
The Ecumenical Value of Comparative Church Law: Towards the Category of Christian Law

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This study explores juridical aspects of the ecclesiology presented in the World Council of Churches' Faith and Order Commission Paper, The Church: Towards a Common Vision (2013). It does so in the context of systems of church law, order and polity in eight church families worldwide: Roman Catholic, Orthodox, Anglican, Lutheran, Methodist, Reformed, Presbyterian and Baptist. Common Vision does not explicitly consider church law, order and polity or its role in ecumenism. However, many themes treated in Common Vision surface in church regulatory systems. This study examines how these instruments articulate the ecclesiology found in Common Vision (which as such, de facto, offers juridical as well as theological principles), translate these into norms of conduct and, in turn, generate unity in common action across the church families. Juridical similarities indicate that the churches share common principles and that their existence suggests the category 'Christian law'. While dogmas may divide the churches of global Christianity, the profound similarities between their norms of conduct reveal that the laws of the faithful, whatever their various denominational affiliations, link Christians through common forms of action. For this reason, comparative church law should have a greater profile in ecumenism today.¹

Keywords: law, church, polity, convergence, 'Christian Law'

INTRODUCTION

The World Council of Churches' Faith and Order Commission paper *The Church: Towards a Common Vision* (2013, henceforth *Common Vision*), which took twenty years to prepare, represents 'an extraordinary ecumenical achievement' in ecclesiology.² However, it does not explicitly consider church law, order and polity in its ecclesiology or in ecumenism generally (as help or hindrance); rather the thrust of *Common Vision* is convergence in belief (the primary stimulus for law) and action (the primary focus of law) and its language is often normative (the primary character of law). The Church on earth, manifested in different institutional churches, has no single humanly created

- 1 This article uses and develops material from N Doe, 'Comparative church law: towards the category of Christian law', to be published in (2015) 49 *Studia Canonica* (and re-produced here with their kind permission), a journal published by the Faculty of Canon Law of Saint Paul University in Ottawa, Canada. It is based on elements of N Doe, *Christian Law: contemporary principles* (Cambridge, 2013).
- 2 World Council of Churches, *The Church: towards a common vision*, Faith and Order Paper no 214 (Geneva, 2013), Preface, viii.

system of Christian law. Instead, each institutional church has its own regulatory system of law, order and polity, dealing typically with ministry, governance, doctrine, worship, ritual, property and finance. Each regulatory system is the servant of that church; seeks to facilitate and order its life, mission and witness to Christ; binds the faithful in duties and rights for the maintenance of ecclesial communion; and translates the church's theological self-understanding into norms of conduct: law is applied ecclesiology.

A comparison of these norm-systems contributes greatly to ecumenism. It discloses profound similarities between them and, therefore, high levels of juridical unity across the global church families. From these similarities it is possible to induce shared juridical principles.³ Their existence may be factually established by observation and comparison. Churches of each tradition contribute through their own regulatory instruments to this store of principles. The principles have a theological content, a dimension of weight and are fundamental to the self-understanding of Christians. They have a living force and potential for further development and articulation. Above all, they demonstrate unity between the churches, stimulate common Christian actions and should feed into the global ecumenical enterprise to enhance fuller visible unity.⁴

Common Vision, sent to the churches 'to encourage further reflection on the Church and to seek their formal responses', has 'an important role in the coming years for discerning the next steps toward visible unity'; moreover, as 'ecclesiology relates to everything the Church is and what its mission implies in and for the world', so 'agreement on ecclesiology has long been identified as the most elemental theological objective in the quest for Christian unity'.⁵ Similarly, it is suggested here, a key pursuit of comparative church law is the systematic search for visible juridical unity through exposure of similarities between the regulatory systems of churches and their articulation as shared principles of law, order and polity: this juridical unity, and the common action that it stimulates, may itself be understood as an 'elemental aspect' of ecumenism relevant to *Common Vision*'s principle of 'convergence'. Indeed, juridical convergence is, to borrow words from *Common Vision*, one of the 'aspects of

3 For the purpose of this project, 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 a strong dimension of weight, 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: see Doe, *Christian Law*, p 388.

4 These were the findings of the panel of experts who met in Rome in November 2013 at the Christian Law Symposium. The panel, chaired by Professor Mark Hill QC, consisted of lawyers and theologians from each of the eight traditions; see M Hill, 'Christian law: an ecumenical initiative', (2014) 16 *Ecc LJ* 215–216. The panel met again in October 2014 to work on a formal response to *Common Vision* to be submitted to the World Council of Churches. Key to its work is L Koffeman, *In Order to Serve: an ecumenical introduction to church polity* (Vienna, 2014).

5 *Common Vision*, Foreword and Preface. Further references are given in the text.

ecclesial life and understanding which has been neglected or forgotten' (viii), and neatly fits its call for responses to be 'theological, practical, and pastoral' (ix). Church law exhibits all three qualities: it is the product of theological reflection; it translates theology into practical norms of action; and its pastoral quality is evident in the principle that juridical norms are the servant of the community of the faithful seeking to enable and order life in witness to Christ.⁶ That *Common Vision* does not refer explicitly to, or consider, church regulatory systems and their place in ecumenism, is perhaps related to the historical position of the Faith and Order Commission that 'church law' is about *difference*, not convergence.⁷ It is suggested here that this outlook is misplaced: law and its ecumenical study are fertile ground for convergence.

THE CHURCH AND THE SOURCES, FORMS AND PURPOSES OF CHURCH LAW

Common Vision presents a rich theological understanding of the Church (universal) – an ecclesiological portrait of its nature, purposes and composition. The regulatory systems of churches may be used to test whether those churches share the *Common Vision* view of the Church and translate this into their own self-understanding as institutional churches.

The nature and objects of a church

For *Common Vision*, the Church has a 'threefold mission': to proclaim the gospel, to administer the sacraments and worship, and to give pastoral service. Moreover, 'The Holy Spirit nourishes and enlivens the body of Christ through the living voice of the preached Gospel, through sacramental communion, especially in the Eucharist, and through ministries of service' (para 16).⁸ The regulatory instruments of churches echo this theological posture. They provide that each institutional church, which may be configured at local, regional and/or international level, is an autonomous community which asserts its place in the Church of Christ and which exists to preach the gospel, to administer sacraments and worship, and to provide pastoral service.⁹ For example, an 'autocephalous' or 'autonomous' Orthodox church (which may be part of a worldwide patriarchate) is 'a community of Orthodox Christians';¹⁰ it exists, typically, 'to proclaim the Gospel of Christ, to teach and spread the Orthodox Christian Faith, to energize, cultivate and guide the life of the Church', to

6 See N Doe, 'Juridical ecumenism', (2012) 14 *Ecc LJ* 195–234.

7 World Council of Churches, Faith and Order Commission, 'The ecumenical movement and church law', Document IV.8 (1974); see Doe, *Christian Law*, pp 1–2.

8 See also paras 5, 6, 14, 29.

9 Doe, *Christian Law*, ch 1.

10 Romanian Orthodox Church (ROMOC), *Statutes*, Arts 1–2.

sanctify ‘the faithful through Divine Worship’, to build up ‘the spiritual and ethical life of the faithful’ and to serve as a ‘witness of the message of Christ to all persons’.¹¹ Likewise, in the Protestant traditions, a Lutheran church is a national or local assembly of the faithful shaped by authoritative Reformation texts and its ‘biblical foundations’; as ‘part of the whole Church of Christ’ its objects include the exhortations to ‘declare the teachings of the prophets and apostles and seek to confess in our time the faith’ and to engage in ‘worship and Christian service’; it may also belong to the Lutheran World Federation.¹² Similarly, in the Reformed tradition, a Reformed, Presbyterian and Congregational church (which may belong to the World Communion of Reformed Churches) typically asserts its place in the church universal, its doctrinal inheritance from the Reformation, its autonomy and its purposes, such as establishing fellowships, preaching the gospel, worship, providing pastoral care and engaging in community service.¹³ Within the Baptist World Alliance, Baptist Unions, Conventions and churches have the same outlook.¹⁴

The sources and forms of regulation

For *Common Vision* ‘All Christians share the conviction that Scripture is normative’ (para 11); meanwhile ‘Tradition has been acknowledged by most communities; but they vary in assessing how its authority relates to that of Scripture’ (para 11) and tradition is important to interpret Scripture (para 39). However, *Common Vision* neither addresses the treatment of Holy Scripture and tradition in churches’ systems of law, order and polity, nor the normativity of these regulatory systems as a function of ecclesial life shared across traditions. Importantly, it refers to ‘law’ only once: ‘Christians are called to work untiringly to overcome divisions and heresies but also to preserve and treasure their legitimate differences of . . . custom and law’ (para 30).

Church regulatory instruments indicate the importance of Holy Scripture and tradition, and that these operate with other regulatory entities which also shape church life normatively.¹⁵ For instance, the Roman Catholic Church has a Code of Canon Law (1983) which recognises custom and often presents canons themselves as derived from divine law.¹⁶ An Orthodox church is ‘governed by the Holy Scriptures’, the ‘moral law of the Church’, ‘canon law’, ‘charters’, ‘constitutions’,

11 Greek Orthodox Archdiocese of America (GOAA), *Charter*, Art 2.

12 The Reformation texts include the Augsburg Confession (1530) and the Formula of Concord (1577); see eg Evangelical Lutheran Church in America (ELCA), *Constitution and Foundational Texts* (2003) chs 1–4, 8.73.

13 Presbyterian Church of Wales (PCW), *Handbook of Rules*, 1.1.

14 Baptist Union of Great Britain (BUGB), *Constitution*, Arts 1–4.

15 See Doe, *Christian Law*, ch 1.

16 *Codex Iuris Canonici* (Code of Canon Law 1983 of the Latin Church, CIC), Canons 24, 207, 331, 1249.

'statutes', 'regulations', 'canonical tradition' and 'custom'.¹⁷ Methodists recognise 'God's Law', see Scripture as a record of divine revelation¹⁸ and have 'Methodist Law', 'Church law',¹⁹ 'usages' and Articles of Religion.²⁰ A Presbyterian church receives its authority from Christ,²¹ 'the Word of God' is the supreme 'rule of faith and life'²² and church courts and officers must 'uphold the laws of Scripture'.²³ Reformed and Presbyterian churches use, variously, 'law', a 'code', a 'book of order',²⁴ a constitution and normative doctrinal texts;²⁵ they may also recognise customs and use soft law.²⁶ In the Baptist tradition, Christ is 'sole and absolute authority in all matters pertaining to faith and practice' and 'Each Church has liberty, under the guidance of the Holy Spirit, to interpret and administer His Laws'.²⁷ As such, Baptist norms recognise Holy Scripture as a revelation of God,²⁸ part of 'the constitutions and laws' of a Convention, or 'the rule of church law'.²⁹ A national Baptist union or convention may have a constitution, with 'laws' and bylaws,³⁰ and normative doctrinal standards (such as a confession of faith).³¹ Within a union or convention, a regional association of churches may have a constitution, and a local church a

