

Institution: Cardiff University
Unit of Assessment: 20
Title of case study: Canon Law and Covenant: Transformation in Global Anglicanism
<p>1. Summary of the impact</p> <p>Before 2008-9 the worldwide Anglican Communion had no global legal framework for its 44 autonomous churches with their 80 million members. Historically, the Communion has been maintained by mutual “bonds of affection” held by members one for another on the basis of shared beliefs. This is changing. The Principles of Canon Law Common to the Churches of the Anglican Communion were launched at the Lambeth Conference in 2008, while the Anglican Communion Covenant (2009) is currently before each church for ratification. Research by Professor Norman Doe at Cardiff Law School first identified the need for these initiatives and informed his drafting and advocacy of both documents, each providing a framework of ‘house rules’ for the Communion.</p>
<p>2. Underpinning research</p> <p>Historically, the dominant focus in Anglican studies has been theology – not law. Doe’s (Professor, 01/10/85 - present) research seeks to challenge this. In 1997 Doe compared the laws of the 44 autonomous churches of the worldwide Anglican Communion – their constitutions, canons and other regulatory instruments – in relation to church governance, ministry, doctrine, liturgy, ritual (e.g. baptism, holy communion, marriage), ecumenism, property and finance. This was the first time such an exercise had been undertaken. The study uncovered similarities and differences between these legal systems. It proposed that from the similarities emerged shared legal principles which (a) dispelled the common assumption that the churches were different in terms of polity; (b) contributed to a greater understanding of Anglican identity worldwide from a juridical perspective, rather than the theological perspective hitherto dominating Anglican thought; and (c) could be used as a practical resource by churches considering legal reform. It was published in 1998^{3.1}.</p> <p>In 2001 Doe proposed in a paper^{3.2}, that the Anglican Communion should formulate (a) a statement of the principles of canon law common to its churches and (b) a concordat or covenant for adoption by its churches to regulate their relations. The two initiatives were also intended to assist ecumenical partners of Anglicans (e.g. Roman Catholics, Orthodox, Lutherans) in their understanding of Anglicanism globally. From 2002-2005, helped by D’Auria (research assistant, Cardiff Centre for Law and Religion), Doe drafted 100 macro- and over 600 micro-principles of Anglican canon law induced from similarities between the laws of the Communion’s churches. This involved gathering and studying the latest versions of texts of the laws of each church, devising a system by which to compare particular rules within them and by which to identify what constituted a common principle, comparing them with rigorous attention to detail, and articulating similarities as shared principles - a revised version was published in 2008, with a reflection by Doe^{3.3}, and launched at the Lambeth Conference that year (see Section 4).</p> <p>In 2003, Doe (again aided by D’Auria) explored the meaning of and relationship between the theological category of communion (the relations between Anglican churches) and the legal category of autonomy (the freedom of individual churches). Doe found that in current global Anglicanism, particularly in conflicts, autonomy prevails over communion, and suggested the Communion should further explore juridical forms to address this^{3.4}. Building on this paper, in 2004 Doe drafted a covenant (which he had proposed in (3.2)) appended to the Windsor Report of the Lambeth Commission (see Section 4). In 2008 Doe’s research on the covenant project was published in a book^{3.5} which proposed that: (a) adoption of a covenant would not represent a revolutionary departure from classical Anglicanism; (b) covenant models in scripture, sacramental theology and those used by comparable global ecclesial communities (e.g. the Lutheran World Federation) could be used as models for an Anglican covenant; and (c) a covenant should seek to clarify the relationship between the theological category of communion with the legal category of autonomy (and its exercise).</p>

3. References to the research

- (1) Doe, N., *Canon Law in the Anglican Communion: A Worldwide Perspective* (Clarendon Press, Oxford, 1998). (Available from the HEI, on request) ISBN: 9780198267829
- (2) Doe, N., 'Canon law and communion', 6 *Ecclesiastical Law Journal* 6(30), pp.241-263. (Available from the HEI, on request) <http://dx.doi.org/10.1017/S0956618X0000449X>
- (3) Doe, N., 'The contribution of common principles of canon law to ecclesial communion in Anglicanism', in *The Principles of Canon Law Common to the Churches of the Anglican Communion*, Anglican Communion Legal Advisers' Network (Anglican Communion Office, London, 2008) pp. 97-112. (Available from the HEI, on request)
- (4) Doe, N., 'Communion and autonomy in Anglicanism: nature and maintenance', cited in *The Windsor Report 2004* (see section 5) 110, n. 20:
http://anglicancommunion.org/commission/process/lc_commission/docs/autonomy.pdf
(Available as a pdf from the HEI, on request)
- (5) Doe, N., *An Anglican Covenant: Theological & Legal Considerations for a Global Debate* (Canterbury Press, 2008). (Listed in Cardiff University submission to UoA 20, REF 2, output identifier 3563) ISBN: 9781853119040

