
The Teaching of Church Law: An Ecumenical Exploration Worldwide

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Religion law – the law of the state on religion – has been taught for generations in the law schools of continental Europe, though its introduction in those of the United Kingdom is relatively recent. By way of contrast, within the Anglican Communion there is very little teaching about Anglican canon law. The Church of England does not itself formally train clergy or legal officers in the canon and ecclesiastical laws that they administer. There is no requirement that these be studied for clerical formation in theological colleges or in continuing ministerial education. The same applies to Anglicanism globally – though there are some notable exceptions in a small number of provinces. This is in stark contrast to other ecclesiastical traditions: the Catholic, Orthodox, Lutheran, Methodist, Reformed, Presbyterian, Baptist and United churches all provide training for ministry candidates in their own systems of church law, polity or order. However, no study to date has compared the approaches of these traditions to the teaching of church law today. This article seeks to stimulate an ecumenical debate as to the provision, purposes, practices and principles of the teaching of church law across the ecclesiastical traditions of global Christianity. It does so by presenting examples of courses offered (institutions, purposes, subjects, methods and levels), the educative role of church law itself, requirements under church law for church officers to study the subject, and parallels from the secular world in terms of debate in the academy and practice on the nature of legal education, particularly the role played in it by the Critical Legal Studies movement.¹

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The Ecclesiastical Law Society promotes education in ecclesiastical law for the benefit of the public, particularly the clergy and laity of the Church of England and those who hold office or practise in its ecclesiastical courts. To further this, the Society publishes this *Journal*, holds conferences, seminars and lectures, has working groups to research, discuss and report on topics of relevance, and may co-operate with other Christian organisations and denominations engaged in pursuing similar objects.² Since its establishment in 1987, the Society has undertaken several initiatives to encourage the study of

- 1 The material set out in this article was presented at the Fourteenth Colloquium of Anglican and Roman Catholic Canon Lawyers, on the teaching of canon law, held in Rome, 26–27 April 2013.
- 2 Ecclesiastical Law Society, Constitution (2012). The Ecclesiastical Law Association also plays an educational role for eg Diocesan Registrars, and the Ecclesiastical Judges Association for its membership.

ecclesiastical law as part of initial and continuing ministerial education in the Church of England,³ including a guide and teaching aid on canon law for the newly ordained – to meet the expectation of the Ministry Division of the Church of England that, at the point of ordination, candidates should ‘demonstrate familiarity with the legal, canonical and administrative responsibilities appropriate to the newly ordained and those working under supervision’.⁴ The guide asserts: ‘All clergy are, to a certain extent, practitioners of ecclesiastical law and should be aware of their legal responsibilities’, on the basis that: ‘The general public are entitled to expect the same level of service and expertise from the clergy as they would expect from any professional person’.⁵ Nevertheless, there is still no national formal free-standing provision in the Church of England itself, or its theological colleges, to train its clergy (as part of initial or continuing ministerial education) or its legal officers in the canon and ecclesiastical law that they administer;⁶ rather, the teaching is on an *ad hoc* basis, often by members of the Society.⁷ Yet a number of UK law schools run courses in canon law,⁸ or consider aspects of it in courses on law and religion.⁹

- 3 C Hill, R Bursell and J Masding (eds), *An Ordered Church: a syllabus introducing the canon and ecclesiastical law of the Church of England*, Ecclesiastical Law Society in Conjunction with the Ministry Division of the Archbishops’ Council (1999), Commendation by the Archbishops of Canterbury and York: ‘New Testament metaphors ... speak unambiguously of a structured and ordered Church. Rules and laws are not extrinsic to the Church but are part of its inner organic life. Law and Gospel are not in opposition to each other’. *An Ordered Church* is ‘an experience-based course’, and its ‘case studies describe real day-to-day situations where ordinand and priest are faced with questions of law’ so they may know ‘where they stand in terms of professional relationships’.
- 4 L Yates and W Adam, *Canon Law for the Newly Ordained: a brief guide and teaching aid* (third edition, London, 2011): Initial Ministerial Education (IME) 1–3 (for those entering ministry) and IME 4–7 (for those moving through ministry). At completion of IME candidates should demonstrate a ‘working understanding’ and ‘good practice’ as should those to be licensed and ‘having oversight and responsibility’. Part 1 covers purposes of Church law; Part 2 the basics on eg baptism, funerals, marriage, liturgy, faculty jurisdiction and terms of service; Part 3 has case studies and model answers, and further reading; the guide is distributed annually by the Ministry Division of the Archbishops’ Council to those about to be ordained deacon.
- 5 *Ibid.*, pp 9, 18. Society working parties have included one on ‘The future of education in ecclesiastical and canon law’ (which supported the introduction of the LLM in Canon Law at Cardiff Law School in 1991 – see n 8 below). The Society also has an education officer and education adviser and awards prizes for undergraduates on courses at British universities that have significant ecclesiastical law content.
- 6 Canons of the Church of England, Canon G 4: to qualify for appointment as provincial and diocesan registrars, candidates must be ‘learned in the ecclesiastical laws’, but no formal training is provided by the Church. No such requirement attaches to candidates for the office of diocesan chancellor: Canon G 2.
- 7 Canon David Parrott has produced a book for clergy, *Your Church and the Law* (second edition, London, 2011), based on his experience of teaching curates in the south-east of England.
- 8 The Cardiff LLM in Canon Law deals critically with the laws of the Church of England and other Churches in the global Anglican Communion, as well as comparative church law (and religion law in the UK and Europe).
- 9 Ecclesiastical law appears in LLB law and religion modules at eg Bangor, Cardiff and Oxford Brookes.