- 17 GOAA, *Charter*, Arts 1, 2 and 22, and *Regulations*, Art 18.3; Russian Orthodox Church (ROC), *Statutes*, III.4 and X.18; GOAA, *Regulations*, Art 18.3. See also ROMOC, *Statutes*, Art 123(9); P Rodopoulos, *An Overview of Orthodox Canon Law* (Rollinsford, NH, 2007), pp 3, 17, 21.
- 18 Free Methodist Church of North America, *Book of Discipline*, para 112: 'God's law'.
- 19 Methodist Church in Great Britain (MCGB), *Constitutional Practice and Discipline*, Deed of Union, 25(b); Methodist Church in Ireland (MCI), *Constitution*, s 5: 'Rules and Regulations', and s 6: 'Manual of Laws'.
- 20 Methodist Church of New Zealand (MCNZ), *Laws and Regulations*, 2.26.1; United Methodist Church – United States of America, *Constitution*, Div I, Art III, Div 2.3, Art I: articles of religion etc.
- 21 Presbyterian Church in Ireland (PCI), *Code*, I.I.IV.15.
- 22 Presbyterian Church of Aotearoa New Zealand (PCANZ), *Book of Order*, 1.1(2).
- 23 Presbyterian Church in America (PCA), *Book of Church Order*, Preface, II.3; also II.7.
- 24 J Weatherhead (ed), *The Constitution and Laws of the Church of Scotland* (Edinburgh, 1997), p 16; United Free Church of Scotland, *Manual of Practice and Procedure in the United Free Church of Scotland* (2011); Presbyterian Church in Ireland, *The Code: the book of the constitution and government of the Presbyterian Church in Ireland* (2010); Reformed Church in America, *The Book of Church Order of the Reformed Church in America* (2010).
- 25 PCI, *Code*, Constitution and pt III.15: trustees' bylaws. For eg the Westminster Confession of Faith, see eg PCANZ, *Book of Order*, 1.1(3)–(4); Reformed Church in America, *Book of Church Order*, Preamble: the doctrinal standards include the Heidelberg Catechism 1608 and Canons of the Synod of Dort 1619.
- 26 United Reformed Church (URC), *Model Constitution for Local Churches* (2010); PCA, *Book of Church Order*, III.58.8: custom; PCW, *Employee Safety Handbook* (undated).
- 27 BUGB, *Constitution*, 1.3.1; *Model Trusts for Churches* (2003), 2.8.1.
- 28 BUGB, *Model Trusts*, 2.8.1 and 6.1; *Constitution*, 1.3; Bethel Baptist Church (Choctaw, USA), *Constitution*, Art VI.
- 29 National Baptist Convention–USA, *Constitution*, Art X.5; American Baptist Churches in the USA, *Bylaws*, Prologue; Canadian National Baptist Convention, *Constitution*, 3.
- 30 Jamaica Baptist Union, *Constitution*; Baptist Union of Scotland, *Constitution and Bylaws*; National Baptist Convention–USA, *Constitution* (2002), Preamble: the Convention has 'constitutions' and 'laws'.
- 31 Baptist Union of Southern Africa (BUSA), *Model Constitution for Local Churches*, 4: Statement of Faith.

constitution, a trust instrument, a 'covenant' of members' commitments and doctrinal texts.³²

The structure and binding character of church norms

Common Vision often uses words importing juridical concepts: 'order' (para 16), 'institutional structures and ministerial order' (para 24), 'ecclesial order' (para 32), 'authority' and 'power' (para 50), 'obedience' (para 51), 'cooperation and consent' (para 51), 'requirements' (para 52), 'functions' (para 52), 'normativity' (para 53), 'good order' and 'process' (para 54), 'duty' (para 54), 'custom and use' (para 55), 'jurisdiction' (para 55) and 'obligations' (para 64). Each of these words, and the juridical category signified, is part of the ecclesiology in *Common Vision*, but the document does not explain the terms as juridical in form and theological in context. Nor does it tease out implications for the normative dimension of its ecclesiology. Needless to say, these concepts are commonplace in the juridical instruments of churches and should be recognised ecumenically as a shared, binding and natural function of ecclesial life.

For example, Anglican laws contain 'principles, norms, standards, policies, directions, rules, precepts, prohibitions, powers, freedoms, discretions, rights, entitlements, duties, obligations, privileges and other juridical concepts'.³³ The Roman Catholic Code of Canon Law binds all the faithful.³⁴ Orthodox laws and court decisions are 'binding for all clergymen and laymen without any exception'.³⁵ For some Lutheran churches, a precondition to membership is acceptance of the constitution and bylaws,³⁶ or classes of member 'covenant' compliance.³⁷ In Presbyterian churches, typically: 'All members of congregations and any other person affected by any provision in the Book of Order must comply with the Book of Order',³⁸ and Baptist churches may explicitly require 'strict adherence' to 'rules and regulations'.³⁹ Church regulatory instruments also have mechanisms to enforce and to relax their norms.⁴⁰

The purposes of church norms

The absence of explicit discussion in *Common Vision* of the role of church law impoverishes its treatment of normativity in church life beyond coverage of Holy Scripture and tradition. The document might usefully have pointed to

32 BUGB, *Model Trusts*, 2.12; Riverside Baptist Church (Baltimore): *Constitution*, Art IV: 'Church Covenant'.

33 Anglican Communion Legal Advisers Network, *The Principles of Canon Law Common to the Churches of the Anglican Communion* (2008) (PCLCCAC), Principle 4.5.

34 CIC, Canons 1, 11–12.

35 ROC, *Statutes*, VII.8.

36 Lutheran Council of Great Britain (LCGB), *Rules and Regulations*, Congregations, 1.

37 Evangelical Lutheran Church in Canada, *Constitution*, X.3.

38 PCANZ, *Book of Order*, 2.2; PCA, *Book of Church Order*, 5.8.

39 Jamaica Baptist Union, *Constitution*, Art V.

40 Doe, *Christian Law*, ch 1.

the ecumenical value of the study of the purposes of church law to underscore fulfilment of the threefold mission of the Church.

Within our church families, regulatory instruments seek to order and facilitate ecclesial life – to guide the faithful in their mission and witness to Christ. For instance, Orthodox canon law is ‘at the service of the Church . . . to guide her members on the way to salvation’, and to assist ‘the spiritual growth of the faithful’.⁴¹ Lutheran laws provide ‘organizational principles, structures, and policies for good order’ and so ‘guide, direct, and assist [the church] in mission and ministry’.⁴² Reformed church law is ‘to declare the corporate identity of the Church and to ensure that all things are done decently and in order within it (1 Cor 14:40)’.⁴³ For one United Church, ‘The purpose of law within the church is to order procedures and to provide for the consistent resolution of differences, and so to help to achieve order and justice.’⁴⁴ Similarly, Baptist norms are to ‘govern’, ‘regulate’ and ‘enable’,⁴⁵ ‘For the purpose of preserving and making secure the principles of our faith’ so that ‘this body be governed in an orderly manner’, ‘for . . . preserving the liberties inherent in each individual member of the church’ and to present ‘this body to other bodies of the same faith’.⁴⁶

THE FAITHFUL AND LAY OFFICERS

For *Common Vision*, the Church (universal) consists of Christ’s followers (people of God), with ‘obligations of responsibility’, all of whom are ‘interrelated’; each institutional church has its own ‘membership’, for which faith in Christ is essential, their discipleship being sustained by the Holy Spirit (paras 7, 12, 14, 16, 18, 19, 21, 23, 27). The faithful share ‘communion’ (*koinonia*), a key concept in ecumenism embracing ‘participation, fellowship, [and] sharing’: ‘As a divinely established communion, the Church belongs to God and does not exist for itself’ but is ‘missionary’, called and sent ‘to witness to that communion which God intends for all humanity’ (para 13); and the Holy Spirit ‘equips the Church with its essential gifts, qualities and *order*’ (para 16, emphasis added).

The juridical norms of churches reflect, but indicate substantially deeper agreement beyond, these *Common Vision* propositions about the faithful and the communion they share. While ‘communion’ is a theological category (central to *Common Vision*), it also has normative–juridical aspects, particularly

41 L Patsavos, ‘The canonical tradition of the Orthodox Church’, in F Litsas (ed), *A Companion to the Greek Orthodox Church* (New York, 1984), pp 137–147 at p 141.

42 Evangelical Lutheran Church in Canada, *Constitution*, Introduction and Preamble.

43 Weatherhead, *Constitution and Laws*, p 1.

44 United Church of Canada, *Manual*, Introduction.

45 BUGB, *Model Trusts*, Schedule 4.1–4.6.

46 Riverside Baptist Church (Baltimore), *Constitution*, Preamble.

apposite in light of the *Common Vision* focus on communion as shared action and order: as spiritual communion is about relationships, so juridical systems seek to facilitate and order the communion of the faithful associated together in a church.

The concept of church membership and equality

Each church has a membership in which there is a fundamental equality but a key distinction between the laity and ordained ministers. The Roman Catholic faithful constitute the 'people of God' and each one 'participates in their own way in the priestly, prophetic and kingly office of Christ' in order 'to exercise the mission which God entrusted to the Church to fulfil in the world'; but 'by divine institution, among Christ's faithful there are . . . sacred ministers [and] others called lay people'; nevertheless, all enjoy 'a genuine equality of dignity and action'.⁴⁷ As in Anglicanism, in which laity and clergy are 'equal in dignity before God', the Orthodox distinguish 'clergy' and 'laity', both related on the basis of 'the fundamental principle of the equality of all the faithful'; however, 'the laity does not have the special property of the priesthood, even though they participate through baptism in the triple office of the Lord'.⁴⁸ For Lutheran churches, too, the 'people of God' embraces 'the priesthood of all believers' but there is a distinction between lay and ordained persons; and Methodists enjoy a 'spiritual equality'.⁴⁹ Similar distinctions appear in Reformed, Presbyterian and Baptist churches.⁵⁰

Admission to church membership

All churches studied here regulate admission to membership. For example, in Anglicanism 'membership in a church' may be based on baptism; baptism and confirmation; baptism, confirmation and communicant status; and/or regular attendance at worship.⁵¹ Lutherans also define their membership; for instance, a voting member is a baptised person aged 18 or over who has publicly confessed the faith after instruction in Lutheran teaching and is duly received into the congregation.⁵² Methodist church members are, for example,

those who, desiring to be saved from their sins through faith in . . . Christ, and to associate themselves with the people of God in Christian fellowship,

47 CIC, Canons 205, 207, 208.

48 Rodopoulos, *Overview of Orthodox Canon Law*, p 117; PCLCCAC, Principle 25.

49 United Methodist Church in Northern Europe and Eurasia (UMCNEAE), *Book of Discipline*, para 125; also eg Lutheran Church of Australia (LCA), *The Ministry of the People of God, Commission on Theology and Inter-Church Relations* (1992), 1, and *Constitution, Interpretation*; MCI, *Constitution*, s 1.

50 URC, *Manual*, A.16; PCANZ, *Book of Order*, 1.4; BUGB, *Baptists in Local Ecumenical Partnerships* (2008), s 3.

51 PCLCCAC, Principle 27.

52 LCGB, *Rules and Regulations*, Individual Membership in a Congregation, 1.

have been received into full membership in accordance with the Rules and Regulations of the Conference.

Candidates must show commitment to Christ and accept church discipline.⁵³ Reformed, Presbyterian and Baptist churches have similar conditions.⁵⁴

The duties and rights of the faithful

Churches have elaborate norms on the functions of the faithful. For instance, Orthodox must ‘uphold Christian values and conduct’ and ‘respect’ the clergy; they are ‘obliged to take part in the divine services, make confession and take holy communion regularly’, ‘observe the canons’, ‘carry out deeds of faith’, ‘strive for religious and moral perfection’ and be ‘an effective witness’ to the faith; their rights include participation in, for instance, the parish meeting, if in ‘good standing’.⁵⁵ Lutherans must, typically ‘make regular use of the means of grace, both Word and Sacraments’, ‘live a Christian life in accordance with the Word of God’, ‘support the work of the congregation’ and ‘proclaim the Gospel’; if qualified, they may participate in the governance of the church.⁵⁶ Methodists have ‘privileges and obligations’ such as to ‘partake . . . of the Lord’s Supper’, ‘united prayer’ and Christian service; and some are exercisable in private life, for example to act as ‘helpers of one another’ and abstain from alcohol; their rights include entitlement to ‘receive pastoral support’ from ministers and, if eligible, to participate in governance.⁵⁷ Reformed, Presbyterian and Baptist churches are similar.⁵⁸

THE ORDAINED MINISTERS OF THE CHURCH

Common Vision has a detailed discussion of ordained ministry: patterns of ministry, authority and ministry, and the principle of oversight. Each of these issues is regulated in the churches. Juridical analysis is valuable as it discloses convergence in terms of principle and action.