4. Details of the impact

The Lambeth Conference in August 2008 hosted the launch of the document *The Principles of Canon Law Common to the Churches of the Anglican Communion* (Anglican Communion Office, London, 2008) and the Anglican Consultative Council in December 2009 circulated the Anglican Communion Covenant for ratification by the 44 churches of the worldwide Anglican Communion. Both initiatives are designed in part (a) to enable Anglicanism globally to re-assert its identity, credibility, and effectiveness; (b) to maintain communion between its churches, at a time of serious discord over issues of human sexuality; and (c) to provide a basic framework of 'house rules' for the Communion to address divisive issues which might arise in the future. The steps leading to the impact in and beyond 2008 begin outside the census period in 2001 and may be explained thus:

The Principles of Canon Law:

The Archbishop of Canterbury (Carey) invited Doe to speak at the 2001 Primates' Meeting (an annual meeting of Anglican archbishops worldwide) about canon law and how it might contribute to Anglican unity globally. Doe's paper^{3.2} explained his research, proposed articulation of principles of canon law, and suggested that lawyers should meet to explore whether these principles of Anglican canon law existed. The following year at Canterbury, the Anglican Communion Legal Advisers Consultation assembled lawyers from across the worldwide Communion (the first such meeting in Anglican history) to discuss the idea; at the event Doe engaged the lawyers in discussion of candidate principles he had drafted in advance. The consultation accepted Doe's hypothesis. The Primates endorsed this (recognising canon law as a 'fifth instrument of unity' in global Anglicanism alongside the Archbishop of Canterbury, Primates Meeting, Lambeth Conference and Anglican Consultative Council), and authorised the establishment of the Anglican Communion Legal Advisers Network to move the project forward. The Network was set up formally by the Anglican Consultative Council meeting in Hong Kong, after which Doe was commissioned to produce a draft 'statement of principles of Canon Law common within the Communion'. His 100 macro- and 600 micro-principles were refined by the Network working group (at meetings including sessions in Toronto and Nassau), presented to the Network (2007), published as *The Principles of Canon Law Common to the Churches of the Anglican Communion* (Anglican Communion Office, London 2008), and launched at the Lambeth Conference, August 2008 (with Doe^{3.3} appended to the document).

This statement of principles of law (but not itself a body of law), has been used by: (a) the bishops

of the Anglican Communion meeting at the ten-yearly Lambeth Conference, as a focus of agreement about what unites Anglicans in terms of common norms of action (at a special session at the 2008 meeting at Canterbury); (b) each church within the Communion, having all been urged to study and comment on it by a recommendation from the Anglican Consultative Council meeting in Jamaica in May 2009 (ACC-14)^{5.1}; (c) the Supreme Court British Columbia to assist (by way of a persuasive authority of which judicial notice was taken) in resolution of a property dispute between Anglicans (in 2009)^{5.2}; (d) Anglican churches considering legal reform (e.g. the Church in Wales used the document to distinguish fundamental principles and functional rules as part of the process to revise its Constitution in 2010); (e) the Colloquium of Anglican and Roman Catholic Canon Lawyers in submissions to the International Anglican-Roman Catholic Commission on Unity and Mission (to underscore what Anglicans and Catholics share canonically)^{5.3}; and (f) church jurists from around the world of churches of the Reformed tradition who, meeting in Utrecht in 2011 to discuss Protestant Church Polity in Changing Contexts, listened with great interest to an exposition of the principles of canon law within the Anglican Communion and debated whether a similar project was possible and desirable as to their systems of polity globally^{5.4}.

In November 2012, Canon John Rees, the Legal Adviser to the Anglican Consultative Council, stated in a letter to Doe: 'without your contribution this whole project would not have happened'; 'the work has been quoted in litigation', 'its impact at the Lambeth Conference in 2008 was very considerable', and 'I have been told how valuable individual bishops in all parts of the world have found it...for filling gaps in their local constitutions'^{5.5}.

