sacramental making present of Christ's life, death and resurrection.¹³ Being both utilitarian and pastoral, the law of the Church seeks actively to assist members of the Church to follow in the way of Christ and to prevent anything which may impede either the Church itself or any of its members in their faith.

The law in many instances provides the liturgical framework within which an expression of faith may take place. James Coriden, another distinguished Catholic canonist, explains that

¹¹ For a full exposition, see M Hill, *Ecclesiastical Law* (Fourth edition, Oxford University Press, 2018).

¹² See, by way of example, M Hill, 'Due Process as a principle of Anglican canon law' in R Torfs (ed) *The Rights to Due Process in the Church* (Leuven, 2014) p 15.

¹³ R Ombres, 'Why then the law?' [1974] *New Blackfriars* 296. Attempts at an Anglican articulation of the interface between canon law and theology are to be found in N Doe, 'Towards a Critique of the Role of Theology in English Ecclesiastical and Canon Law' (1992) 2 *Ecclesiastical Law Journal* 328.

‘the canons also help to create and maintain the metaphors and symbols which influence the faithful subtly but strongly’.¹⁴

It may seem incongruous that an individual professing the Christian faith, which is, by its nature, the expression of a personal spiritual belief, should fall to be governed by man-made laws and regulations. However, the integrity of any Church, as with any secular association, depends upon certain beliefs and behaviour being common to all its members.¹⁵ And it was Christ himself who instructed his apostles to bind and to loose, thereby commissioning them to make provision for what was acceptable and what was not.¹⁶ Accordingly, the apostles individually and collectively began a process of law-making for the Christian Church,¹⁷ which continues to the present day.

Historical excursus: questions of principles

So much for the institutional structure of the Anglican Communion, the canon law of its component Provinces, and the profoundly theological purpose which this humanly-created law seeks to serve.

My question this evening is whether there is any merit in looking beyond the particular laws themselves and considering instead the principles which animate them and provide the framework within which they operate? The existence of such principles, I suggest, has a well-established historic precedent to which I now turn.

The legal historian, F W Maitland,¹⁸ claimed in 1898:

‘When in any century, from the thirteenth to the nineteenth, an English lawyer indulges in a Latin maxim, he is generally, though of this he may be profoundly ignorant, quoting from the Sext’ [which is a canon law text of 1298].¹⁹

From the medieval period, through the Reformation to the Enlightenment, the enduring deployment of juridical axioms by church lawyers in Europe can be discerned, together with their domestication in English church law.²⁰ While there is continuity in the spirit of axioms, there has also been change: the abandonment of outmoded axioms of classical canon law, and the creation of new ones to meet ever-changing ecclesial needs.²¹

¹⁴ J Coriden, *An Introduction to Canon Law*, page 6: ‘the canons call marriage a covenant rather than a contract, and a parish is described as a community of the faithful rather than a territorial part of a diocese. The effects of these characterisations, over time, are profound’.

¹⁵ For a discussion of the theology of canon law, see R Ombres, ‘Faith, Doctrine and Roman Catholic Canon Law’ (1989) 1(4) *Ecclesiastical Law Journal* 33.

¹⁶ See Matt 16:19; 18:18; 19:28; Luke 22:28–30; 10:16.

¹⁷ See by way of example, the rules relating to the conduct of worship prescribed by St Paul in his first epistle to the Corinthians, ch 11 & 14.

¹⁸ See R Sandberg, ‘F W Mainland: Faithful Dissenter’ in M Hill and R H Helmholz (eds), *Great Christian Jurists in English History* (Cambridge, Cambridge University Press, 2017)

¹⁹ F. Pollock and F.W. Maitland, *The History of English Law before the Time of Edward I* (2nd edn, Cambridge: Cambridge University Press, 1898; reprint Liberty Fund: Indianapolis, 2010), 2 vols, 196.

²⁰ See R H Helmholz, *The Profession of Ecclesiastical Lawyers: An Historical Introduction*. (Cambridge, Cambridge University Press, 2019).

²¹ See N. Doe and S. Pulleyn, ‘The durability of maxims in canon law: from *regulae iuris* to canonical principles’, in Harris, *Studies in Canon Law* (above).

Roman law is the starting point for the medieval development of *regulae iuris*,²² broadly modelled on popular proverbs, formulated through Greek philosophical method.²³ They are generally recognized truths; formulated to express a point concisely; applied and interpreted as rules of law and used to interpret legislation and legal transactions. Initially, canonists understood *regulae iuris* not as maxims but as specific rules of law. Gratian, the great canonist monk of the twelfth century,²⁴ explains that:

“Canon” is Greek for what is called “rule” (*regula*) in Latin [...] It is called a rule because it leads one aright and never takes one astray’.²⁵

Canon law texts produced at the direction of Pope Gregory IX (1227-41),²⁶ and the *Liber Sextus*, compiled for Pope Boniface VIII (1294-1303) all adopted this method.²⁷ They are, variously: ‘moral proverbs’;²⁸ ‘judicial maxims’;²⁹ ‘fundamental laws in the form of axioms’; or ‘general rules or principles serving chiefly for the interpretation of laws’.³⁰ One commentator indicates that for the most part they are simply the articulation of ‘common sense’.³¹

When speaking of medieval canonists, I have consistently referred to them as male. For the sake of gender balance I want to mention Novella, the daughter of Johannes Andreae (c. 1270) the most renowned and successful canonist of the later Middle Ages, who was referred to by contemporaries as *iuris canonici fons et tuba*. He taught canon law at Bologna from 1301 until his death in 1348. He remained a layman, was married, and had children. It is said that when he was unwell, his daughter Novella would deliver his lectures from behind a screen.³² It was thought that her great beauty would be too much of a distraction for those listening.³³

To return to the use of principles in English legal history. Particular use was made of *regulae* in teaching canon law, both to sum up the law and to resolve contradictions.³⁴ Maxims were also used to determine when a narrow or a wide interpretation of law was appropriate; for example: ‘it is

²² For the use by canonists of Roman law sources generally, see R.H. Helmholz, *The Spirit of Classical Canon Law* (Athens and London: University of Georgia Press, 1996) Chapter 1.

²³ R. Pound, ‘The maxims of equity – I: of maxims generally’, 34 *Harvard Law Review* (1921) 809.

²⁴ Gratian was canon lawyer from Bologna who flourished in the mid-12th century. Reputedly born in Tuscany, he is said to have become a monk at Camaldoli and devoted his life to studying canon law, but contemporary scholarship does not attach credibility to these traditions. His work, *Concordia Discordantium Canonum* (Concord of Discordancies of Canons) quoted a great number of authorities, including the Bible, papal and conciliar legislation, church fathers such as Augustine of Hippo, and secular law in his efforts to reconcile seemingly inconsistent canons from earlier centuries. He found a place in Dante's Paradise among the doctors of the Church.

²⁵ Gratian, *Decretum*, Dist. III, Part 1, c. 1 and c. 2.

²⁶ J. Brundage, *Medieval Canon Law* (Longman: London and New York, 1995) 196-7.