Ordained ministry and process of ordination

For *Common Vision*, the ‘triple function of the ministry’ (word, sacrament, guidance) is ‘given by Christ to the Church to be carried out by some of its members for the good of all’ (para 20). Moreover, ‘All . . . affirm the biblical teaching that . . . Jesus, our high priest . . ., offered his redeeming sacrifice “once for all”’; thus,

53 MCI, *Regulations, Discipline and Government*, 2.03–2.07.

54 URC, *Manual*, A.16, Sch A; PCW, *Handbook of Rules*, II; Riverside Baptist Church (Baltimore), *Bylaws*, Art 1.

55 ROC, *Statutes*, XI.3; GOAA, *Regulations*, Art 18.

56 ELCA, *Model Constitution for Congregations*, ch 8. For Anglicans, *PCLCCAC*, Principle 26.

57 MCI, *Regulations, Discipline and Government*, 1.03 (General Rules of our Societies, 1) and 2.04–2.08.

58 Doe, *Christian Law*, pp 60–62.

ordained ministers ‘may appropriately be called priests’ as ‘they fulfil a particular priestly service by strengthening and building up the royal and prophetic priesthood of the faithful [in] word and sacraments’, ‘prayers of intercession’ and ‘pastoral guidance’. Also, some churches consider that ordained ministry has ‘a special relationship with the unique priesthood of Christ’ – they ‘believe ... some persons are ordained to a particular priestly function through the sacrament of ordination’; others ‘do not consider ordained ministers as “priests”, nor do some understand ordination in sacramental terms’; and ‘Christians disagree ... over the traditional restriction of ordination ... to men only’ (para 45).

Common Vision recognises an ‘urgent priority’ to discover how these differences may be overcome: ‘There is no single pattern of ministry in the New Testament’ but all churches ‘look to Scripture’ as to ‘how ordained ministry is to be understood, ordered and exercised’ and at times ‘the Spirit has guided the Church to adapt its ministries to contextual needs (cf. Acts 6:1–6)’; meanwhile, the threefold pattern (bishop, presbyter, deacon) became ‘generally accepted’ and is ‘still considered normative by many’ but some, ‘since the ... Reformation, have adopted different patterns’ (para 46). In this respect, ‘Almost all Christian communities today have a formal structure of ministry. Frequently this structure is diversified and reflects ... the threefold pattern’, but Christians are ‘divided ... as to whether or not the “historic episcopate” (meaning bishops ordained in apostolic succession back to the earliest generations of the Church), or the apostolic succession of ordained ministry more generally, is ... intended by Christ’. Some see the threefold pattern as ‘a sign of continuing faithfulness to the Gospel and ... vital to the apostolic continuity of the Church as a whole’; others ‘do not view faithfulness to the Gospel as closely bound to succession’; and some are ‘wary of the historic episcopate ... as vulnerable to abuse and thus potentially harmful to the well-being of the community’. *Common Vision* encourages ‘a consensus’ as to whether ‘the threefold ministry is part of God’s will for the Church’ (para 47). Juridical analysis yields extensive consensus in principle and practice.

Suitable, qualified persons may be called to and ordained or otherwise ‘set apart’ for ministry which is understood across the traditions to be of divine institution. By way of illustration, Roman Catholic law provides that: ‘By divine institution some among Christ’s faithful are, through the sacrament of order, marked with an indelible character and are thus constituted sacred ministers’ – deacons, priests and bishops.⁵⁹ Lutheran and Methodist ordained ministers engage in ‘holy ministry’, which is ‘the gift of Christ to the church’ – ‘the church does not create the office of the public ministry, but it does call and ordain persons into that office’ who are ‘qualified by personal qualities, gifts

59 CIC, Canons 1008–1009.

and training'; 'God instituted the office of the ordained ministry', namely 'a separated and ordained ministry'.⁶⁰ In the Reformed tradition, too, ordained ministry is conceived as instituted by Christ, and ministers, elders and deacons 'represent Christ' (be they men or women).⁶¹ For Presbyterians, typically, Christ, 'for the edification of the visible Church . . . has appointed officers not only to preach the Gospel and administer the Sacraments, but also to exercise discipline for the preservation both of truth and duty'.⁶² Some Baptists practise 'ordination', others do not: but they have 'ministers'.⁶³

Ordination itself is the process by which the vocation of individuals to serve as ministers is recognised and by which they are 'set apart' for ministry. Like the Catholic Church, the Orthodox Church ordains clergy by the laying on of hands; ordination cannot be repeated and candidates must be of the Orthodox faith, male and of sufficient age; married persons may be ordained, but unmarried clergy cannot marry.⁶⁴ In Lutheranism, typically, 'By the rite of ordination the church sets a person apart' for ministry; in Methodism a

Minister is constituted by the Call of God, the consent of the members of the Church, the election of the Conference, and the ordination to the office and work of a Minister in the Church of God by prayer and the laying on of hands.⁶⁵

Similarly, in Presbyterianism, candidates must have an 'unimpeachable character', 'a deep experience of the truth of the Gospel', 'the calling of God by the Spirit, through the inward testimony of a good conscience, the manifest approbation of God's people, and the concurring judgment of a lawful court of the Church'; 'A minister at . . . ordination is set apart'.⁶⁶ Churches also have norms on appointment/election to ministerial posts, on tenure and on termination of ministry.⁶⁷

The functions and authority of ordained ministers

For *Common Vision*, ministers 'assemble and build up the Body of Christ by proclaiming and teaching the Word of God, by celebrating the sacraments and by guiding . . . the community in its worship, its mission and its caring ministry',

60 LCA, *The Ministry of the People and Public Ministry* (1992), citing eg Acts 6:4; MCI, *Constitution*, s 1.

61 Reformed Church in America, *Book of Church Order*, ch 1, pt 1, Art 1: 'Ministers are . . . men and women . . . inducted . . . by ordination'.

62 PCA, *Book of Church Order*, 7.1; PCW, *Handbook of Rules*, 4.1–2: 'A minister at . . . ordination is set apart'.

63 Bethel Baptist Church (Choctaw), *Constitution*, Art IV; Riverside Baptist Church (Baltimore), *Bylaws*, Art II.

64 CIC, eg Canons 1024–1033. For the Orthodox, see eg L Patsavos, *Manual on Orthodox Canon Law* (New York, 1975), pp 66–74.

65 MCI, *Constitution*, s 4. For Lutheranism, see eg ELCA, *Constitution*, ch 7.31.

66 PCW, *Handbook of Rules*, 4: qualities; PCA, *Book of Church Order*, 16: vocation etc.

67 Doe, *Christian Law*, pp 86–93.

reminding ‘the community of its dependence [and their own] on . . . Christ’, as the Church ‘has never been without persons holding specific authority and responsibility’ (paras 19 and 20). Indeed, ‘All authority in the Church comes from her Lord and head, Jesus Christ’; receiving ‘all authority in heaven and on earth’, Jesus shared his authority with the apostles and their successors (para 48). But, the authority that Christ shares with ‘ministries of leadership is neither only personal, nor only delegated by the community. It is a gift of the Holy Spirit destined for the service (*diakonia*) of the Church’; it is exercised alongside ‘the whole community, whose sense of faith (*sensus fidei*) contributes to the overall understanding of God’s Word and whose reception of the guidance and teaching of the ordained ministers testifies to the authenticity of that leadership’; a relation of ‘mutual love and dialogue unites those who exercise authority and those who are subject to it’ (para 51).

The norms of churches studied here clearly reflect the authority, functions and lifestyle of ordained ministers as envisaged in *Common Vision*. For instance, an Orthodox priest is ‘the spiritual father of his parish’ and must ‘treat his parishioners as his parochial family’, deliver homilies, provide liturgy, instruct the faithful, visit parishioners, direct parish life and reside in the parish.⁶⁸ Roman Catholic clerics must ‘seek holiness in their lives’, refrain from associations inconsistent with the clerical state and lead a simple life avoiding worldliness.⁶⁹ In Lutheranism, ‘Leaders in this church should demonstrate that they are servants by their words, life-style, and manner of leadership’, recognising ‘their accountability to the Triune God, to the whole Church, to each other, and the [church] . . . in which they serve’.⁷⁰ Likewise, for Methodism, ‘Christ’s Ministers in the Church [are] Stewards in the Household of God and Shepherds of His Flock’.⁷¹ Within Presbyterianism, ‘A minister at his/her ordination is set apart by the Church to lead it in . . . preaching the Word, the administering of the Sacraments, the pastoral care of members and their instruction in the Christian faith’.⁷² Ministers are accountable for the exercise of their ministry to competent authority as prescribed by law.⁷³

The principle of oversight

For *Common Vision*, ‘The Church . . . is built up by the Holy Spirit through a diversity of gifts or ministries’; ‘diversity calls for a ministry of co-ordination so that these gifts may enrich the whole Church’; and oversight (*episkopé*)

68 Orthodox Church in America (OCIA), *Guidelines for Clergy, Priests and Deacons*, 1–19; this cites eg Luke 22:27.

69 CIC, Canons 276–287: holiness, continence, celibacy, study, common life, simple life, residence and dress.

70 ELCA, *Constitution*, ch 5.

71 MCI, *Constitution*, s 1.

72 PCW, *Handbook of Rules*, 4.

73 Doe, *Christian Law*, pp 93–101.

under the Gospel by persons chosen/set apart for this is ‘a requirement of fundamental importance’. But different structures have been devised to maintain ‘continuity in apostolic faith and unity’, to ‘safeguard and hand on revealed truth, to hold the local congregation in communion, to give mutual support and to lead in witnessing to the Gospel’. ‘All these functions . . . are exercised by persons who relate to the faithful of their communities [and to] those who exercise such a ministry in other local communities’ and so oversight ‘needs to be exercised in personal, collegial and communal ways’ (para 52).

Oversight is addressed in the laws of all churches studied here, and is exercised principally by an ordained minister, usually in collaboration with others (who may have a determinative or consultative voice). Norms provide for numerous personal ministries of oversight at regional and/or national level but the scope of their jurisdictions differs as between traditions – such as Catholic, Orthodox and Anglican bishops in their dioceses and beyond them archbishops, Methodist district superintendents and presidents of national conference, and regional Presbyteries and moderators of general assemblies.⁷⁴ Some allow global jurisdiction. Like the Catholic Pontiff (with teaching, sanctifying and governing authority over the global faithful), Orthodox patriarchs enjoy an international jurisdiction (for example, the Ecumenical Patriarch of Constantinople has authority over Greek Orthodox churches worldwide).⁷⁵ However, in Anglicanism, the Archbishop of Canterbury has no general jurisdiction over the autonomous churches of the worldwide Anglican Communion but has ‘primacy of honour’ as ‘focus of unity’; provincial law may provide otherwise.⁷⁶ Similarly, the Presidents of the Lutheran World Federation, the World Communion of Reformed Churches and the Baptist World Alliance exercise general oversight within these global bodies but not coercive jurisdiction.⁷⁷

ECCLESIASTICAL GOVERNANCE: INSTITUTIONS

For *Common Vision*:

- i. Christ is the source of authority in the Church. It must therefore be exercised in this light with the Holy Spirit as its guiding agent (paras 21, 33 and 49);⁷⁸

⁷⁴ *Ibid*, pp 102–13.

⁷⁵ *CIC*, Canon 331: the Pontiff has ‘supreme, full, immediate and universal ordinary power’; Rodopoulos, *Overview of Orthodox Canon Law*, pp 213–221: Constantinople; see also ROC, *Statutes*, I: the Patriarch of Moscow and All Russia.

⁷⁶ *PCLCCAC*, Principle 11.4; eg an extra-provincial diocese: Episcopal Diocese of Puerto Rico, *Constitution*, II.5.

⁷⁷ Lutheran World Foundation, *Constitution*, Arts VII–VIII; World Communion of Reformed Churches, *Constitution*, Arts XI–XII; Baptist World Alliance, *Constitution*, Art VI.

⁷⁸ Para 50 makes clear that authority is distinct ‘from mere power’.