Moreover, training in church law is not a general feature of ministerial education in Anglicanism globally; and it is notable by its absence from the standards produced by Theological Education in the Anglican Communion (a working group set up in 2003).¹⁰ However, there are some significant exceptions in a small number of provinces, including Wales,¹¹ Scotland,¹² Ireland¹³ and elsewhere, such as in the USA.¹⁴ For example, at Virginia Theological Seminary the course in ‘Religion and culture: canon law’ seeks

(1) to give students increased competence in understanding and interpreting the western tradition of canon law, with a particular focus on the Episcopal Church’s *Constitution and Canons*; (2) to provide resources to assist them in functioning effectively and collaboratively as faithful pastors, teachers, leaders, and evangelists.¹⁵

The course examines the Constitution and Canons of The Episcopal Church USA (and their history), decisions of the Church courts and the secular courts, other instruments such as the English Canons Ecclesiastical 1603 and comparisons with the Catholic Code of Canon Law. It is an elective course taught on the Master of Divinity degree (though also open to other students), but study of the disciplinary canons of The Episcopal Church is a national church requirement for ordinands. The class meets for three hours once a week for half a semester (six weeks) and the subjects covered include the sources and theories of canon law, organization and administration, worship

- 10 Set up by the Primates, this working group has set common global standards in theological education but does not explicitly recommend the study of canon law, though ‘Anglican polity’ is suggested and key aspects of other subjects recommended for study have significant canonical aspects: see N Doe, ‘Theological education in Anglicanism: global policy and its canonical dimensions’, in N Doe (ed), *The Formation and Ordination of Clergy in Anglican and Roman Catholic Canon Law*, Acts of the 6th, 7th and 8th Colloquia of Anglican and Roman Catholic Canon Lawyers (Cardiff, 2009), p 91. The Anglican Consultative Council also commends for ‘study’ the *Principles of Canon Law Common to the Churches of the Anglican Communion* (London, 2008): ACC-14, Resolution 14.20 (5 May 2009).
- 11 St Michael’s Theological College, Llandaff, has a two-day course on canon law for ordinands (with material prepared by D Belcher, *Canon Law for those in Public Ministry in the Church in Wales*). At provincial level, continuing ministerial education in canon law is given by the Centre for Law and Religion, Cardiff Law School.
- 12 A two-hour course on the law of the Church of Ireland is given at the Church of Ireland Theological Institute, Dublin, by the Bishop of Cork, the Rt Revd Dr Paul Colton (a graduate of the Cardiff LLM in Canon Law).
- 13 Scottish Episcopal Church ordinands are introduced to its canons.
- 14 See W Adam, ‘The teaching of canon law in the Anglican Communion’, unpublished paper delivered at the 14th Colloquium of Anglican and Roman Catholic Canon Lawyers, Rome, 26–27 April 2013. For example, Yale Divinity School offers courses on parish administration and Anglican theology (both of which may include legal aspects); the General Theological Seminary has an optional course on ‘Polity and canon law of The Episcopal Church’.
- 15 Religion and Culture 658: Canon Law, taught by Professor Robert Prichard. The Seminary also runs the *Journal of Episcopal Church Canon Law*.