²⁷ Brundage, 197-8.

²⁸ P. Stein, *Regulae Iuris: From Juristic Rules to Legal Maxims* (Edinburgh University Press, 1966). 145, e.g. X.5.41 reg. jur. 3: it is better to allow scandal than to abandon truth.

²⁹ R. H. Helmholz, *The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s*, *The Oxford History of the Laws of England*, Volume 1 (Oxford: Oxford University Press, 2004) 154.

³⁰ A. Meehan, ‘*Regulae iuris*’, *The Catholic Encyclopaedia*, Vol. 12 (New York: R. Appleton, 1911).

³¹ G. Evans, *Law and Theology in the Middle Ages* (Routledge: London, 2002), 76.

³² See S Kuttner, ‘Joannes Andreae and his *Novella* on the Decretals of Gregory IX’, *The Jurist*, 24 (1964) 393-408. On the story that Novella lectured in canon law behind a screen, see C. Donahue, ‘Aggadic Stories About Medieval Western Jurists?’, *Diné Israel: Studies in Halakhah and Jewish Law*, 24 (2007) 215* n. 12.

³³ Curiously the organisers of the Sharwood Lecture did not consider it necessary to make similar arrangements when I delivered this lecture either in Melbourne or in Sydney.

³⁴ Pound, op cit., 817.

fitting that odious things be restricted and favourable ones extended'; and: 'in obscure matters, the least severe solution is to be followed'.³⁵

As Roscoe Pound puts it:

[canonical maxims] help to lead the jurist from a body of hard and fast rules, authoritatively imposed, above question and subject only to interpretation, to a conception of principles of reason, discoverable by juristic theory and philosophy, of which particular positive rules were but declaratory'.³⁶

At the time of the Reformation, law students at most major European universities continued to study the Digest *regulae* as part of their formal training.³⁷ The termination of papal jurisdiction and the establishment of the English Church meant neither the demise of canon law nor the abandonment of *regulae iuris* in English ecclesiastical jurisprudence. The celebrated Elizabethan priest and jurist, Richard Hooker (one time Master of the Temple Church in the beating heart of legal London) made frequent use of the terms 'first principles', 'maxims' and 'axioms', many taken from the Sext.³⁸

As the church historian Diarmaid MacCulloch reminded his audience at the Temple Church in London last November delivering the 2018 Lyndwood Lecture, in Victorian England mainstream Anglicans drew on the work of Hooker and

'... revelled in a theologian of the Reformation who was not afraid to cite medieval scholasticism and canon law, no doubt not realising how common this had been in late sixteenth-century England'.³⁹

At the start of the eighteenth century Edmund Gibson published his *Codex Juris Ecclesiastici Anglicani* (1713) which addressed 'the Rules of Common and Canon Law'.⁴⁰ Towards the end of the century, there was Richard Burn and his *Ecclesiastical Law* (1763). Time and again Burn uses a 'rule of law', 'general rule', or 'rule of the canon law'.⁴¹ John Henry Blunt, in *The Book of Church Law* (1873), commonly used a 'recognised principle', a 'general principle',⁴² 'a principle of the common law', or a 'general principle of the canon law', to which he often attributed great antiquity.⁴³ Extensive use was made of principles by Robert Phillimore in his two-volume *Ecclesiastical Law* (1873, second edition 1895).

Whilst the use of axioms is discoverable throughout the history of church law, the terminology for their designation changes over time, as do understandings about their nature and their relationship to the positive law of the church. The *regulae iuris* of medieval canon law, borrowed from classical Roman law, being both descriptive and prescriptive in form, were debated extensively by the

³⁵ Brundage, op cit., 169-170.

³⁶ Pound, op cit., 819.

³⁷ D. van der Merwe, 'Regulae iuris and the axiomisation of the law and in the sixteenth and early seventeenth centuries', *Journal of South African Law* (1987) 286 at 288.

³⁸ See N. Doe, 'Richard Hooker: priest and jurist', in M. Hill and R.H. Helmholz, eds., *Great Christian Jurists in English History* (Cambridge: Cambridge University Press, 2017) 115 at 123.

³⁹ D MacCulloch, 'Richard Hooker: Invention and Reinvention', the text of the 2018 Lyndwood Lecture, Temple Church.

⁴⁰ Codex I, Title page and Preface, viii.

⁴¹ Burn, *Ecclesiastical Law* (2nd edition, 1767).

⁴² J H Blunt, *The Book of Church Law* (1873), 7.

⁴³ Ibid, 358 and 15 respectively.

canonists of the Latin Church. At the Reformation and beyond, into the eighteenth century, ‘maxims’ were used as a vehicle to characterise axioms in the context of the law of the English Church, which embarked on the development and articulation of new axioms to meet the needs of ecclesial life. The concept of ‘maxims’ was displaced by the lawyers of the Church of England in the nineteenth century with that of ‘principles’ of church law, but many are indistinguishable from more detailed legal rules.

What is of significance for our purposes this evening is the fact that these legal maxims and principles survived the schism between Rome and the English Church, as did the methodology which had created and sustained the practice over generations. Thus they form a key component in the applied ecclesiology embodied in church law today, and a dynamic of real substance within the ecumenical movement as I will seek to demonstrate.

Principles of Canon Law Common to Anglican Churches

In 2001, the Primates’ Meeting decided to explore whether there is an unwritten common law (or *ius commune*) shared by the Provinces of the Anglican Communion. A Legal Advisers’ Consultation in 2002 tested and then accepted the hypothesis. The Primates’ Meeting of 2002 discussed a report on the Consultation and concluded:

“The Primates recognized that the unwritten law common to the Churches of the Communion and expressed as shared principles of canon law may be understood to constitute a fifth ‘instrument of unity’”.

Later in 2002 the Anglican Consultative Council (ACC) welcomed the establishment of a Network of Anglican Legal Advisers to produce “a statement of principles of Canon Law common within the Communion” and in October 2003, the Primates’ Meeting urged completion of the work.

A Network Drafting Group met in 2005 and 2006, and after extensive consultation *The Principles of Canon Law Common to the Churches of the Anglican Communion* was launched at the Lambeth Conference in 2008.⁴⁴ In 2009, the ACC expressed its gratitude to the Network for its work, commended the Principles for study in every Province, and invited each of them to submit comments on the document. It requested a report on these initiatives, and encouraged Provinces to use the Network as a resource in dealing with legal issues.⁴⁵

The Legal Advisers’ Consultation, in 2002, had formulated certain conclusions which became fundamental to the Principles Project. They recognised the existence of common or shared principles of canon law. Moreover, many Provinces explicitly appeal to principles in their own laws, as the foundation for more detailed rules, giving the latter shape, coherence, and purpose. Principles of canon law are in the nature of general propositions or maxims, expressing fundamental ecclesial or theological values, and rooted in the inherited canonical tradition.