The Anglican Communion Covenant:

In 2003, decisions in the USA, to select a practising homosexual as a bishop, and in Canada, concerning services for same-sex unions, threatened 'to tear the fabric of the Communion at its deepest level' (Primates' Statement, 15/10/2003). As a result, the Archbishop of Canterbury (Williams) established the Lambeth Commission to address 'the legal and theological implications' of these decisions and to make 'practical recommendations for maintaining the highest degree of communion'. Doe was appointed to the Commission and invited to write a briefing paper^{3.4} to steer the Commission on the issues, communion and autonomy. Doe re-iterated his covenant proposal^{3.2}, which was accepted by the Commission, and Doe worked on a draft which was incorporated in the Commission's Windsor Report (2004). Doe was also appointed consultant to the Covenant Design Group established by the Archbishop of Canterbury to take the project forward^{5.6}. Doe gave presentations on the Covenant at five separate sessions at the Lambeth Conference 2008. The Design Group (Singapore, September 2008) considered that Conference's reflections and later produced its final draft (March, 2009), using Doe's suggestion that the covenant should embody the principle that 'the Communion guides, each church decides'^{3.5} as fundamental to the covenantal relationship between communion and autonomy^{5.7}. The Standing Committee of the Anglican Communion agreed the final text in December 2009 and the Anglican Communion Covenant was circulated to the 44 churches of the worldwide Communion for consideration and subsequent ratification or rejection. The Covenant has stimulated debate and decision making in each church about what communion and autonomy mean and how to resolve conflicts amicably. Discussion within the churches took place not only at the level of their national synods, but also at more grass roots level in the dioceses, and in some cases in parishes. Thus far 9 churches have ratified it (by adoption or subscription), 1 has rejected it, and 2 have declined to decide^{5.8}. The Anglican Consultative Council is currently reconsidering how to proceed given that the Church of England is amongst those churches which have not ratified the Covenant.

In November 2012 the Director for Unity, Faith and Order at the Anglican Communion Office wrote: 'Norman Doe made a very significant contribution to the development of the Anglican Communion Covenant, which is currently being considered for adoption.... He originated the idea, drafted the first version, participated in the design Group, and educated Anglicans about it... Overall, the Covenant process has encouraged Anglicans to think about what it means to be a church, and how to make decisions together across cultural and theological difference'^{5.9}.

Assessment of Doe's work by the former Archbishop of Canterbury:

Doe's work has contributed to a change in perception, posture and practice in global Anglicanism. Former Archbishop of Canterbury, Dr. Rowan Williams, wrote in a statement that: 'The work on Principles of Anglican Canon Law was a groundbreaking project which made a huge contribution to the self-awareness of the Communion internationally and is a lasting and indispensable resource. The contribution made to the discussion and refining of the 'Anglican Covenant' as a focus for convergence and mutual accountability in the Communion was again indispensable. Despite mixed responses, the quality of the work was universally acknowledged... Professor Doe and his colleagues have done an enormous amount to provide such a resource and to equip a great range of individuals'^{5,10}.

5. Sources to corroborate the impact

1. Resolution 14.20: Anglican Communion Legal Advisers' Network (ACLAN) *Resolved, 05.05.09*: <http://www.anglicancommunion.org/communion/acc/meetings/acc14/resolutions.cfm> calls on all churches to study the code (pdf page 5 of 10).
2. *Bentley v Anglican Synod of the Diocese of New Westminster* [2009] BCSC 1608: <http://www.vancouver.anglican.ca/portals/0/repository/AppealDecision11-15-2010.pdf> validates use of *The Principles of Canon Law Common to the Churches of the Anglican Communion* by the Supreme Court British Columbia (pdf pages 21 and 34 of 62).
3. (2009). A Decade of Ecumenical Dialogue on Canon Law. *Ecclesiastical Law Journal*, 11, pp 284-328 <http://dx.doi.org/10.1017/S0956618X09990068> details multiple references to *The Principles of Canon Law Common to the Churches of the Anglican Communion* by the Colloquium of Anglican and Roman Catholic Canon Lawyers.
4. For the Utrecht event, contact Professor of Theology at Stellenbosch University (details provided as part of REF submission).
5. (21.11.2012) Letter to Doe from Legal Adviser to the Anglican Consultative Council confirms the research's value in creating the code.
6. Anglican Communion News Service : Covenant Design Group issues communiqué and draft (2008) confirms Doe's appointment to the Group: <http://www.anglicancommunion.org/acns/news.cfm/2008/2/6/ACNS4367>
7. Commentary on the Ridley-Cambridge draft (2009), s.3: http://www.anglicancommunion.org/commission/covenant/ridley_cambridge/commentary.cfm shows acceptance of Doe's maxim "the Communion guides, each church decides".
8. Anglican Communion News Service: *Hong Kong Anglican Church adopts the Covenant* (2013) <http://www.anglicannews.org/news/2013/06/hong-kong-anglican-church-adopts-the-covenant.aspx> confirms the ratifications of the Covenant.
9. (28.11.2012) Testimony from Director for Unity, Faith and Order, Anglican Communion Office confirms Doe's contribution to the Covenant and the resulting change in Anglican thought.
10. (21.03.2013) Testimony from Former Archbishop of Canterbury confirms the contribution of the Principles and Covenant to the Communion.

All URLs (saved by the HEI on 30.07.13) and testimony are available as pdfs from the HEI, on request.