- ii. However, authority ‘can call for obedience . . . to be welcomed with voluntary cooperation and consent since its aim is to assist believers in growing to full maturity in Christ’ (para 51);
- iii. So, an ‘essential element of communion’ is ‘structures of conciliar relations and decision-making’ (para 37), but ‘churches differ about who is competent to make final decisions’ – these may be, variously ‘restricted to the ordained’, enjoyed by laity, instituted by Christ, or, ‘no single institutional order’ may be attributed to God’s will, or ‘a break in institutional continuity’ may be required (paras 20, 24);
- iv. ‘Decision-making . . . elicits the consensus of all and depends upon the guidance of the Holy Spirit, discerned in attentive listening to God’s Word and one another’. Then, by ‘active reception over time, the Spirit resolves possible ambiguities in decisions’ (para 51).⁷⁹ Yet churches should ‘honour each other’s commitment to seeking the will of God in the ordering of the Church’ (para 24); thus
- v. ‘the whole Church is synodal/conciliar, at all levels . . . local, regional and universal’, reflecting the Trinity, so each, ‘by virtue of baptism, has his or her place and proper responsibility in the communion of the church’ (para 53).

Regulatory instruments provide concrete evidence of the commitment of churches to these ideas and of different approaches to the location of authority identified by *Common Vision*. A church may have an episcopal, presbyterian, congregational or other form of government as required or permitted by its conception of divine law, with Christ as the head of the Church universal in all its manifestations. Across the traditions studied here, governance is exercised through a hierarchical system of international, national, regional and local institutions. The authority which an institution has at each level varies between the traditions and their doctrinal postures. In the Catholic (with its ‘hierarchical constitution’, in which ‘the power of governance’ vests only in the ordained ministers) and Orthodox churches (with a ‘hierarchic structure of governance’), the highest authority is an international institution (the Pope and/or College of Bishops, or a patriarch and holy synod) and authority descends to national, regional and local institutions (such as a diocesan synod or below that a parish council). In the Congregational and Baptist traditions, authority resides primarily in the local church (and is shared by laity and ministers) and ascends (for limited purposes of common action) to regional, national and international institutions – such as a Baptist association (regional), a Baptist union or convention (national) and the Baptist World Alliance: but these entities cannot

79 The sense of the whole people of God, insights of biblical scholars and theologians, and guidance of ordained ministers ‘all collaborate in the discernment’ of God’s will (para 51).

interfere in the exercise of the autonomy of the local church. In Anglicanism, Lutheranism, Methodism and Presbyterianism, authority is located in an institution at the national level (for example, an Anglican or Lutheran general synod, a Methodist conference or a Presbyterian general assembly, all composed of both lay and ordained persons); authority then descends to regional institutions (an Anglican or Lutheran diocesan synod or a Presbyterian presbytery) and local institutions (such as a parish council or kirk session). In turn a limited authority ascends to international institutions (for example, the Anglican Communion, the Lutheran World Federation and the World Communion of Reformed Churches) but these have no general legislative power over the member churches. Nevertheless, while they have authority appropriate to their own level, these institutions are interdependent.⁸⁰

The regional and local church

For *Common Vision*, the local church is

a community of baptized believers in which the word of God is preached, the apostolic faith confessed, the sacraments are celebrated, the redemptive work of Christ for the world is witnessed to, and a ministry of *episkopé* exercised by bishops or other ministers in serving the community.

The local church ‘shares with all other local communities all that is essential to the life of communion’ and ‘contains . . . the fullness of what it is to be the Church’ – it ‘is wholly Church, but not the whole Church’ and so exists not ‘in isolation from but in dynamic relation with other local churches’. The ‘communion of local churches is thus not an optional extra’; ‘interdependence’ is critical. In turn,

The universal Church is the communion of all local churches united in faith and worship around the world . . . not merely the sum, federation or juxtaposition of local churches, but all of them together are the same Church present and acting in this world. (para 31)

Some churches consider the bishop (as apostles’ successor) essential to the local church (a diocese with parishes); for others, ‘local church’ is not defined by reference to a bishop but is rather a congregation gathered in a place to hear the Word and celebrate the sacraments; and for some it is ‘a regional configuration of churches gathered . . . in a synodal structure under a presidency’. Importantly, ‘there is not yet agreement about how local, regional and universal levels of

⁸⁰ Doe, *Christian Law*, ch 4.

ecclesial order relate to one another'. So, asks *Common Vision*, 'what is the appropriate relation between the various levels of life of a fully united Church and what specific ministries of leadership are needed to serve and foster those relations?' (para 32)

Turning to the regulatory instruments, we find that, within their structures at national level, the churches generally organise themselves on the basis of regional and local territorial units. Catholics, Orthodox and Anglicans have dioceses (each led by a bishop). In the Protestant tradition, Lutheran churches have dioceses or synods and, within these, districts or circuits; Methodists too have districts and circuits; Reformed and Presbyterian churches have synods, presbyteries and districts; and, typically, Baptists unions or conventions have associations. Regional units are further composed of local units. Roman Catholic, Orthodox and Anglican dioceses are divided into parishes: for instance, an Orthodox parish is 'a community of Orthodox Christians under the supervision of the diocesan bishop and guided by a rector'.⁸¹ Lutheran and Methodists have congregations and, sometimes, parishes, in which the Church universal is present and where members gather for proclamation of the gospel and administration of the sacraments.⁸² In the Reformed, Presbyterian, Congregational and Baptist models, regions and districts are typically composed of circuits, congregations and local churches: for example, a Reformed congregation is 'a body of baptized Christians meeting regularly in a particular place of worship'; similarly, in Presbyterianism, 'A particular church consists of a number of professing Christians, with their children, associated together for divine worship and godly living'; and, in Baptist polity, 'the local church, being a manifestation of the universal church, is a community of believers in a particular place where the Word of God is preached and the ordinances of Believers' Baptism and the Lord's Supper are observed'.⁸³

In turn, each local unit has its own assembly for governance. A Methodist Circuit Meeting is typical: composed of the circuit superintendent, ministers and elected representatives for each local church, it is 'the principal meeting responsible for the affairs of a Circuit' and 'circuit policy'; it exercises a 'combination of spiritual leadership and administrative efficiency' and is the focal point of 'the working fellowship of the churches in the Circuit, overseeing their pastoral, teaching and evangelistic work'. In turn, the Church Council is 'the principal meeting responsible for the affairs of a Local Church' or 'Society';

81 ROMOC, *Statutes*, Arts 43–48. See also PCLCCAC, Principle 21; CIC, Canons 374 and 515.

82 LCBG, *Rules and Regulations*, Definition of a Congregation, 1–2; MCGB, *Constitutional Practice and Discipline*, Deed of Union, 1(v)–(vi); SO 500–517: a circuit: a unit of one/more local churches and 'the primary unit in which Local Churches express and experience their interconnexion in the Body of Christ'.

83 Reformed Church in America, *Book of Church Order*, ch 1, pt I, Arts 1–6: these may also be styled 'parishes'; PCA, *Book of Church Order*, 4–5; BUSA, *Model Constitution*, Art 4: the 'congregational principle'.

composed of ministers and lay representatives elected by the annual general church meeting, it has ‘authority and oversight over the whole area of the ministry of the church’.⁸⁴

The relationship between local churches and regional and national institutions

In the traditions studied here, the local church may be subject to the control or direction of regional and national institutions but nevertheless enjoy autonomy within its own sphere. For example, Catholic, Orthodox and Anglican parishes are subject to the norms and directions of diocesan institutions (such as the diocesan bishop and/or diocesan assembly), as well as institutions at national level (such as the Catholic Episcopal Conference, an Orthodox holy synod or an Anglican general synod).⁸⁵ Similarly, Lutheran assemblies at national or regional level may exercise control over the local church and its assemblies but each local church enjoys such autonomy as is prescribed by the general law of the church: ‘The power of the Church shall be exercised through the General Synod’, which shall be ‘the highest constitutional authority of the Church’, and each district synod exercises ‘general supervision over . . . the congregations’; but a congregation has ‘authority in all matters that are not assigned . . . to synods’.⁸⁶ In Presbyterianism, a (national) general assembly may ‘enact, alter or abrogate a law of the Church’, and at regional level the presbytery is ‘responsible for corporate oversight of the congregations and causes assigned to it by the General Assembly’ – it ‘superintends’ the ‘spiritual and temporal affairs of its congregations’ but the autonomy of a congregation is protected in its own sphere.⁸⁷ In Baptist polity, a national union has more limited power: policies may be formulated by a council for approval by the assembly, which may amend the union constitution but not interfere with the autonomy of a local church; and a regional association assembly may issue policy resolutions which may be freely adopted by autonomous local churches. These represent universal Baptist principles.⁸⁸

International governance and primacy

For *Common Vision*, when ‘the Church comes together to take counsel and make important decisions, there is need for someone to summon and preside over the gathering for good order and to facilitate the process of promoting, discerning and articulating consensus’ and ‘It is the duty of the ones who preside to

84 MCGB, *Constitutional Practice and Discipline*, Deed of Union 1(iii) and SO 61.

85 CIC, Canons 447–455, 460–466; ROMOC, *Statutes*, Art 19–34; PCLCCAC, Principles 19–20.

86 LCA, *Constitution*, Art VII; ELCA, *Constitution*, ch 9.

87 PCI, *Code*, paras 104–112: General Assembly; paras 61–79: Presbytery (which monitors the Kirk Session).

88 BUGB, *Constitution*, I and II; American Baptist Churches in the USA, *Constitution*, XIII: regional association.

respect the integrity of local churches, to give voice to the voiceless and to uphold unity in diversity'. 'Primacy' originated in 'the custom and practice' of the early Church, later exercised by the Pope (paras 54–55).⁸⁹ Some have expressed 'an openness' as to 'how such a ministry might foster the unity of local churches throughout the world and promote, not endanger, the distinctive features of their witness'; but, given sensitivity on the issue, 'it is important to distinguish . . . the essence of a ministry of primacy and any particular ways in which it has been or is currently being exercised'. All agree that it would need 'to be exercised in communal and collegial ways'. So 'how might a ministry that fosters and promotes the unity of the Church at the universal level be understood and exercised?' (paras 54–57).

The traditions studied here already provide for international oversight and leadership, with varying degrees of authority attached to it, in juridical norms applicable to global ecclesial communities which either constitute or are constituted by an institutional church. In the Roman Catholic Church, with the Pontiff, the College of Bishops exercises power over the universal Church, and its decrees, if confirmed by the Pope, are to be observed by all the faithful.⁹⁰ In Orthodox polity, an autocephalous patriarchate exercises jurisdiction over its local churches across the world through, for example, the patriarch and a holy synod.⁹¹ However, at international level the institutions of the Anglican Communion (such as the Lambeth Conference), the Lutheran World Federation (Assembly, Council and Secretariat), the World Methodist Council, the World Communion of Reformed Churches (General Council) and the Baptist World Alliance (Congress) exercise no coercive jurisdiction over their autonomous member churches; nevertheless, these international entities co-ordinate their work in matters of common concern on the basis of an authority conferred individually by those member churches. The autonomy of each member church must be respected; however, some of these international ecclesial communities may discipline churches (for instance, by suspension) by way of special process.⁹²

89 Canon 34 of the Apostolic Canons (still honoured by many) provides that the first among the bishops would only make a decision in agreement with the other bishops.

90 *CIC*, Canons 336–348, 360–361, 754.

91 Rodopoulos, *Overview of Orthodox Canon Law*, pp 213–221; ROMOC, *Statutes*, Arts 1–9: the holy synod is the 'highest authority'.

92 *PCLCCAC*, Principle 11–13; Lutheran World Federation, *Constitution*, Art IV: the Federation is 'an instrument of its autonomous member churches', Arts VI–VIII: bodies; World Communion of Reformed Churches, *Constitution*, Arts VII–IX: General Council is 'the main governing body' and its decisions 'concerning its organization and institutional activities shall be binding' but its decisions 'involving the life and witness of the member churches are advisory in character'; Baptist World Alliance, *Constitution*, Preamble: it 'recognises the traditional autonomy and independence of Baptist Churches'.