The existence of the principles can be factually established, induced from the profound factual similarities between the actual laws of each church. Their recognition is a scientific task - the careful comparison of legal texts. Each province contributes through its own legal system to the principles

⁴⁴ For the process and methodology used by the Network, see N. Doe, ‘The common law of the Anglican Communion’, (2003) 7 Ecc LJ 4-16. For the final version of the *Principles*, see the Anglican Communion website:

<https://www.anglicancommunion.org/media/124862/AC-Principles-of-Canon-Law.pdf>

⁴⁵ ACC-14, Resolution 14.20 (5 May 2009).

of canon law common within the Communion. The Anglican *ius commune*, being the collective effect of these similarities between legal systems, is not imposed from above. Whenever a province legislates, it contributes to the store of principles and its particular law may function as a precedent for other provinces. Repeated adoption augments and enriches the original principle.

The Principles have a strong persuasive authority and are fundamental to the self-understanding of the Communion and each component Province. Whilst most principles may derive from similarities between written laws, some are based on unwritten assumptions implicit in written laws. The principles have a living force, and contain in themselves the possibility of further development.

The existence of the principles both demonstrates unity and promotes unity within the Anglican Communion. The project might be perceived by some as a threat to the autonomy of the member churches, or as a stimulus for global divisions. However, the principles are themselves a product of the exercise of the autonomy of churches and of their promotion of communion through their contributions to the statement in which they are articulated. Provincial autonomy is unaffected: Provinces remain free legally to depart from or to add to them. That legal systems converge in shared principles of canon law is a concrete expression of the very character of Anglicanism, its commitment to the values presented in them, and, in so far as each Province contributes to them, they are collectively responsible for shaping and maintaining Anglican identity. The principles may also be a useful resource for Provinces seeking to reform their law. They were invoked in a property dispute by the Supreme Court of British Columbia in the case of *Bentley v Anglican Synod of the Diocese of New Westminster* [2009] BCSC 1608 and have been cited with approval in secular litigation in a number of jurisdictions.

The *Principles of Canon Law* provide that a principle of canon law is a foundational proposition of general applicability, induced from the similarities between the legal systems of each Province, and derived from the canonical tradition and practices of the church. The hundred principles are arranged under eight Parts. Part I, ‘Order in the Church’ deals with the necessity for law, and the sources, subjects, authority, application, and interpretation of law. Part II concerns ‘The Anglican Communion’, its nature, the instruments of communion, provincial autonomy, and mutual respect. Principles of ‘Ecclesiastical Government’ are in Part III addressing representative government, legislative competence, visitations, and courts and tribunals. Part IV concerns ‘Ministry’: the laity, lay ministers and deacons, priests, bishops, and archbishops. Part V covers the sources and development of ‘Doctrine and Liturgy’, public worship, and doctrinal and liturgical discipline. Principles on baptism, confirmation, Holy Communion, marriage, confession and burial are in Part VI, entitled ‘The Rites of the Church’. Part VII, ‘Church Property’ treats ownership and administration, places of worship, records, funds, and stipends and pensions. Part VIII on ‘Ecumenical Relations’ features ecumenical responsibilities, recognition of churches, ecumenical agreements, and admission to Holy Communion.

The principles are derived from various sources. Most are from constitutions and canons, and many from norms in service books (which themselves enjoy canonical authority); the canonical tradition; divine law; or the practice of the church universal. Others are rooted in a theological idea expressed in laws; or derive from guidance issued by ecclesiastical authorities to supplement church law. Whilst the vast majority derive from similarities between the *written* laws of churches, some are based on unwritten assumptions, general propositions implicit in church laws. The juridical values of clarity, conciseness and consistency govern the form of the principles which themselves are cast in a variety of juridical formulae: most are permissions (“may”), many are prescriptive

(“shall”, “must”), some are prohibitions (“shall not); others are exhortations (“should”); and some merely describe (“is”).

The underlying idea is not revolutionary. The Principles are simply a statement or description of facts derived from the convergences of Anglican legal systems. The *ius commune* is not a “top-down” binding global legal system imposed by a central Anglican authority (as we have seen, none is competent to do this) but a “grass-roots” development growing from the exercise by each Province of its own autonomy through its legal system. The Principles show how much Anglicans share, using its canon law as the medium for so doing.

But as we shall see, the Principles also provide an accessible resource for ecumenical partners in developing their own understanding of Anglicanism from a global perspective.⁴⁶ The coherent statement of Principles gives an ecclesiological density to Anglican canon law, hitherto lacking in the disparate particular laws of each component Province. As such, the emergent *ius commune* enhances rather than undermines traditional Anglican ecclesiology. The existence of the Principles was one of the factors that contributed to the success of the Colloquium of Anglican and Roman Catholic Canon Lawyers, established in Rome in 1999, as an initiative of the Pontifical University of St Thomas Aquinas and the Centre for Law and Religion at Cardiff Law School to explore ways in which the respective laws of each communion either facilitate or inhibit unity.⁴⁷

Anglican/Roman Catholic Dialogue

The methodology of the Colloquium has been to pair canonists from Anglican and Roman Catholic both traditions to write parallel papers on a given topic, which are circulated before the meeting to form the basis of extended discussion and debate. From this, convergences of law have been identified, differences noted, and sets of shared principles developed. The product of the work of the Colloquium has been a series of themes books, dealing with particular topics. This fed into the work of International Anglican-Roman Catholic Commission for Unity and Mission (IARCCUM).⁴⁸

In addition, there is now express reference to the Principles Project in the most recent statement from ARCIC, the Anglican Roman Catholic International Commission, *Walking Together on the Way: Learning to be the Church – Local, Regional and Universal* (2018). It has been heralded as a ground-breaking document, openly declaring how the Anglican and Roman Catholic Churches can learn from each other and be enriched by the process. What marks this document out as unique is that it goes beyond the doctrinal and embraces structural and institutional matters as well. This is where the *Principles of Anglican Canon Law* feature, as ARCIC expressly commends “the further

⁴⁶ See N. Sagovsky, ‘The contribution of canon law to Anglican-Roman Catholic ecumenism’ (2001) 13 *Ecc LJ* 4-14.

⁴⁷ See M Hill, ‘A Decade of Ecumenical Dialogue on Canon Law: A Report on the Proceedings of the Colloquium of Anglican and Roman Catholic Canon Lawyers 1999–2009’ (2009) 11 *Ecc LJ* 284-238. The Colloquium has now completed its second decade and meets again in at the Venerable English College in Rome in April 2019 to consider Liturgy and Law.

⁴⁸ In 2000, the Archbishop of Canterbury and the then President of the Pontifical Council for Promoting Christian Unity, convoked a conference of Anglican and Roman Catholic bishops at Mississauga in Canada to discern the progress made in theological conversations, and whether closer co-operation could be developed between the two traditions. The result was IARRCUM which has been meeting since 2001. In February 2007, it published the first fruit of its work, the Report *Growing Together in Unity and Mission*, accompanied by two commentaries. Gregory Cameron (now Bishop of St Asaph), a member of the Colloquium and secretary to IARRCUM, acted as a conduit for engagement.

development of canons, or commonly accepted canonical principles”.⁴⁹ The statement even suggests that Anglicans throughout the Communion could formally receive the Principles.