and ministry, discipline and parish and diocesan norms.¹⁶ Another course at Virginia Theological Seminary, on the Anglican Communion and canon law, is designed to

introduce students to the general history of canon law, provide a theological rationale for engaging in the ministry of canon law, and illustrate some of the ways that canon law has functioned within Anglicanism and the Anglican Communion in general, with particular attention to the relationship between The Episcopal Church (USA) and the Anglican Communion.¹⁷

The students attend six sessions and write three short reflection papers.¹⁸

This position within Anglicanism is in marked contrast to that in other ecclesiastical traditions. The Catholic, Orthodox, Lutheran, Methodist, Reformed, Presbyterian, Baptist and United churches all provide for the teaching of and training in church law or church order. What follows sets out: the basic legal and other regulatory texts of selected churches within these traditions; how these traditions conceive of church law itself as educative; legal requirements within Churches for ministry candidates, ministers and other officers to receive training in church law and polity; the courses provided by theological colleges and seminaries within these traditions (including their purposes and the subjects they cover); and the extent to which lessons might be learnt from debate in the secular world about the nature, purposes and delivery of legal education, particularly the role played by Critical Legal Studies.¹⁹

THE REGULATORY INSTRUMENTS OF CHURCHES

In order to put the teaching of church law in context, it must first be established that the churches across the ecclesiastical traditions studied here have systems of church law.²⁰ The Catholic Church has the *Code of Canon Law* for the Latin Church (1983) and the *Code of Canons of the Oriental Churches* (1990), species

16 Students make a ten-minute oral presentation, prepare a one-page case analysis, and submit an eight-page written project. A key text for the course is E White and J Dykman, *Annotated Constitution and Canons for the Government of the Protestant Episcopal Church in the United States of America Otherwise Known as The Episcopal Church* (second edition, Seabury NY, 1982; revised 1991 with supplement); the course also uses N Doe, *Canon Law in the Anglican Communion* (Oxford, 1998).

17 STH 650; the course is taught by Revd Dr Katherine Grieb (a graduate of the Cardiff LLM in Canon Law).

18 Recommended reading includes N Doe, *The Legal Framework of the Church of England* (Oxford, 1996) and the Lambeth Commission on Communion, *The Windsor Report* (London, 2004).

19 For the teaching of state law on religion in Europe, see J González del Valle and A Hollerbach (eds), *The Teaching of Church–State Relations in European Universities* (Leuven, 2005).

20 See N Doe, *Christian Law: contemporary principles* (Cambridge, forthcoming 2013), ch 1.

of ‘universal law’, as well as ‘particular laws’ operative (typically) in a diocese.²¹ Local Orthodox churches have canon law,²² charters, constitutions and statutes (which often refer to the ‘canons and rules’ of the Holy Apostles, Councils and Fathers),²³ as well as other instruments such as ‘monastic law’ and ‘regulations’, which may refer to the ‘canonical tradition’ and to ‘custom’.²⁴ Furthermore, Orthodox churches may have ‘guidelines’ that are often declaratory of the holy canons, obligatory in form and addressed to both the clergy and the laity; they may also have ‘instructions’ and ‘codes’ of pastoral conduct to which ‘adherence’ is required.²⁵

Within the Protestant traditions, many Lutheran churches have ‘church laws’, ‘constitutions’, ‘bylaws’ and other regulatory instruments.²⁶ For instance, the Lutheran Church of Australia has a central constitution, bylaws, rules and regulations (which may be amended by its General Synod); in turn, each district and each congregation within it has its own constitution and bylaws, which must be consistent with the central constitution and bylaws.²⁷ Lutheran churches also have normative doctrinal texts to which compliance is due, ‘ecclesiastical practices and customs’, ‘guidance’ and ‘standards’.²⁸ Methodists, similarly, employ ‘Methodist law’, ‘Church law’ and ‘the laws of the Church’,²⁹ in the form of a constitution, Book of Discipline, ‘Manual of law’, ‘Law book’ or ‘Code’ (with ‘Laws and regulations’), or ‘Standing orders’.³⁰ As well as the ‘General rules

21 Latin Code (*CIC*), Canons 12, 16, 29.

22 P Rodopoulos, *An Overview of Orthodox Canon Law* (Rollinsford, NH, 2007).

23 Greek Orthodox Archdiocese of America, Charter (granted by the Ecumenical Patriarchate of Constantinople 2003); Syrian Orthodox Church of Antioch, Constitution (approved by Holy Synod in 1998); Russian Orthodox Church, Statute (adopted in 1988).