CHURCH DISCIPLINE AND CONFLICT RESOLUTION

For *Common Vision*, the Church is called ‘to manifest God’s mercy’ (para 25). However, ‘As a pilgrim community the Church contends with the reality of sin’. For some traditions, ‘the Church is sinless since, being the body of the sinless Christ, it cannot sin’; for others, ‘it is appropriate to refer to the Church as sinning, since sin may become systemic so as to affect the institution of the Church itself’; again, some see sin as ‘moral imperfection’, others as ‘a break in relationship’. Nevertheless, ‘All churches acknowledge the fact of sin among believers and its often grievous impact’ and a ‘need for Christian self-examination, penitence, conversion, reconciliation ... and renewal’; and ‘Holiness expresses the Church’s identity according to the will of God, while sin stands in contradiction to this’ (paras 35–36).⁹³ Whatever the theological position of churches about sin within the Church, the juridical instruments indicate that all the churches here recognise the capacity of the faithful to engage in wrongdoing contrary to the normative standards of the church in question. Each church has norms to address wrongdoing, resolve internal disputes and maintain church discipline.

The nature and purposes of church discipline

The churches studied here share basic ideas about the nature and purpose of ecclesiastical discipline. The Methodist Church in Ireland is typical:

Discipline in the Church is an exercise of that spiritual authority which the Lord Jesus has appointed in His Church. The ends contemplated by discipline are the maintenance of the purity of the Church, the spiritual benefit of the members and the honour of our Lord.

Moreover,

All members and Ministers of the Church are subject to its government and discipline, and are under the jurisdiction and care of the appropriate Courts of the Church in all matters of Doctrine, Worship, Discipline, and Order in accordance with the Rules and Regulations from time to time made by the Conference [the central governing body].⁹⁴

Discipline is for ‘correction of the offender’, to ‘protect the reputation and resources of the church’ – it is ‘not punitive’. Furthermore, ‘Ecclesiastical discipline shall be carried out in an evangelical manner in accordance with scriptural

⁹³ See Romans 6:1–11.

⁹⁴ MCI, *Constitution*, s 5. See also CIC, Canon 135; Patsavos, *Manual on Orthodox Canon Law*, p. 111; PCLCCAC, Principle 3.5.

principles and upholding the rules of natural justice. At all stages of the procedure the purpose . . . to gain a member, is to be observed.’⁹⁵

Quasi-judicial discipline and dispute settlement

The instruments of churches commonly provide for the settlement of disputes by means of procedures short of formal judicial process. Hierarchical recourse is used in the Catholic, Orthodox and Anglican churches.⁹⁶ In Lutheranism, a College of Presidents may be charged to give leadership in the resolution of conflicts; in Presbyterianism a congregation may refer a matter to the Presbytery for advice; and several Baptist churches employ arbitration.⁹⁷ Churches also employ visitation to monitor and address discipline.⁹⁸ In Presbyterian polity, for instance, the presbytery must carry out a visitation of each congregation,

to seek the improvement of Church life and work in the congregation . . . by inquiry into all matters affecting the congregation, by the encouragement of members in their Christian witness and service, and by advice or correction in anything found amiss.⁹⁹

Methodism is similar.¹⁰⁰

Church courts and tribunals: judicial procedure

Most churches have a system of courts or tribunals for the enforcement of discipline and formal and judicial resolution of ecclesiastical disputes. These courts/tribunals may exist at international, national, regional and/or local level.¹⁰¹ They are established by competent authority, administered by qualified personnel, tiered as to original and appellate jurisdiction and exercise such authority over members as is conferred on them by law.¹⁰² Every effort must be made by the faithful to settle disputes amicably, lawfully and justly – recourse

95 ELCA, *Constitution*, ch 4.03; PCANZ, *Book of Order*, 15.1; Bethel Baptist Church (Choctaw), *Constitution*, Art VII: a member ceasing to meet the standards of the New Testament ‘will be subject to the discipline of the church’.

96 CIC, Canons 1732–1739; ROC, *Statutes*, X.5: a dean must resolve ‘misunderstandings’ among clergy and laity ‘without formal legal proceedings’; Scottish Episcopal Church, Canon 55: resolution by the bishop(s).

97 LCA, *Constitution*, Art VIII, and *Bylaws*, VIII.F; PCI, *Code*, para 21; BUSA, *Constitution*, 10.

98 For episcopal visitation, see CIC, Canons 396–399; ROC, *Statutes*, X.18; PCLCCAC, Principle 23.

99 PCI, *Code*, paras 70, 246–251.

100 MCGB, *Constitutional Practice and Discipline*, SO III: the Conference may visit any circuit.

101 ROC, *Statutes*, I.8, VII, XI: Diocesan Court and General Ecclesiastical Court; Evangelical Lutheran Church in Canada, *Constitution*, Art XVIII: Court of Adjudication; PCI, *Code*, paras 104–109: the General Assembly is ‘the supreme court’; PCANZ, *Book of Order*, 8: ‘A presbytery may exercise . . . judicial . . . powers’.

102 Doe, *Christian Law*, pp 164–171.

to church courts and tribunals is a last resort.¹⁰³ Judicial process may be composed of informal resolution, investigation, a hearing and/or other stages as may be prescribed by law, including an appeal. Disciplinary procedures at trial must secure fair, impartial and due process on the basis of natural justice. The parties, particularly the accused, have the right to notice, to be heard, to question evidence, to silence, to an unbiased hearing and, if appropriate, to appeal.¹⁰⁴

Disciplinary offences and sanctions

Most churches have a system of ecclesiastical offences, typically: apostasy, heresy, schism, ‘immorality’ or ‘violation of the moral norms of the church’, infringing doctrine, neglect of duty, acting inconsistently with ordained ministry, and conduct ‘censurable by the Word of God’.¹⁰⁵ The churches studied here assert their inherent right to impose spiritual and other lawful censures, penalties and sanctions upon the faithful provided that a breach of discipline is established objectively. Sanctions must be lawful and just and may include admonition, rebuke, suspension, excommunication and ultimately removal from office or membership or withdrawal from spiritual privileges for the remedial or medicinal purpose of the reform of the offender and the welfare of the church. Churches enable removal of sanctions on the basis of, for example, forgiveness and restoration to the full benefits of ecclesial association.¹⁰⁶

DOCTRINE AND WORSHIP

Common Vision proposes that proclamation of the faith is an integral action of the Church, as is unity in and protection of the apostolic faith (para 37). It is a faith invoked by the Word, inspired by the Spirit, attested in Scripture, transmitted through living tradition, confessed in worship, life and mission, interpreted in changing contexts, lived out in active service and spoken to personal and social situations (para 38). Interpreting the Word involves the experience of the whole people of God, insights of theologians and discernment of ordained ministers: the challenge is for churches to agree on how these factors work

103 Eg United Congregational Church of Southern Africa (UCCSA), *Procedure*, 15.1; CIC, Canon 1446; PCLCCAC, Principle 2.4.2; Evangelical Lutheran Church in Southern Africa (ELCSA), *Guidelines*, 5.

104 CIC, Canon 221: vindicating rights, Canon 1476: the right to bring an action, Canon 1456: judicial impartiality, Canons 1458–1462: hearing; Canons 1501–1655: process and appeals; Ukrainian Orthodox Church in America, *Statutes*, Art XII: ‘due canonical procedure’; LCGB, *Rules and Regulations*, Disciplinary Procedure for Pastors in the Church; PCW, *Handbook of Rules*, 2.5: complaint, investigation, hearing, appeals; MCGB, *Constitutional Practice and Discipline*, SO 1100–1155.

105 CIC, Canons 1364–1399, 1436–1437; ROMOC, *Statutes*, Art 14; Church of Ireland (Anglican), *Constitution*, VIII.53; PCI, *Code*, paras 131–132; UCCSA, *Procedure*, 13–15.

106 Doe, *Christian Law*, pp 182–186.

together (para 39), reach 'a normative expression of its faith', reconcile differences as to 'an authoritative interpretation of revelation', consider how teaching authority is recognised/exercised (para 51) and reflect on the importance of the doctrinal definitions of the early ecumenical councils (para 53).

Common Vision also recognises the need for legitimate diversity: 'Legitimate diversity is not accidental to the life of the Christian community but ... an aspect of its catholicity' (para 12) and 'a gift from the Lord'; cultural and historical factors contribute to diversity, as the gospel needs to be proclaimed in languages, symbols and images relevant to particular times/contexts. However, 'Legitimate diversity is compromised whenever Christians consider their own cultural expressions of the Gospel as the only authentic ones, to be imposed upon Christians of other cultures' (para 28). Churches must be 'mutually accountable to each other' in this regard (para 29). Thus churches should recognise 'the limits of legitimate diversity' (paras 12, 28–30): when diversity 'goes beyond acceptable limits it can be destructive of ... unity', so Christians should work 'to overcome divisions and heresies' and 'to preserve and treasure their legitimate differences of liturgy, custom and law', 'spirituality, theological method and formulation [so] that they contribute to the unity and catholicity of the Church as a whole' (para 30). Though

all churches have their own procedures for distinguishing legitimate from illegitimate diversity ... two things are lacking: (a) common criteria or means of discernment, and (b) such mutually recognized structures as are needed to use these effectively. All churches seek to follow the will of the Lord yet they continue to disagree on some aspects of faith and order and ... whether such disagreements are Church-divisive or ... part of legitimate diversity.

So 'what positive steps can be taken to make common discernment possible?'

Juridical systems tell us about the extent to which churches themselves are united, through their norms and action prescribed by them, in the proclamation, protection, interpretation and promotion of the faith. The systems also offer models about the preservation of the inherited faith, the development of doctrine and the authority and interpretation of Scripture so as to balance loyalty to the apostolic faith and legitimate diversity of interpretation, doctrine and worship.

The sources, definition and development of doctrine

Churches consider doctrine as the teaching of the Church on matters of faith and practice. Their norms include the following. The doctrine of a church is rooted in the revelation of God as recorded in Holy Scripture, summed up in the historical creeds and expounded in instruments, texts and pronouncements

issued by ecclesiastical persons and institutions with lawful authority to teach.¹⁰⁷ Doctrinal instruments include catechisms, articles of religion, confessions of faith and other statements of belief.¹⁰⁸ The doctrines of a church may be interpreted and developed afresh by those persons or institutions within it with competence to do so, to the extent and in the manner prescribed by the law of that church provided that this conforms to the catholic and apostolic faith of the Church universal; in the Catholic and Orthodox churches the control over doctrine is vested in the episcopate,¹⁰⁹ but in other churches doctrinal development is assigned to assemblies of ordained and lay persons.¹¹⁰

The proclamation of the gospel and evangelical work

For all the traditions, proclamation of the Word of God is a fundamental action of the Church and a divine imperative incumbent on all the faithful for the evangelisation of the world. Preaching is a key function of ordained ministry but authorised lay persons may also preach: for example, Anglican clergy have the responsibility to preach sermons but the laity may be authorised to do so – the preacher ‘must endeavour with care and sincerity to expound the word of truth according to Holy Scripture, to the glory of God and to the edification of the people’.¹¹¹ In Methodism, ‘the main doctrines of the Christian faith should be more plainly and systematically set forth in public preaching, so that the Methodist people may be established in the faith’; preaching the Gospel is an ‘ordinance’ of the church.¹¹² Instruction of the faithful may be by way of catechesis, Sunday school or other classes, and the faithful should study Scripture.¹¹³ Each church has a right to enforce its own doctrinal standards and discipline: the faithful should believe church doctrine; ordination candidates and others may be required to subscribe to or otherwise affirm their belief in or loyalty to that doctrine; the faithful should not publicly manifest, in word or deed, a

107 GOAA, *Charter*, Art 2: the church adheres to ‘the Holy Scriptures, Sacred Tradition, the doctrines and canons of the Ecumenical and Local Synods ... as interpreted by the Great Church of Christ in Constantinople’; URC, *Manual*, A.12: Scripture is ‘the supreme authority for faith’; see also BUGB, *Model Trusts*, 2.8.