I suspect one reason for the lack of reception thus far was that the genesis of the Principles Project coincided with work on the Anglican Covenant, a venture which ultimately did not proceed. It was the misfortune of the Principles Project to be born in the shadow of the draft Covenant. But the Principles have shown a value and durability in their own right, which has been recognised by insiders and outsiders alike. The Ecclesiastical Law Society is to co-ordinate a revisiting of the Principles in readiness for the Lambeth Conference of 2020, under the direction of Canon John Rees.

The former Anglican Co-Chair of ARCIC, Archbishop Sir David Moxon attended several of our Colloquia in Rome⁵⁰ and along with successive British Ambassadors to the Holy See provided support and hospitality with the Principles Project. I return to Rome in April for the Colloquium’s next working session at which a new generation of younger canonists will meet to grasp the baton and take forward this valuable work. Sir David’s successor as Anglican Co-Chair of ARCIC, is the Right Reverend Philip Freier, Archbishop of Melbourne and Primate of Australia. My fervent hope is that the significance of the Principles is not lost as the work of ARCIC III proceeds.⁵¹

Comparative Canon Law in the Ecumenical Endeavour

But it is not merely in bi-lateral discussions between Anglicans and Roman Catholics that common principles have had a part to play. If the methodology of comparative analysis can produce *Principles of Canon Law Common to the Churches of the Anglican Communion*, why can’t the same scientific method discern similarities in the law, order and polity of all Christian denominations sufficient to produce a synthesis of Common Principles of Christian Law? Well, it can and it has. And we are already beginning to witness its impact in the wider ecumenical endeavour.⁵²

The historic focus of ecumenism has traditionally been theology not law. In the 1970s the World Council of Churches’ Faith and Order Commission planned to examine church law in order to expose the differences between the Christian traditions. This exercise, however, was not pursued. The reason apparently related to finance and resources.⁵³ But principles of Christian law have begun to make their mark. Whilst dogmas may divide the faithful amongst the global church families, the similarities between the laws of different churches link Christians in common norms of conduct which in turn stimulate shared forms of action regardless of denominational affiliation.

This was first suggested by Norman Doe in his book, *Christian Law*,⁵⁴ so in 2013 I convened a panel of experts in Rome to test Doe’s hypothesis. The panel consisted of jurists and theologians from seven global ecclesiastical traditions. The panel concluded that:

- (1) there are principles of church law and church order common to the Catholic, Orthodox, Anglican, Lutheran, Methodist, Reformed, Presbyterian and Baptist traditions and that their existence can be factually established by empirical observation and comparison;

⁴⁹ Para 145, recommendation VI.C

⁵⁰ He was also a supportive contributor to the Panel of Experts in Christian Law, to which I will turn shortly.

⁵¹ I met with the Primate of Australia on the eve of delivering this lecture in Melbourne and had a lively and positive discussion about the significance in the continuing ARCIC discussions of the *Principles of Canon Law Common to the Churches of the Anglican Communion*.

⁵² M. Hill and N. Doe, ‘Principles of Christian Law’ (2017) 19 Ecc LJ 138-155.

⁵³ See note by Leo Koffeman.

⁵⁴ N. Doe, *Christian Law: Contemporary Principles* (Cambridge, 2013).

- (2) the churches of each Christian tradition contribute through their own regulatory instruments to this store of principles;
- (3) these principles have a strong theological content and are fundamental to the self-understanding of Christianity;
- (4) these principles have a living force and contain within themselves the possibility of further development and articulation; and
- (5) these principles demonstrate a degree of unity between the churches, stimulate common Christian actions, and should be fed into the global ecumenical enterprise to enhance fuller visible unity.

The panel continued to meet and in 2015 responded to the World Council of Churches' document *The Church: Towards a Common Vision* (2013) from an overtly juridical perspective. The panel's response identified church law as a missing link in ecumenism, and proposed articulating common principles of Christian law as a means of promoting greater visible unity among Christians. In 2016 the Panel agreed a *Statement of Principles of Christian Law*. The Statement has ten sections: churches and their systems of law, order and polity; the faithful; ordained ministry; church governance; church discipline; doctrine and worship; the rites of the church; ecumenism; church property; and church and state relations. It contains around 230 principles.⁵⁵

The Panel of Experts duly submitted its Statement to the WCC's Faith and Order Commission. In 2017, a meeting was arranged with the Panel in Geneva, at which the Commission Director, Professor Odair Mateus, explained how the Statement of Principles of Christian Law has changed the historic WCC practice of focussing solely on theology or doctrine to focus also on law as a potential unifying force in global ecumenism, being 'an element of the true church'. Dr Ani Drissi, Commission Secretary, added that the Panel's work was seen in the Commission as 'unique', 'profound', a 'valuable approach', and 'alternative path'. The Director established an informal partnership with the Panel of Experts for ongoing collaboration. Two Commission members have since joined the Panel, including the Moderator of the Faith and Order Commission. Various initiatives for the discussion of the Christian Law principles have been arranged on a national and regional basis.

Baroness Hale, President of the United Kingdom's Supreme Court and Britain's most senior judge has recently stated that she understands the Christian law project 'to challenge the assumptions of difference which have stood in the way of greater co-operation between the Christian churches'.⁵⁶ The *Statement of Principles of Christian Law*, she continues:

'can help the churches better to understand how much they have in common; if it can also encourage them to understand that this could be more important than the doctrinal and confessional differences which divide them, then a great deal will have been achieved'.⁵⁷

Conclusion

Our journey this evening began with medieval canonists using juridic maxims. This practice survived the Reformation, and the adoption of principles of law was exemplified in English ecclesiastical law from the time of the Enlightenment. It has been revived in modern ventures such as the work of the Colloquium of Anglican and Roman Catholic Canon Lawyers, engaging the

⁵⁵ The full text of the *Statement of Principles of Christian Law* appears as an appendix below.

⁵⁶ Brenda Hale (Baroness Hale of Richmond) writing in Cranmer, Hill, Kenny & Sandberg (eds), *The Confluence of Law and Religion* (Cambridge University Press, 2016), page 230

⁵⁷ Brenda Hale (Baroness Hale of Richmond), 'Secular Judges and Christian Law (2015) 17 Ecc LJ 170 at 178.

Principles of Anglican Canon Law. And yet more recently we see the use of a Statement of Principles of Christian Law produced from the Panel of Experts giving fresh impetus to initiatives in ecumenism.

When compared, there are profound similarities between the basic elements of the normative legal regimes of Christian churches. From these similarities may be induced common principles of Christian Law. The articulation of these *Principles of Christian Law* is of particular interest to the World Council of Churches, and is an apt way to mark the five-hundredth anniversary of the Reformation. The *Principles of Canon Law Common to the Churches of the Anglican Communion* provide a new and coherent ecclesiological density to the Communion enabling richer, deeper and more meaningful dialogue with other Christian Churches. The theological character of canon law (and opportunities for theological reflection upon it), its susceptibility to comparative study, and its capacity to point up in the form of principles what separated churches actually share normatively, call for a renewed appraisal of its place in ecumenical dialogue.