24 Romanian Orthodox Church, Statutes, Art 74: the ‘canonical statutes of a monastery’; Greek Orthodox Archdiocese of America, Charter, Art 22; regulations approved by the Ecumenical Patriarchate, Art 21(a): ‘canonical tradition’; Syrian Orthodox Church of Antioch, Constitution, Art 51: custom.

25 Orthodox Church in America, Guidelines for Clergy (Holy Synod, 1998); Ukrainian Orthodox Church in America, Joint Statement of Hierarchs, ‘Living the sacramental life of the Church: practical instructions for diocesan faithful’ (undated).

26 Evangelical Lutheran Church of Southern Africa Guidelines, 10.6: ‘church laws’; Lutheran Church in Great Britain, Constitution (2011) and Rules and Regulations (2011).

27 Lutheran Church of Australia, Constitution, Preamble, Arts II, IV, XI, XII.

28 Evangelical Lutheran Church in America, Constitution, ch 5.01: church units ‘shall act in accordance with the Confession of Faith’; Lutheran Church of Australia, Bylaws, V.F.1: General Pastors’ Conference ‘guidance’ on doctrine; North American Lutheran Church, Standards for Pastoral Ministry (2011).

29 Methodist Church in Great Britain, Constitutional Practice and Discipline, Deed of Union, 25(b): ‘Methodist law’; Methodist Church in Ireland, Constitution, s 6: ‘Manual of Laws’ and s 5: Conference ‘Rules and Regulations’; also Regulations, Discipline and Government, 10.06: ‘laws of the Church’.

30 United Methodist Church in Northern Europe and Eurasia, Book of Discipline, para 2546; Methodist Church of New Zealand, Laws and Regulations (2007), 2.1.2: ‘this Law Book’ and 8.1: ‘Code’; Methodist Church in Great Britain, Constitutional Practice and Discipline, Deed of Union, 19: Conference may ‘make, amend or revoke Standing Orders or other rules and regulations’ for its constitution and procedure.

of the Methodist Church',³¹ churches often require adherence to 'laws and usages', to Articles of Religion (with their 'rules of doctrine')³² and to 'guidelines', with 'obligations', 'expectations' and 'policies'.³³

Similarly, Reformed and Presbyterian churches employ, for example, a system of 'law' (eg Scotland), a 'code' (eg Ireland), a 'book of church order' (eg America) or a 'book of order' that contains 'legislation' (eg New Zealand).³⁴ These instruments may in turn contain a constitution, bylaws and normative doctrinal texts for the church and its units.³⁵ The church may also provide a model constitution for a local church, recognise customs and regulate conduct by means of soft-law.³⁶ United churches, too, have constitutions, bylaws, customs,³⁷ and quasi-legislation with 'ethical standards', 'standards of practice', 'values' and 'norms'.³⁸

At the other end of the spectrum lies the Baptist tradition. A national Baptist union or convention normally has a constitution, the provisions of which may be classified as 'laws', and, sometimes, bylaws.³⁹ It may also have normative doctrinal standards (such as a Confession of Faith), as well as guidelines, policies and codes.⁴⁰ Within a union or convention, a regional association of churches may have its own constitution, and a local church may have a constitution

- 31 Methodist Church in Ireland, Regulations, Discipline and Government, 1.03: 'General rules of the Society of the People called Methodists' (John Wesley, 1743); Manual of Laws, App I: 'Twelve rules of a helper'.
- 32 Methodist Church of New Zealand, Laws and Regulations, 2.26.1: 'laws and usages'; United Methodist Church – United States of America, Constitution, Div I, Art III, Div 2.3, Art I: Articles of Religion etc.
- 33 United Methodist Church in Northern Europe and Eurasia, Book of Discipline, paras 806 and 1107: the General Board of Discipleship 'shall adhere to' the 'investment policies and guidelines'.
- 34 J Weatherhead (ed), *The Constitution and Laws of the Church of Scotland* (Edinburgh, 1997), p 16; see also the Manual of Practice and Procedure in the United Free Church of Scotland (2011); The Code: The Book of the Constitution and Government of the Presbyterian Church in Ireland (2010); The Book of Church Order of the Reformed Church in America (2010); Presbyterian Church of Aotearoa New Zealand, Book of Order (2011).
- 35 Presbyterian Church in Ireland, Code, Constitution and Pt III.15: Trustees' Bylaws. For eg the Westminster Confession of Faith, see eg Presbyterian Church of Aotearoa New Zealand, 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 the Canons of the Synod of Dort 1619.
- 36 United Reformed Church, Model Constitution for Local Churches (2010); Presbyterian Church in America, Book of Church Order, III.58.8: custom on preparation for the Lord's Supper; Presbyterian Church of Wales, Employee Safety Handbook (undated).
- 37 United Church of Christ, Constitution, Art V.11: 'the custom and usage of a Local Church'; also Bylaws.
- 38 United Church of Canada, Ethical Standards and Standards of Practice for Ministry Personnel (2008).
- 39 Jamaica Baptist Union, Constitution (1981); Baptist Union of Scotland, Constitution and Bylaws; National Baptist Convention, USA, Constitution (2002), Preamble: the Convention has 'constitutions' and 'laws'.
- 40 Baptist Union of Southern Africa, Model Constitution for Local Churches, 4: Statement of Faith; Baptist Union of New Zealand, Ethical Principles and Guidelines for Pastors (2000, amended 2008).