108 Doe, *Christian Law*, pp 188–194.

109 CIC, Canons 749–753: the *magisterium* belongs to the ordained ministers and supreme teaching authority is vested in the Pope and College of Bishops; ROMOC, *Statutes*, Art 14: the Holy Synod may resolve any ‘dogmatic issue’.

110 LCA, *Constitution*, Arts VI, VII and XII: a General Synod ‘decision on a matter of doctrine’ is ‘governed by the will of Christ as revealed in Scripture’; MCGB, *Constitutional Practice and Discipline*, Deed of Union 5: the Conference has ‘the final authority ... concerning the interpretation of [the church’s] doctrines’.

111 PCLCCAC, Principles 48 and 51.

112 MCGB, *Constitutional Practice and Discipline*, SO 524; see also PCW, *Handbook of Rules*, 9: preaching the gospel is an ordinance; URC, *Manual*, A.13; Riverside Baptist Church (Baltimore), *Constitution*, Art II.

113 CIC, Canons 773–777; PCLCCAC, Principle 48; LCGB, *Rules and Regulations*, Congregations, 2; ELCSA, *Guidelines*, 2.7; MCI, *Regulations*, 10.71–10.74; PCI, *Code*, paras 37, 77; BUGB, *Model Trusts*, 5.1.4.

position contrary to church doctrine; and those who do so may be subject to correction by means of disciplinary process.¹¹⁴

The nature, forms, administration and conduct of worship

For all the churches studied here, the public worship of God is a fundamental action of the church and divinely instituted; it involves an encounter between the church corporately and the faithful individually with the presence of God.¹¹⁵ Each church and those persons or bodies within it competent to do so (from bishops to assemblies of ordained and/or lay persons) may develop liturgical texts or other forms of service for the public worship of God provided that these are consistent with the Word of God and church doctrine. The forms of service for worship may be found in a book of rites or liturgy (Catholic and Orthodox),¹¹⁶ a book of common prayer (Anglican),¹¹⁷ 'orders of worship' (Lutheran),¹¹⁸ a directory of worship (Presbyterian)¹¹⁹ and other service books lawfully authorised for use.¹²⁰ A church must provide for public worship,¹²¹ and ordained ministers are responsible for its conduct in accordance with the authorised forms of service.¹²² The faithful must engage in regular attendance at divine worship, particularly on the Lord's Day, Sunday.¹²³ The administration of worship is subject to supervision by designated church authorities.¹²⁴

THE RITES OF PASSAGE

Common Vision identifies several ecumenical challenges with regard to ritual: who may be baptised; the presence of Christ in the Eucharist and its relation to His sacrifice on the cross; chrismation or confirmation; and those who do not affirm baptism and Eucharist but do affirm that they share in the

- 114 PCLCCAC, Principle 53; Lutheran Church–Missouri Synod, *Constitution*, Art III: schism and heresy; MCGB, *Constitutional Practice and Discipline*, SO 010(1); BUSA, *Model Constitution*, Art 9.2: 'erroneous belief'.
- 115 GOAA, *Constitution*, Art 2, and *Regulations*, 15.3; ELCSA, *Guidelines*, 2.1; PCW, *Handbook of Rules*, 1.1 and 2.1.
- 116 CIC, Canons 2, 455, 826, 838: the Pope has authority over the formulation of liturgical texts; ROC, *Statutes*, II.5 and III.4: the Bishops' Council and Holy Synod are responsible for the approval of liturgical texts.
- 117 PCLCCAC, Principles 54–55.
- 118 LCA, eg Resolution 269 of the 1987 General Convention, Order with Holy Communion.
- 119 PCANZ, *Book of Order*, 1.1: Directory of Worship (1995); PCW, *Handbook of Rules*, 9: the Book of Services.
- 120 UCA, *Regulations*, 3.6.5: the Assembly 'may approve orders of service'.
- 121 LCGB, *Rules and Regulations*, Definition of a Congregation, 2; MCNZ, *Laws and Regulations*, s 1.5; Riverside Baptist Church (Baltimore), *Constitution*, Art II: the church must provide for 'public worship'.
- 122 MCNZ, *Laws and Regulations*, s 1.5; PCANZ, *Book of Order*, 1.7; Reformed Church in America, *Book of Church Order*, ch 1, pt I, Art 2.11: 'worship . . . shall be in accordance with . . . the principles . . . in the Directory of Worship'.
- 123 GOAA, *Regulations*, Art 8; PCI, *Code*, II.6; Jamaica Baptist Union, *Constitution*, Art III.
- 124 Doe, *Christian Law*, pp 224–232.

Church's sacramental life (para 40). Whether baptism, Eucharist and other rites should be termed 'sacraments' or 'ordinances' is another challenge (para 44),¹²⁵ though whichever term is used most traditions 'affirm that these events are both *instrumental* (in that God uses them to bring about a new reality), and *expressive* (of an already-existing reality)'. In any event

These rites express both the 'institutional' and 'charismatic' aspects of the Church. They are visible, effective actions instituted by Christ and, at the same time, are made effective by the action of the Holy Spirit who, by means of them, equips those who receive [them] with a variety of gifts [to edify] the Church and its mission.

Therefore, churches should explore 'deeper agreement' about ecclesial life which involves these rites; the status of others (for example, chrismation/confirmation, weddings, rites for forgiveness of sin and blessing the sick); who may receive baptism and preside at liturgical celebrations; and mutual understanding between churches that celebrate these rites and communities convinced that sharing life in Christ does not require celebration of sacraments or other rites (para 44).

The legal evidence substantiates the differences in approaches between the traditions in terms of the classification of some rites as sacraments. The churches studied here classify baptism and the Lord's Supper as sacraments (or sometimes ordinances) which have been divinely instituted.¹²⁶ Most churches have norms on marriage and some on confession and funerals.

The rite of baptism – and confirmation

Common Vision recognises growing convergence among churches about baptism: 'Through Baptism with water in the name of the Triune God, the Father, the Son and the Holy Spirit, Christians are united with Christ and with each other in the Church of every time and place'; baptism is: 'the introduction to and celebration of new life in Christ and of participation in his baptism, life, death and resurrection' and 'the water of rebirth and renewal by the Holy Spirit ... incorporating believers into the body of Christ and enabling them to

125 'Sacrament' (used to translate the Greek *mysterion*) 'indicates that God's saving work is communicated in the action of the rite ... *ordinance* emphasizes that the action of the rite is performed in obedience to Christ's word and example. These two positions have often been seen as mutually opposed.'

126 CIC, Canons 840–841: sacraments are actions of Christ and Church (baptism, confirmation, Eucharist, confession, marriage, anointing and ordination); Syrian Orthodox Church of Antioch, *Constitution*, Art 148: the seven sacraments; PCLCCAC, Principles 11, 61, 66: baptism and Holy Communion are dominical sacraments. For Protestant churches, baptism and the Lord's Supper are classified variously as 'sacraments' or 'ordinances' and 'means of grace': LCGB, *Rules and Regulations*, Statement of Faith, 5; MCGB, *Constitutional Practice and Discipline*, Deed of Union 4; PCW, *Handbook of Rules*, 9; UCCSA, *Constitution*, 3.5.1; BUSA, *Constitution*, 2.

share in the kingdom of God'; it 'involves confession of sin, conversion of heart, pardoning, cleansing and sanctification'; and it is 'a basic bond of unity'. Moreover, 'Some churches see the gift of the Holy Spirit as given in a special way through chrismation or confirmation', considered by them as a sacrament of initiation; 'general agreement about baptism has led some who are involved in the ecumenical movement to call for the mutual recognition of baptism' (para 41).

Juridical instruments echo these theological propositions. In Catholic law, baptism (infant or adult) is the gate to the sacraments, is necessary for salvation in fact or intent, frees from sin, constitutes a rebirth as children of God configured to Christ and incorporates into the church; for Lutherans, 'In Baptism we are incorporated into Christ'; and for Presbyterians, 'Baptism is an act of the Church, and . . . of God' in which 'individuals are received into the fellowship of the Church', signifying God's 'gracious purpose to save us into eternal life'.¹²⁷ Baptism is validly administered with water in the name of the triune God.¹²⁸ It is administered ordinarily in public in the presence of the faithful by an ordained minister but extraordinarily in cases of necessity privately by a lay person.¹²⁹ A church may practise infant and/or believers' baptism and a baptised person should be nurtured in the faith by duly qualified sponsors or other designated entity.¹³⁰ A baptism should be registered in books and cannot be repeated but, in the absence of proof of a prior valid baptism, a conditional baptism may be administered.¹³¹

The Eucharist, Holy Communion or Lord's Supper

According to *Common Vision*, 'a dynamic and profound relation' exists between baptism and the Eucharist: 'The communion into which the newly initiated Christian enters is brought to fuller expression and nourished in the Eucharist, which reaffirms baptismal faith and gives grace for the faithful living out of the Christian calling' (para 42). In sum, 'The Lord's Supper is the celebration in which, gathered around his table, Christians receive the body and blood of Christ'; it is 'a proclamation of the Gospel, a glorification of the Father for everything accomplished in creation, redemption and sanctification (*doxologia*); a memorial of the death and resurrection of Christ Jesus . . . accomplished once for all on the Cross (*anamnesis*); and an invocation of the

127 CIC, Canons 849–878; LCGB, *Rules and Regulations*, Statement of Faith, 5; PCANZ, *Book of Order*, 6.1.

128 PCLCCAC, Principle 61; LCGB, *Rules and Regulations*, Statement of Faith, 5; MCGB, *Constitutional Practice and Discipline*, SO 010A; PCW, *Handbook of Rules*, 9.2; URC, *Manual*, A.14.

129 CIC, Canons 849–878; OCIA, *Guidelines for Clergy*, Mystery of Baptism; ELCSA, *Guidelines*, 1.8.

130 CIC, Canons 849–878; ELCSA, *Guidelines*, 1.4–8; PCW, *Handbook of Rules*, 9.1; BUGB, *Constitution*, 3.2: believers' baptism is 'an act of obedience to . . . Christ and a sign of personal repentance, faith and regeneration', by 'immersion in water into the name of the Father, Son and Holy Spirit'.

131 CIC, Canons 849–878; ROC, *Statutes*, XI.20; PCLCCAC, Principles 63–64; UMCNEAE, *Book of Discipline*, para 226; PCI, *Code*, 1.1.II.39.

Holy Spirit to transform both the elements of bread and wine and the participants themselves (*epiclesis*)' (para 42); it impels us to share in mission (para 62); and 'Just as the confession of faith and baptism are inseparable from a life of service and witness, so too the Eucharist demands reconciliation and sharing by all . . . in the one family of God' (para 43).

The juridical unity between these churches may be articulated in a number of principles. The Eucharist, Holy Communion or Lord's Supper, instituted by Christ (though churches have different doctrines about its nature), is central to ecclesial life; the faithful should participate in it regularly. It is administered by ordained persons, or those otherwise lawfully deputed, normally in a public church service and exceptionally at home such as to the sick. Furthermore, it is administered through the distribution of bread and wine or equivalent elements. A church by due process may exclude from admission to the sacrament those whom it judges unworthy to receive it. These norms are to be found in the Catholic, Orthodox and Anglican churches.¹³² The same norms are also found in Lutheran, Methodist, Presbyterian and Baptist churches.¹³³

Marriage and divorce

Other rites that *Common Vision* does not deal with include marriage. Churches have complex norms on marriage, which is defined typically as a lifelong union between one man and one woman, instituted by God for the mutual affection and support of the parties and which may be ordered to procreation.¹³⁴ To be married validly in church, the parties must satisfy the conditions prescribed by church law and be instructed in the nature and obligations of marriage.¹³⁵ The norm is marriage between church members but this may be relaxed; it is celebrated at a public service in the presence of an ordained minister and witnesses; and it must be registered.¹³⁶ A marriage is dissolved ordinarily by the death of one of the spouses and extraordinarily when recognised as such by competent ecclesiastical authority – though a minister may solemnise the marriage of a divorced person whose former spouse is still alive to the extent that this is

132 *CIC*, Canons 897–958: Canons 897–898: nature, Canons 899–911: celebration and minister, Canons 912–923: participation, Canons 924–930: wheat bread and wine from grapes of the vine and not corrupt, Canons 915–916: excommunication; GOAA, *Regulations*, Art 18.1: parishioners 'participate regularly'; *PCLCCAC*, Principles 66–69.