Regulatory systems of churches shape and are shaped by ecclesiology. Norms of the faithful, whatever their various denominational affiliations, link Christians through their stimulation of common forms of action. As laws converge, so actions converge. Comparing church law systems enables the articulation of principles of law common to all Christian churches. It enables the reconciliation of juridical difference in the form of underlying principles of law. It provides a stable ecumenical methodology through its focus on discoverable textual data, defining the degree of communion achieved thus far, as well as providing opportunities for and limits on future progress.

The study of church law brings a new vibrancy to ecclesiological and ecumenical scholarship. It is a rich seam and one which can be profitably mined in the years ahead. Church law is a profound expression of institutional self-understanding, freighted with theological substance and meaning. Comparative church law allows a deeper appreciation of structural identity. It has the potential to extend the ambit meaningful conversation amongst ecumenists: a new tool and a fresh vocabulary.

So let me be bold - very bold - and issue a call to arms. Seeking the full, visible, sacramental unity of Christ's divided church is too important a task to be left to mere theologians. Church lawyers the world over need actively to promote the *Statement of Principles of Christian Law* as a means of securing a fuller understanding of the ecclesiology of their own churches thereby facilitating re-engagement with ecumenism. The study of canon law plays a vanishingly small part in clerical formation. It is our task to correct this and to take practical steps properly to equip our clergy for ministry in today's church. That is the challenge we face: a fitting and enduring tribute to the life and witness of Robin Sharwood in whose memory, and through whose generosity, this annual Lecture in Church Law was conceived.

© Professor Mark Hill QC, February 2019
Cardiff-London-Vientiane-Bali-Perth-Murray Bridge

APPENDIX

A STATEMENT OF PRINCIPLES OF CHRISTIAN LAW

Christian Law Panel of Experts, Rome 2016

These principles of law are derived from a comparative study of the regulatory instruments of churches of the members of the Panel of Experts from eight traditions worldwide, namely: Roman Catholic, Orthodox, Anglican, Lutheran, Methodist, Reformed, Presbyterian, and Baptist. The Panel of Experts found that: (1) there are principles of church law and church order common to these churches and their existence can be factually established by empirical observation and comparison; (2) the churches of each Christian tradition contribute through their own regulatory instruments to this store of principles; (3) the principles have a strong theological content and are fundamental to the self-understanding of Christianity; (4) these principles have a living force and contain within themselves the possibility of further development and articulation; and (5) these principles demonstrate a degree of unity between the churches, stimulate common Christian actions, and should be fed into the ecumenical enterprise to enhance fuller visible unity.

A principle of law common to the churches of the Christian traditions studied here is a foundational proposition or maxim of general applicability which has substance, is induced from the similarities of the regulatory systems of churches, derives from their juridical tradition or the practices of the church universal, expresses a basic theological truth or ethical value, and is implicit in, or underlies, the juridical systems of the churches.

Each of the Sections that follow, which articulates principles of law with regard to a range of areas of ecclesial life, opens with a short narrative. This narrative sets out a number of facts based on church regulatory systems which the Panel considers relevant to the area of ecclesial life treated, but which may not in the Panel's opinion represent principles of law.

SECTION I: CHURCHES AND THEIR SYSTEMS OF LAW, ORDER AND POLITY

The word 'law' encompasses a variety of regulatory instruments and other norms including constitutions, canons, covenants, books of church order, and other polity documents.

1. The Institutional Church

1. A church as an institution may define itself by its autonomy, polity and objects.
2. A church is a community which may be international, national, regional, or local.
3. A church has a distinct membership, or other body of persons associated with it, which may be organised in territorial or non-territorial units such as provinces, districts, or congregations.
4. A church is autonomous in its system of governance or polity.
5. A church has amongst its objects the advancement of the mission of Christ which includes proclaiming the Gospel, administering the sacraments, and serving the wider community.
6. Communion amongst the faithful is an essential quality of ecclesial life.

2. The Forms of Ecclesial Regulation

1. Laws are found in a variety of formal sources including codes of canon law, charters and statutes, constitutions and bylaws, and books of church order.
2. Customs may have juridical force to the extent permitted by the law of a church.
3. Ecclesiastical quasi-legislation, which includes guidelines and codes of practice, is designed to complement formal law and consists of rules that are nevertheless prescriptive in form and generate the expectation of compliance.

3. The Servant Law

1. Church law and church order exist to serve a church in its mission and in its witness to the salvific work of Christ.
2. Laws contribute to constituting the institutional organisation of a church and facilitate and order its activities.
3. Theology may shape law and law may realise certain theological propositions in norms of conduct and behaviour.
4. Church laws should conform to the law of God, as revealed in Holy Scripture and by the Holy Spirit.

4. The Structure, Effect and Relaxation of Norms

1. Church laws principally deal with ministry, government, doctrine, worship, rites, admonition and discipline, and property.
2. Church laws consist of various juridical formulae, such as precepts, prohibitions and permissions, and may be cast as principles and rules, rights and duties, functions and powers.
3. Laws may be binding or exhortatory.
4. All members of a church are subject to its laws as are its component institutions, to the extent that the law provides.
5. Later laws may abrogate earlier laws.
6. Laws are prospective and should not be retrospective in effect unless this is clearly provided for in the laws themselves.
7. Laws should be clear, stable, and coherent.
9. A church may have in place a mechanism for the enforcement and vindication of the rights and duties of the faithful.
10. A law may be relaxed, by competent ecclesial authority, by means of dispensation, economy or other form of equity for the spiritual good of the individual and the common good of the ecclesial community.

5. The Interpretation of Law

1. Laws should be interpreted by reference to their text, context, and precedent.
2. A church has authority to interpret its own law.
3. For the interpretation of law, recourse may be had to the purposes of the law, the mind of the legislator, and the faith and practice of the church.

SECTION II: THE FAITHFUL

Some churches expressly use in their regulatory instruments the category 'member', others do not. However, each church has an identifiable group of the faithful associated with it. For the purposes of this section, the word membership denotes both juridical categories.

1. The People of God

1. The Christian faithful constitute the people of God.
2. All the faithful should be equal in dignity.
3. Baptism generates duties and rights for the faithful.

4. The faithful includes lay and ordained people.

2. Church Membership and Other Forms of Belonging

1. A church is made up of those incorporated into it in accordance with its proper laws and customs.

2. A church should serve, in appropriate ways, all who seek its ministry regardless of membership.

3. Membership in a church, for the purposes of participation in its government, may be based on any of all of: baptism; baptism and confirmation or other mature demonstration of faith; and such other conditions as may be prescribed by law.

4. The names of persons belonging to a church may be entered on one or more rolls or other registers of membership subject to such conditions as may be prescribed by law.

5. Names may be removed from such rolls and registers in accordance with the law.

3. The Functions of the Laity

1. The law of a church should generally set out the basic rights and duties of all its members.

2. The laity should promote the mission of the church, and bear witness to the Christian faith through their lives in the world.

3. A lay person should engage in the collective ecclesial life, in proclaiming the Word of God, participating in worship, and receiving the sacraments.

4. Lay persons should maintain such Christian standards in their private lives as are prescribed by law.

5. Lay persons are encouraged to practise daily devotion, private prayer, Bible reading, and self-discipline, bringing the teaching and example of Christ into every-day life, upholding Christian values, and being of service to the church and wider community.

4. Public Ministry Exercised by Lay Persons

1. Public ministry, a gift of God, is the fulfilment of a function assigned formally in a church to an office or other position exercised under authority on behalf of that church in the service of its mission and witness to the Gospel.

2. The law should enable the laity to exercise public ministry in those offices and other positions lawfully open to them.

3. Lay persons may be admitted to such offices and positions provided they are suitable, qualified, selected and admitted by competent ecclesial authority for such term as is prescribed by law.

4. Lay ministers and officers exercise such public and representative ministry within and on behalf of a church and perform such functions as may be prescribed and permitted by its law.

6. The authority to discipline, dismiss or reappoint a lay minister or officer depends on, and its exercise must comply with, the law of the church.

SECTION III: ORDAINED MINISTRY

The churches set apart persons for ministry in a special rite, for most called ordination.

The following principles apply to ordained ministry and also address ecclesiastical offices which, depending on the church concerned, may be held by either ordained or lay persons.

1. Ordination

1. Ordained ministry is divine in origin and persons are set apart for it.
2. A church may distinguish between different types of ordained minister.
3. Candidates for ordination must be called by God and by the church to ordained ministry.
4. Vocation to and suitability for ordained ministry are tested by the church through a process of selection, examination and training by competent authority.
5. Persons are generally admitted to ordained ministry through ordination.
6. Ordination is administered by competent authority by means of the laying-on of hands and invocation of the Holy Spirit.

2. Ecclesiastical Offices

1. An ecclesiastical office is a position constituted by law.
2. An ecclesiastical office exists independently of the person who occupies it.
3. An ecclesiastical office enables the discharge of functions of the particular ministry attaching to it.
4. An ecclesiastical office may be held by a person or persons with such qualifications as are prescribed by law.
5. An ecclesiastical office is filled by a variety of means, often by appointment or election.
6. The jurisdiction or other authority which attaches to an office is determined by or under the law.
7. Authority attaching to an office may be delegated to the extent provided by law.
8. The authority to exercise ecclesiastical office ceases upon lawful dissolution of the office, expiration of the stated term of office, attainment of the prescribed age limit, or the death, resignation, transfer, retirement or removal of the office holder.

3. The Functions of Ordained Ministers

1. Ordained ministers must be duly authorised by their church to exercise ministry.
2. Ministers are to preach the Word of God, teach the faith, administer the sacraments, and provide pastoral care.
3. Ministers should fashion their ministry after the example of Jesus Christ.
4. Ministers must lead their private lives in a manner which befits their sacred calling.
5. Ministers may engage in such other occupations, including offices held beyond the local church, as are not forbidden by church law or competent authority.
6. Ministers are accountable for the exercise of their ministry to the competent authority in the manner prescribed by law.

4. The Exercise of Oversight

1. Oversight is an essential of ecclesial order.
2. Oversight is exercised by such authority as is designated by law.
3. A church may have a system of international oversight or leadership.

4. A minister has such international functions of oversight or leadership as are permitted by law.
5. International church offices include those of pope, patriarch, primate, president, moderator, or general secretary.
6. Those who exercise international oversight or leadership are appointed or elected to that office by competent ecclesial authority.
7. A church may assign to such an office a coercive jurisdiction or a moral or persuasive authority.

SECTION IV: CHURCH GOVERNANCE

All the churches have institutions for their governance. Their functions may be legislative, administrative (or executive), or judicial. These institutions may exist at a variety of levels – local, regional, national or international - depending on the polity of the church in question.

1. Systems of Church Polity

1. Christ is the ultimate head of the Church universal in all its manifestations.
2. A system of government used by a church reflects its conception of divine law.
3. A church should have institutions to legislate, administer and adjudicate for its own governance.
4. An ecclesial institution has such power, authority or jurisdiction as is assigned to it by law.
5. An ecclesial institution must comply with the law and may be subject in the exercise of its functions to such substantive and procedural limitations as may be prescribed by law.
6. Ecclesial institutions may be organised at international, national, regional, and/or local level.

2. International Ecclesial Communities

1. An ecclesial tradition may have an international organisation in the form of a church, communion, federation, conference, alliance, or other global association.
2. An international ecclesial community has such institutional structure as may be constituted by or assigned to it under its doctrine and law.
3. An international ecclesial institution is composed of such persons on such terms of tenure as are assigned to it in accordance with its own juridical instruments.

3. National Church Structures

1. An ecclesial tradition may have a national organisation.
2. A church or other ecclesial community organised at national level may have such institutional structure as is prescribed by the regulatory instruments applicable to it.
3. The autonomy and functions of a national ecclesial entity, and its conference, synod, council, or other form of central assembly, may include the authority to legislate, administer and adjudicate on matters within its competence.
4. A national ecclesial assembly or other such institution is composed of such members of the faithful as are elected or otherwise appointed to it in accordance with law.

4. Regional Church Structures

1. National ecclesial entities may have regional structures.

2. Regional ecclesial organisations may be in the form of a diocese, eparchy, synod, district, classis, presbytery, association or other regional unit.
3. A regional ecclesial unit may have such institutions, in the form of a synod, council, classis, presbytery, or other assembly, as are prescribed by the law applicable to it.
4. A regional institution exercises such authority and functions as are conferred on it by the ecclesial community to which it belongs or the constituent churches associated with it.
5. A regional ecclesial assembly or other such institution is composed of such members of the faithful as are elected or otherwise appointed to it by those competent to do so under the law.

5. The Local Church

1. Regional ecclesial units may be divided into or constituted by local churches or congregations existing at the most localised level of church life.
2. A church organised locally may be in the form of a parish, circuit, congregation or other ecclesial unit.
3. A local church, its assembly and other institutions, such as a council, meeting, session or other body, has such authority and functions as are lawfully inherent to it or conferred upon it by the institutions of the wider ecclesial entity to which it belongs.
4. The assembly of a local church is composed of those members of the faithful who are lawfully elected or otherwise appointed to it.
5. All ecclesial units at each level are interdependent.

SECTION V: CHURCH DISCIPLINE

All the churches have a system of discipline, the administration of which is regulated by norms which deal with the purpose and scope of discipline and processes to enforce it.

1. Ecclesial Discipline

1. A church as an institution has the right to enforce discipline and to resolve conflicts amongst the faithful.
2. The right to exercise discipline has a variety of foundations including divine and spiritual authority.
3. A church may exercise discipline in relation to both lay and ordained persons to the extent provided by law.
4. The purpose of discipline is to glorify God, to protect the integrity and mission of the church, to safeguard the vulnerable from harm, and to promote the spiritual benefit of its members.
5. Discipline is exercised by competent authority in accordance with law.