133 Doe, *Christian Law*, pp 250–254.

134 *CIC*, Canon 1055; *ELCSA, Guidelines*, 7.2–7.8: 'God has installed marriage as an order of creation. He unites man and woman towards an inseparable communion'; *MCGB, Constitutional Practice and Discipline*, SO 01A: it is 'a gift of God and it is God's intention that a marriage should be a life-long union in body, mind and spirit of one man and one woman'; *PCW, Handbook of Rules*, 9.4: the essential permanence of marriage.

135 *CIC*, Canons 1057–1064; *OICA, Guidelines for Clergy*, Mystery of Marriage, 2: preparation; *PCLCCAC*, Principle 71: validity; *MCI, Regulations etc*, 2.09: form of service.

136 *CIC*, Canons 1108, 1115–1120; Ukrainian Orthodox Church in America, *Instructions*, Policy on Marriages, 3; *PCLCCAC*, Principles 72–73; *ELCSA, Guidelines*, 7.2–7.8; *MCGB, Constitutional Practice and Discipline*, SO 01A; *PCI, Code*, para 85.

authorised by the law of a church and the conscience of the minister.¹³⁷ Similar principles may be induced from church norms on confession and funerals.¹³⁸

ECUMENICAL RELATIONS

Common Vision invites ‘leaders, theologians, and faithful of all churches to seek the unity for which Jesus prayed’ (John 17:21) (para 8).

The ecclesial elements required of full communion within a visibly united church . . . are communion in . . . apostolic faith; in sacramental life; in a truly one and mutually recognized ministry; in structures of conciliar relations and decision-making; and in common witness and service in the world. (para 37)

Visible unity requires churches ‘to recognise in one another the authentic presence of . . . the “one, holy, catholic, and apostolic Church”’; this may ‘depend upon changes in doctrine, practice and ministry’, ‘a significant challenge for churches in their journey towards unity’ (para 9). Moreover, the Church is called to be ever faithful to these apostolic origins: infidelity in worship, witness or service contradicts the Church’s apostolicity (para 22). Currently, ‘some identify the Church of Christ exclusively with their own community’, some see in others ‘a real but incomplete presence’ of the Church, some have joined ‘covenant relationships’, some believe that the Church is ‘located in all communities that present a convincing claim to be Christian’ and some maintain that ‘Christ’s Church is invisible and cannot be adequately identified’ (para 10).

Juridical instruments tell us about a church’s commitment to and participation in ecumenism. Some churches have well-developed ecumenical norms, others less so. While divided denominationally, each church teaches that there is one, holy, catholic and apostolic Church universal, of which it is a portion, member or branch,¹³⁹ or else the Church universal subsists in it.¹⁴⁰

137 *CIC*, Canon 1055; Patsavos, *Manual on Orthodox Canon Law*, pp 137–138; *PCLCCAC*, Principles 74–75; *LCA, Marriage, Divorce and Re-marriage*, II (edited 2001); *MCGB, Constitutional Practice and Discipline*, SO 011A.

138 Doe, *Christian Law*, pp 265–272.

139 *OCIA, Guidelines for Clergy*, Ecumenical Witness; *PCLCCAC*, Principle 93; *ELCSA, Guidelines*, 11–12; *URC, Manual*, A.18.5; *MCI, Constitution*, 1; Canadian National Baptist Convention, *Constitution*, 2, and Statement of Faith, XIV.

140 *CIC*, Canon 204; Standing Conference of the Canonical Orthodox Bishops in the Americas (SCOBA), *Guidelines for Orthodox Christians in Ecumenical Relations*, pt 1, Orthodox Ecumenical Guidelines, 1; *LCGB, Rules and Regulations*, 2; *PCANZ, Book of Order*, 1.1; *MCGB, Constitutional Practice and Discipline*, Deed of Union, 4, and SO 500.

Ecumenism seeks the restoration of visible Christian unity – a divine imperative – and its goal is full ecclesial communion.¹⁴¹ A church must promote ecumenism through dialogue and co-operation (which must be prudent and lawful so that the discipline of each is respected),¹⁴² must protect the marks of the Church universal and must define what ecclesial communion is possible.¹⁴³ Ecumenical activity is generally in the keeping of a central authority, but ecumenical duties may be given to the local church and to ordained ministers, and provision may exist for the ecumenical formation of the faithful.¹⁴⁴ A church in agreement with its ecumenical partner decides when dialogue reaches a stage allowing ecclesial communion – typically when a church believes the other to hold the essentials of the Church universal.¹⁴⁵

Ecumenical norms may enable interchange of ministers, the sharing of the sacraments, mixed marriages and sharing property – but such norms are usually in the nature of exceptions to general rules which confine such facilities to the enjoyment of the faithful within the ecclesiastical tradition which created those norms.¹⁴⁶ For example, ‘The Church recognises the ordination of ministers of all denominations provided the ordination has been carried out by an authority representing a recognised branch of the Universal Church.’¹⁴⁷ Norms may also enable church members to share in spiritual activities such as common prayer, spiritual exercises and funerals, and in mission and social justice initiatives.¹⁴⁸ The extent and terms of ecclesial communion or other relationship between churches of two or more traditions may be set out in a constitutional union, concordat, covenant or other agreement between them.¹⁴⁹

CHURCH PROPERTY AND FINANCE

In its discussion of the Church and society (for which see below), *Common Vision* makes no mention of the temporal assets of the churches – their property

141 For ecumenism as a divine duty (John 17:21) and definitions, see Roman Catholic Church, *Ecumenical Directory* (1993), para 20; PCLCCAC, Principle 93; UCCSA, *Constitution*, Preamble; PCW, *Handbook of Rules*, III.3.4.4.

142 CIC, Canon 755, and *Ecumenical Directory*, paras 23, 106–107; OCIA, *Guidelines for Clergy*, Ecumenical Witness: ‘duty’; MCNZ, *Laws and Regulations*, Introductory Documents, II, Pastoral Resolutions: ‘commitment’.

143 The catholicity and apostolicity is spelt out in the objects of churches: see above.

144 CIC, Canon 755: Bishops’ Conferences; *Ecumenical Directory*, paras 55–56: all the faithful; Evangelical Lutheran Church in Canada, *Administrative Bylaws*, pt IX: the National Church Council; URC, *Manual*, 2(6): General Assembly.

145 *Ecumenical Directory*, paras 17, 18; PCLCCAC, Principle 94; LCA, *Theses on the Church*, 26.

146 SCOBA, *Guidelines*, pt 1, Preaching on Ecumenical Occasions, 1, and Sacraments, 1 and 2: the Divine Liturgy is ‘restricted to ... Orthodox Christians alone’; ELCSA, *Guidelines*, 3.9: ‘members of other churches may only be admitted as guests to the Lord’s Supper’; CIC, Canons 1124–1125: mixed marriages.

147 United Free Church of Scotland, Statement of the General Assembly, Special Constitutional Features.

148 *Ecumenical Directory*, paras 62–65; SCOBA, *Guidelines*, pt 1; MCI, *Regulations etc*, 10.69.

149 Doe, *Christian Law*, pp 304–308.

and finances – and the uses of these. This, too, is fertile ground for identifying juridical unity among the separated churches.

Ownership of property and sacred places and objects

Churches studied here commonly assert their right to acquire, own, administer and dispose of property (which may be held at international, national, regional or local level, depending on the church in question).¹⁵⁰ Places of worship and prescribed objects should be dedicated to the purposes of God – with norms often made which are applicable to their design – and the activities carried out in relation to sacred property should not be inconsistent with the spiritual purposes which attach to that property.¹⁵¹ Typically, ‘No minister shall permit anything to be done in any Church under the responsibility of such Minister which is not in accord with the laws and usages of the Church.’¹⁵² Items of church property include places of worship and their contents, associated buildings, church registers and records – and the use, care and maintenance of sacred places and objects should reside in a designated and local person or body.¹⁵³ Moreover, oversight of the administration of property vests in a competent church authority and a periodic appraisal of its condition may be the object of a lawful visitation.¹⁵⁴ Provision may also be made for access to churches and for clergy residences.¹⁵⁵

The control of finance: budgets, accounts and audit

A church has the right to make rules for the administration of its finances. The civil law on financial accountability should be complied with, and each ecclesiastical unit, through designated bodies, should prepare an annual budget for approval by its assembly. A church must provide, as to each unit, for the keeping of accounts for similar approval and ensure that these are audited annually by qualified persons to promote proper stewardship.¹⁵⁶ Moreover, a church has a right to receive funds to be spent on its objects.¹⁵⁷ The faithful must

150 Ibid, pp 310–319.

151 *CIC*, Canons 1205–1218; *ROC*, *Statutes*, X.18; *LCA*, *A Lutheran Approach to the Theology of Worship* (2001), pt 4; *UMCNEAE*, *Book of Discipline*, paras 2518ff; *PCI*, *Code*, 57.

152 *MCNZ*, *Laws and Regulations*, s 2.26.1. See also *PCLCCAC*, Principle 81: dedication and protection.

153 *CIC*, Canons 1219–1243; *ROC*, *Statutes*, XI.43; *LCGB*, *Rules etc*, Responsibilities and Duties of Pastors, 1–24; *PCA*, *Book of Church Order*, 9.2; *URC*, *Manual*, B.2.

154 *CIC*, Canon 1222: oversight; Canon 535: registers; *ROC*, *Statutes*, V.28: the Holy Synod is responsible for ‘the proper state’ of the architecture, iconography, etc; *PCLCCAC*, Principle 81: inspection; *MCGB*, *Constitutional Practice and Discipline*, SO 015: archives; *PCI*, *Code*, 82: ‘The minister shall be entitled to use the place of worship and other church buildings for the purposes of his office, subject to any direction of the Presbytery’.

155 *PCLCCAC*, Principle 80: access. For manses, see *MCI*, *Regulations etc*, 12.01–12.03; *PCW*, *Handbook of Rules*, 4.10.

156 *CIC*, Canons 228, 492–494, 537, 1271–1277, 1287; *ROC*, *Statutes*, XI.43, 46; *PCLCCAC*, Principles 84–86; *PCI*, *Code*, 76; *URC*, *Manual*, B.2; *BUSA*, *Model Constitution*, 18.

157 *CIC*, Canon 1260; *ROC*, *Statutes*, XV.1; *ELCA*, *Constitution*, ch 4.03; *MCNZ*, *Rules etc*, 1.2; *PCI*, *Code*, 235.

contribute financially to church work and church officers should encourage the faithful in this: for example,

The Holy Scriptures teach that God is owner of all persons and all things and that we are but stewards of both life and possessions; that God's ownership and our stewardship should be acknowledged . . . [in] the form . . . of giving at least a tithe of our income and other offerings to the work of the Lord through the Church of Jesus Christ.

Thus members should engage in 'regular, weekly giving, systematic and proportionate offerings'.¹⁵⁸

The local church may be the subject of assessments made by regional, national or international authorities.¹⁵⁹ A church may invest money prudently in ethical ventures consistent with its standards.¹⁶⁰ Moreover, a church should insure its property against loss,¹⁶¹ remunerate ministry¹⁶² and make financial provision for ordained ministers who are in ill-health and who retire.¹⁶³

CHURCH, STATE AND SOCIETY

Each church studied here has norms on the authority of the state in its own secular sphere of governance, the institutional separation of the church from the state, the requirement on the church to comply with state law, the involvement of its members in political activity, the promotion of human rights, and engagement with society in charitable and other activity. These juridical facts find a direct echo in theological propositions found in *Common Vision*.