2. Informal Dispute Resolution

1. Ecclesiastical disputes may be settled by a variety of formal and informal means including administrative process.
2. The competent authority may settle the matter in a process short of formal judicial process in the manner and to the extent provided by law.
3. Anyone with a sufficient interest in the matter may challenge a decision by recourse to the relevant and competent authority.
4. Visitation is exercised pastorally by a regional or other competent authority in relation to the local church or other such entity in the manner and to the extent provided by law.

5. The aim of visitation is to monitor, affirm and improve the life and discipline of the entity visited.

3. Church Courts and Tribunals

1. A church may have a system of courts, tribunals or other such bodies to provide for the enforcement of discipline and the formal and judicial resolution of ecclesiastical disputes.

2. Church courts, tribunals or other such bodies may exist at international, national, regional and/or local level to the extent permitted by the relevant law.

3. The establishment, composition and jurisdiction of judicial bodies are determined by the law applicable to them.

4. Church courts, tribunals and other such bodies are established by competent authority, administered by qualified personnel, and may be tiered in terms of their original and appellate jurisdiction.

5. Church courts, tribunals and other bodies exercise such authority over the laity and ordained ministers as is conferred upon them by law.

4. Due Process

1. Every effort must be made by the faithful to settle their disputes amicably, lawfully, justly, and equitably, without recourse in the first instance to church courts and tribunals.

2. Formal process is mandatory if church law or civil law require it.

3. Judicial process may be composed of informal resolution, investigation, a hearing, and/or such other elements as may be prescribed by law including an appeal.

4. Christians must be judged in the church according to law applied with equity, and disciplinary procedures must secure fair, impartial and due process.

5. The parties, particularly the accused, have the right to notice, to be heard, to question evidence, to an unbiased hearing, and where appropriate to an appeal.

5. Ecclesiastical Offences and Sanctions

1. A church may institute a system of ecclesiastical offences.

2. Ecclesiastical offences and defences to them are to be clearly defined in writing and a court, tribunal or other body acting in a judicial capacity must give reasons for its finding of breach of church discipline.

3. A church has a right to impose spiritual and other lawful censures, penalties and sanctions upon the faithful provided a breach of ecclesiastical discipline has been established.

4. Sanctions should be lawful and just. They may include admonition, rebuke, removal from office and excommunication. They may be applied to the laity, clergy and office-holders to the extent provided by law. Their effect is withdrawal from some of the benefits of ecclesial life. Sanctions are remedial or medicinal.

5. A church may enable the removal of sanctions.

SECTION VI: DOCTRINE AND WORSHIP

Each church teaches as its doctrine on matters of faith and practice. The doctrine of a church is rooted in the revelation of God as recorded in Holy Scripture, summed up in the historical Creeds, conveyed in tradition, and expounded in instruments, texts and pronouncements issued by persons and institutions with lawful authority to teach.

1. The Definition of Doctrine

1. The doctrinal instruments of churches may have elements which themselves may generate norms of conduct.
2. The doctrines of a church may be interpreted and developed afresh to the extent and in the manner prescribed by law.

2. Proclamation of the Faith

1. The proclamation of the Word of God is a fundamental action of the church and a divine imperative incumbent on all the faithful.
2. A church has the right and the duty to instruct the faithful and proclaim the Gospel.
3. Preaching is inherent to ordained ministry.
4. Authorised persons may deliver sermons or other forms of preaching for the glory of God, the edification of the people, and the exposition of church doctrine.
5. Biblical texts must be treated respectfully and coherently building on tradition and scholarship so that scriptural revelation may continue to illuminate, challenge and transform thinking and doing.

3. Doctrinal Discipline

1. A church has a right to enforce its own doctrinal standards and discipline.
2. The faithful should be taught and encouraged to believe church doctrine.
3. Ordination candidates and others may be required to subscribe, assent or otherwise affirm their belief in or loyalty to the doctrine of their church.
4. The faithful should respect, honour and uphold the doctrine of their church.
5. Any person who offends church doctrine may be subject to disciplinary process.
6. A church has the right to determine the limits of permissible theological opinion, and to interpret its own doctrine and doctrinal standards.

4. The Nature and Forms of Worship

1. The worship of God is a fundamental obligation of a church.
2. Worship enables an intimate encounter between a church corporately and the faithful individually with the presence of God.
3. Each church and those bodies within it which are competent to do so may develop liturgical texts or other forms of service for the public worship of God provided these are consistent with the Word of God and church doctrine.
4. The use of a particular form of service must be authorised.
5. Forms of service may be found in a book of rites or liturgy, a book of common prayer, a directory of worship or other instrument.
6. Service books may include rubrics or other directions to facilitate worship.

5. The Administration of Public Worship

1. A church must provide for public worship.
2. Ordained ministers are particularly responsible for the conduct of public worship in accordance with the authorised forms of service.

3. Regular attendance at divine worship, particularly on the Lord's Day, is an expectation on the faithful.
4. The administration of worship in the local church is subject to supervision by those authorities designated by law to provide this.

SECTION VII: THE RITES OF THE CHURCH

All the churches have rites of passage which mark the stages in the spiritual life of the Christian. Certain churches call some rites sacraments and others call them ordinances.

1. Baptism

1. Baptism is divinely instituted.
2. A church may call baptism a sacrament or an ordinance.
3. Baptism constitutes incorporation of a person into the Church of Christ.
4. Baptism is validly administered with water in the name of the triune God.
5. Baptism should be administered ordinarily in public in the presence of the faithful by an ordained minister but extraordinarily in cases of necessity by a lay person.
6. Baptism in a church may be of infants or adults to the extent prescribed by its law.
7. A church may impose conditions for admission to baptism.
8. A church should nurture the baptised person in the faith.
9. Baptism should be susceptible to proof.
10. Baptism cannot be repeated.

2. Confirmation and Profession

1. A church may make provision for a further rite accompanying or following baptism which may be styled confirmation or profession of faith.
2. Candidates may undergo preparation and instruction prior to the administration of this further rite which should be administered in accordance with the practice of the church.

3. The Eucharist, Holy Communion or Lord's Supper

1. The Eucharist, Holy Communion or Lord's Supper is instituted by Christ.
2. The Eucharist and receiving of Holy Communion are central to ecclesial life.
3. The faithful should participate in the Eucharist regularly.
4. The faithful should receive Holy Communion regularly.
5. The Eucharist is presided over by such persons as are lawfully authorised.
6. The Eucharist should be celebrated in an authorised place.
7. A church should provide for the reception of Holy Communion by the sick.
8. The elements for the celebration of Holy Communion are bread and wine.

9. A church is entitled to make provision with regard to admission to the Eucharist.

4. Marriage

1. The foundation of marriage is a lifelong union between one man and one woman.
2. Marriage is instituted by God.
3. Marriage is for the well-being of the spouses.
4. To be married validly in the eyes of the church, the parties must satisfy the conditions prescribed by church law and should be instructed in the nature and obligations of marriage.
5. Marriage is celebrated in the presence of an authorised person.
6. Marriage should be registered.
7. A marriage is ended by the death of one of the spouses and may be dissolved when so determined by competent authority.