Church and state

Common Vision proposes:

Many historical, cultural and demographic factors condition the relation between Church and state, between Church and society. Various models

158 PCA, *Book of Church Order*, 54; and eg MCI, *Regulations etc.*, 1.01, 2.06; BUSA, *Model Constitution*, 8.3.

159 CIC, Canons 1263–1264; Ukrainian Orthodox Church in America, *Statutes*, Art XI.6; PCLCCAC, Principle 88; Evangelical Lutheran Church in Canada, *Administrative Bylaws*, pt V.8; MCI, *Regulations etc.*, 13.13ff; PCI, *Code*, 76; BUGB, *Constitution*, 7.

160 CIC, Canons 1294, 1305; PCLCCAC, Principle 89; ELCA, *Model Constitution*, ch 12.05; MCGB, *Model Trusts*, 16; PCW, *Handbook of Rules*, 3.2.3; BUGB, *Model Trusts*, 11.

161 CIC, Canon 1284; OCIA, *Guidelines for Clergy, Priests and Deacons*, 16; PCLCCAC, Principle 90; ELCA, *Constitution*, ch 15.13.A10; MCI, *Regulations etc.*, 10.06; PCI, *Code*, 47(2); Canadian National Baptist Convention, *Constitution*, para 124.

162 CIC, Canon 281; GOAA, *Regulations*, Art 17; PCLCCAC, Principle 91; Evangelical Lutheran Church in Ireland, *Constitution*, Art 21; MCI, *Regulations etc.*, 13.01; PCW, *Handbook of Rules*, 4.11.

163 CIC, Canons 281, 538, 1274; ROMOC, *Statutes*, Art 194; PCLCCAC, Principle 92; MCGB, *Constitutional Practice and Discipline*, SO 805–907; PCI, *Code*, 125A; Jamaica Baptist Union, *Constitution*, Art XV.5.

of this relation based on contextual circumstances can be legitimate expressions of . . . catholicity. It is altogether appropriate for believers to play a positive role in civic life. (para 65)

However, they should not collude with ‘secular authorities’ in ‘sinful and unjust activities’. Furthermore,

The explicit call of Jesus that his disciples be the ‘salt of the earth’ and the ‘light of the world’ (cf. Matt. 5:13–16) has led Christians to engage with political and economic authorities . . . to promote the values of the kingdom of God, and to oppose policies . . . which contradict them. (para 65)

This should be done through ‘critically analysing and exposing unjust structures’, ‘working for their transformation’ and ‘supporting initiatives of civil authorities’ for justice, peace, protection of the environment and care for the poor and oppressed, even to the point of persecution or martyrdom, and sharing the lot of those who suffer (paras 65–66). Juridical norms mirror these ideas.

The norms of the church traditions studied here provide that the state is instituted by God to promote and protect the temporal and common good of civil society – functions fundamentally different from those of the Church.¹⁶⁴ There should be a basic separation between a church and the state but a church should co-operate with the state in matters of common concern.¹⁶⁵ Churches (or entities within them) may negotiate the enactment of state laws specifically devoted to them, and enter agreements with the state and civil authorities to regulate matters of common concern.¹⁶⁶ The faithful may participate in politics to the extent permitted by church law: clergy in some churches cannot hold office involving the exercise of civil power, and norms often provide that church units cannot participate in or support financially political parties or

¹⁶⁴ *The Catechism of the Roman Catholic Church* (1994), paras 1918–1924, 1927: ‘political community and public authority are based on human nature and . . . belong to an order established by God’ and ‘the State [is] to defend . . . the common good of civil society’; Rodopoulos, *Overview of Orthodox Canon Law*, pp 205–210: ‘the State is a product of . . . Divine Providence’; Augsburg Confession (Lutheran), Art 16: ‘All government and all established rule and laws were instituted by God’; PCA, *Book of Church Order*, 3.4: ‘The power of the Church is spiritual; that of the State includes the exercise of force’; Canadian National Baptist Convention, *Constitution*, 3, Statement of Faith, 17: ‘Civil government being ordained of God’.

¹⁶⁵ *The Catechism of the Roman Catholic Church*, paras 1918–1924, 1927: ‘in their own domain, the political community and the church are independent from one another and autonomous’ but they should develop a ‘mutual cooperation’; ROMOC, *Statutes*, Art 4: the Church ‘establishes relations of dialogue and cooperation with the State’; ELCSA, *Guidelines*, 12.4: ‘the state does not rule over the Church nor the Church over the state’; PCA, *Book of Church Order*, Preface, I.1–13: ‘No religious constitution should be supported by the civil power further than may be necessary for the protection and security equal and common to all others’; BUSA, *Bylaws*, 4.2.7: ‘the principle of separation of church and state’.

¹⁶⁶ N Doe, *Law and Religion in Europe* (Oxford, 2011), especially ch 4.

allow church property to be used for political ends.¹⁶⁷ The faithful should comply with state law but disobedience by the faithful to unjust laws may be permitted.¹⁶⁸ Also, the faithful should not resort to state courts unless all ecclesiastical process is exhausted.¹⁶⁹

Human rights and religious freedom

Common Vision sees 'religious freedom as one of the fundamental dimensions of human dignity and, in the charity called for by Christ', Christians should seek 'to respect that dignity and to dialogue with others . . . to share . . . the Christian faith' (para 60). The exercise of religious freedom is particularly important in so far as the advance of 'a global secular culture challenges the Church with a situation in which many question the very possibility of faith, believing that human life is sufficient unto itself, without any reference to God'. It also becomes important to meet 'the challenge of a radical decline in membership' as faith is seen by many as 'no longer relevant to their lives' – this might stimulate what some see as 'the need for re-evangelisation': 'All churches share the task of evangelization in the face of these challenges' (para 7). Dialogue with and respect for other faiths is also an ecumenical issue.¹⁷⁰

Church law, order and polity has potential to convert promotion of human rights and religious freedom in particular into norms of action for the faithful. Under their regulatory texts, for each church tradition studied here, all human beings are created in the image of God and as such all humans share an equality of dignity and fundamental human rights.¹⁷¹ In turn, the state should recognise, respect and promote basic human rights.¹⁷² Moreover, the church should protect and defend human rights in society for all people, and, like the church, the state

167 *CIC*, Canon 285; clerics must not 'assume public office whenever it means sharing in the exercise of civil power'; OCIA, *Guidelines for Clergy*, A Selection of Clergy Disciplines, 8: 'Clergy must not run for political office'; Augsburg Confession, Art 16: 'Christians may without sin occupy civil offices'; MCI, *Regulations etc.*, 10.75–10.76: 'all party political questions shall be strictly excluded from . . . the Council'.

168 North American Lutheran Church, *Standards for Pastoral Ministry*, B.7: there is to be no disciplinary action against ministers 'where the violation of a law was to protest or to test a perceived unjust law or as an expression of civil disobedience'; MCNZ, *Laws and Regulations*, Introductory Documents, III, Ethical Standards for Ministry, Responsibilities to the Wider Community, 2: ministers declare 'While respecting the law, I will act to change unjust laws'; Baptist Union of New Zealand, *Ethical Standards and Standards of Practice for Ministry Personnel*, 6: ministers must 'obey the laws of [the] government unless they require disobedience to the law of God'.

169 ROC, *Statutes*, I.9–10; United Free Church of Scotland, *Constitution*, V.II.8; BUSA, *Bylaws*, 2(b).

170 *Common Vision*, para 25: interfaith respect; para 60: Christians should consider how 'to appreciate whatever elements of truth and goodness are present in other religions' by eg 'interreligious dialogue'; para 60: 'religious pluralism challenges Christians to deepen their reflection about the relation between the proclamation that Jesus is the one and only Saviour . . . and the claims of other faiths'. For norms, see Doe, *Christian Law*, p 377, n 243.

171 LCGB, *Rules etc*, Statement of Faith, 9; UMCNEAE, *Book of Discipline*, para 147, Confession of Faith, Art XVI.

172 Lambeth Conference 1988, Resolution 33; UMCNEAE, *Book of Discipline*, para 147, Confession of Faith, Art XVI: governments should respect 'human rights under God'.

and society should not discriminate against individuals on grounds of race, gender or colour.¹⁷³ Also, the state should recognise, promote and protect the religious freedom of churches corporately and of the faithful individually, as well as freedom of conscience.¹⁷⁴

The Church and social responsibility

Common Vision proposes that the first attitude of God to all creation is love. So, as God intends the Church to transform the world, 'service (*diakonia*) belongs to the very being of the Church' (para 58) and 'a constitutive aspect of evangelization is the promotion of justice and peace' (para 59); in this, churches should discern together moral values uniting them (paras 61–63). In turn, the Church should help the powerless to be heard, 'work for a just social order, in which the goods of this earth may be shared equitably' (to ease poverty and eliminate destitution) and advocate peace, seeking to overcome causes of war. Christians must 'acknowledge their responsibility to defend human life and dignity', 'obligations on churches as much as on individual believers'; Christians who have 'acted jointly' to foster human dignity, and who may work with other religions in this, set a good example (para 64).

Once more, church regulatory systems are valuable to translate these exhortations into action. Each church within the traditions studied here recognises for itself a responsibility to promote social justice and engage in charitable activity in wider society. As such, churches have institutions to guide, initiate and implement programmes for Christian action in society, and ordained ministers are to lead by example in the field of social justice and responsibility. Moreover, the faithful are to engage directly in the promotion of social justice and charitable work. Churches present engagement in social responsibility as a function of faith and law.¹⁷⁵

CONCLUSION

Comparison of the basic elements of the normative regimes of the churches across the ecclesiastical traditions studied here reveals profound similarities. This is not surprising: juridical unity is often based on the practice of churches to use a common source in shaping their laws (chiefly that of Holy Scripture),

173 *CIC*, Canon 204; *PCLCCAC*, Principle 26; Lutheran World Federation, *Constitution*, Art III; MCNZ, *Laws etc*, Introductory Documents, II, Pastoral Resolutions; World Communion of Reformed Churches, *Constitution*, Art V; see also Baptist World Alliance, *Constitution*, Art II.

174 Second Vatican Council, *Gaudium et Spes*, 96; PCI, *Code*, I.III.13; BUSA, *Constitution*, Art 5.3.

175 *CIC*, Canon 839: charity, Canons 215 and 222: social justice; ROC, *Statutes*, XI.20; *PCLCCAC*, Principle 21: 'social' activities; ELCA, *Constitution*, 4.02: meeting human needs; World Communion of Reformed Churches, *Constitution*, Art V: promoting 'economic and ecological justice'; PCW, *Handbook of Rules*, 2.2: 'service to society'; Baptist World Alliance, *Constitution*, Art II: human need.

and their adoption or adaptation of norms of the mother church, in the case of those churches within a single tradition, or at least elements of them, in the case of churches which have broken away from that tradition. From these similarities may be induced common principles of Christian law. The existence and articulation of these principles may be of some interest to the World Council of Churches, its Faith and Order Commission and its *Common Vision* project. Regulatory systems of churches shape and are shaped by ecclesiology. These systems also tell us much about convergence in action, including and beyond the matters addressed in *Common Vision*, based on common norms of conduct, as well as the commitment of churches to ecumenism. While dogmas may divide churches, profound similarities between their norms of conduct produce juridical convergence. This reveals that the juridical 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.

While there are key differences, similarities between the norms of conduct of churches indicate that their faithful engage in the visible world in much the same actions as other Christians. This must count for something in the ecumenical enterprise. In turn, comparing church law, order and polity systems – themselves forms of applied ecclesiology – enables the articulation of principles of law, order and polity common to the churches, enables the reconciliation of juridical difference in the form of underlying principles of law, provides a stable ecumenical methodology through its focus on concrete textual data, offers a practical guide for Christian life and defines that degree of achieved communion, as well as opportunities for and limits on future progress. In short, dogmas may divide but laws link Christians in common action. This is significant – as *Common Vision* states, ‘common action’ is ‘intrinsic to the life and being of the Church’ (para 61).