5. Confession

1. A church may practise private confession and absolution in the presence of an ordained minister to the extent that this is permitted by the law of that church.
2. The seal of the confessional is inviolable, save as may be provided by the law of a church.
3. A duty of confidentiality attaches to the exercise of ministry to the extent provided by law.

6. Funerals

1. The faithful who have died should be given a church funeral according to the norms of law.
2. Disposal of human remains may be either by burial or by cremation accompanied by the administration of any service authorised for lawful use in a church.

SECTION VIII: ECUMENISM

Ecclesial communion between two or more churches of different traditions exists when a relationship is established in which each church believes the other to hold the essential marks of the Church universal. Full communion involves the mutual recognition of unity in faith, sacramental sharing, the mutual recognition and inter-changeability of ministries, and the reciprocal enjoyment of shared spiritual and pastoral resources. Partial communion is an ecclesial relationship in which at least one but not all the elements of full communion is present. The extent and terms of ecclesial communion or other relationship between churches of two or more different traditions may be set out in a constitutional union, concordat, covenant or other instrument agreed between the participant churches. The establishment of ecumenical agreements is an exercise of autonomy by a church in the form of collaborative ecumenical norm-making which may be prescriptive or aspirational.

1. The Church Universal

1. There is one, holy, catholic and apostolic Church.
2. Christ bestows unity on the Church, the Body of Christ.
3. A church has such relationship to the Church universal as is prescribed in its doctrine and law.

4. The unity of the Church universal is impaired but not destroyed by the denominational division of churches.

2. The Nature of Ecumenism and the Ecumenical Obligation

1. Each church should promote visible unity amongst the separated churches.
2. Each church should promote the ecumenical movement through active dialogue and cooperation.
3. The purpose of ecumenism is greater ecclesial communion.
4. Ecumenical activity must be in accordance with the law of the ecumenical partners involved so that the discipline of each is respected.
5. The law of a church should protect the marks of the Church universal and define what ecclesial communion and reciprocity is possible.

3. Institutional Structures for Ecumenism

1. The regulation and authorisation of ecumenical activity are in the keeping of the competent authority of a church.
2. The competent authority of a church may be assisted by commissions and other advisory bodies in the ecumenical enterprise.
3. A church should provide for the ecumenical formation of the faithful.

4. Ecclesial, Ministerial and Sacramental Communion

1. An agreement to establish ecclesial communion between two or more churches does not of itself affect the legal relationship between them and other churches not party to it.
2. The validity of an act performed in a church is determined by that church and recognition of such validity by another church is a matter for that other church.
3. Norms about ecumenism concerning the administration of the sacraments, mixed marriages and sharing property are supplementary to general rules which confine such facilities to the enjoyment of the faithful within the ecclesial tradition which created those norms.

5. Structural Communion

1. A church is free to determine whether to participate in existing international, national, regional, or local ecumenical arrangements.
2. A church may incorporate in its own law the terms of an ecumenical agreement.
3. Ecumenical agreements may be varied only with the agreement of the participant churches.

SECTION IX: CHURCH PROPERTY

The juridical instruments of the churches all contain elaborate rules which apply to church property and finance, including the use and maintenance of church buildings and the offerings of the Christian faithful. The idea of Christian stewardship is fundamental.

1. The Ownership of Property

1. A church has the right to acquire, administer, and dispose of property.
2. A church and/or institutions or bodies within it may seek legal personality under civil law to enable ownership of property.

3. A church may have rules about the acquisition, ownership, administration, sale or other form of disposal of church property.
4. A church may have in place provision for its own dissolution or that of institutions or bodies within it and for the distribution of property on dissolution.
5. Property which vests in institutions is held on trust for the benefit of the church and its work and such institutions are required to exercise proper stewardship of that property.

2. Sacred Places and Objects

1. A church may dedicate or otherwise set aside a building or other space, prescribed objects, and other forms of property, to worship and other sacred purposes.
2. A place of worship, or other space, or sacred object, must be used in a manner which is consistent with its dedication.
3. Responsibility for the use, care, and maintenance of sacred places and objects, vests in a designated person or body.
4. Oversight of the administration of church property vests in competent ecclesiastical authority and a periodic appraisal of its condition may be the object of a lawful visitation.

3. The Control of Finance

1. A church has the right to make rules for the administration and control of its finances.
2. The civil law applicable to financial accountability must be complied with.
3. A church must ensure sound financial management including the framing and approval by competent authority of an annual budget.
4. A church should provide, with regard to each entity within it, for the keeping of accounts for approval by a competent authority.
5. A church must ensure that financial accounts are audited annually by qualified persons in order to promote proper stewardship in the church.

4. Lawful Income

1. A church has a right to receive funds.
2. The faithful must contribute financially, according to their means, to the church's work.
3. The officers of a church should encourage the faithful in the matter of offerings and collect and distribute these as prescribed.
4. The local church and other entities may be required by competent authority to make a financial contribution to meet the wider institutional costs and needs of the church.
5. A church which invests money should do so prudently and in ventures which are consistent with the ethical standards of the church.

5. Ecclesiastical Expenditure

1. A church should require the designated institutions or bodies within it to insure church property against loss.

2. A church should support and sustain those engaged in ministry according to their need and circumstance.
3. A church should make suitable provision for ordained ministers who are in ill-health and for those who retire.

SECTION X: CHURCH AND STATE RELATIONS

The churches have a wide variety of legal experiences in terms of their relationship to or institutional separation from the States in whose territorial boundaries they function.

1. Church-State Relations

1. A church should cooperate with the State in matters of common concern, but each is independent in its own sphere.
2. The faithful may participate in politics save to the extent prohibited by church law.
3. Cooperation between a church and the State may be exercised on the basis of:
 - (1) The establishment of, or other formal relationship between, a church and the State;
 - (2) An agreement or civil legislation negotiated freely with the State;
 - (3) The juridical personality which a church or institutions within it may enjoy under civil law;
 - (4) The registration of a church in accordance with the provisions of any applicable State law;
 - (5) The fundamental institutional autonomy of a church in carrying out its lawful objects and its freedom in these areas from intervention by the State.

2. Human Rights and Religious Freedom

1. All humans, having been created in the image of God, share an equality of dignity and fundamental human rights.
2. A church should protect and defend human rights in society for all people.

3. Social Responsibility

1. A church should promote social justice.
2. The faithful should promote social justice and charitable work as regulated by their church.

4. Public Institutions

1. A church may promote the teaching of Christianity in State schools.
2. Christian teaching provided in State schools by church entities and persons is a matter of cooperation between the relevant and competent church and civil authorities.
3. A church should avail itself of the opportunities under civil law for the provision of spiritual care in public institutions which include hospitals, homes, prisons, and the armed forces.
4. A church may seek financial assistance from the State in the provision of spiritual care in public institutions.