and trust instrument, a 'covenant' that sets out the commitments of members both to Christ and to the local church itself, and doctrinal texts.⁴¹

In short, all of the Christian traditions studied here are familiar with and use the category 'law' in the regulation of the affairs of each of their institutional churches, alongside more informal sources such as long-established customs and ecclesiastical quasi-legislation. These juridical instruments regulate decision-making by and the rights and duties of ministers and the laity on a wide range of church matters: governance, ministry, doctrine, worship, rites of passage, ecumenism, property and relations between the church, the state and society.

THE EDUCATIVE ROLE OF CHURCH LAW

Church law itself is a form of Christian education. Alongside their regulative functions (to order and facilitate ecclesial life), systems of church law and church order are designed to lead out (*educare*) the faithful in their witness to Christ in the context of the mission of an institutional church.⁴² Jurists and regulatory instruments of churches across our traditions explicitly use this idea in their treatment of the purposes of ecclesiastical regulation. For Catholic canonists, one function of canon law is 'to assist in the education of the community by reminding everyone of its values and standards'.⁴³ As Pope John Paul II put it, canon law 'facilitates . . . an orderly development in the life of both the ecclesial society and of the individual persons who belong to it';⁴⁴ indeed, canon law itself teaches that the 'salvation of souls [is] the supreme law'.⁴⁵ Likewise, Orthodox canon law is 'at the service of the Church . . . to guide her members on the way to salvation'; its main function is 'the spiritual growth of the faithful';⁴⁶ in turn, the institutions of Orthodox churches are designed in part to 'lead' the faithful through the regulatory instruments which those institutions create.⁴⁷

That ecclesial norms exist to educate the faithful is equally a key concept in Protestant legal thought. Lutheran laws 'provide necessary organizational

41 Baptist Union of Great Britain, Model Trust for Churches 2003, 2.12 (Church Constitution); Riverside Baptist Church (Baltimore), Bylaws, and Constitution, Art IV, 'Church Covenant': members 'most solemnly and joyfully enter into covenant with one another, as one body in Christ'.

42 Doe, *Christian Law*, ch 1.

43 J Coriden, *An Introduction to Canon Law* (London, 1991), p 6; see also P Beal, J Coriden and T Green, *New Commentary on the Code of Canon Law* (Mahwah, NJ, 2000), p 1.

44 *Sacrae Disciplinae Leges* (1983), the Apostolic Constitution by which the Code was promulgated.

45 *CIC*, Canon 1752.

46 L Patsavos, 'The canonical tradition of the Orthodox Church', in F Litsas (ed), *A Companion to the Greek Orthodox Church* (New York, 1984), p 141.

47 Romanian Orthodox Church, Statutes, Art 201: the Statutes 'establish the ways in which [the] Patriarchy regulates, leads and manages its religious, pastoral-missionary, cultural-educational, social-philanthropic, foundational and patrimonial activity'.

principles, structures, and policies for good order', and in so doing they 'guide, direct, and assist [the Church] in mission and ministry'.⁴⁸ Similar ideas appear in Methodist laws that present the teaching of the Church on a particular matter.⁴⁹ One Methodist Book of Discipline 'reflects our understanding of the Church and articulates [its] mission to make disciples of Jesus Christ for the transformation of the world'; it 'defines what is expected of [the] laity and clergy as they seek to be effective witnesses in the world as part of the whole body of Christ' as a 'book of covenant' that sets out the 'theological grounding of the [Church] in biblical faith'.⁵⁰ Fundamentally the same ideas appear in the Reformed tradition: the purpose of 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 (I Cor. 14.40)',⁵¹ and in so doing it protects the teaching of the church.⁵² The educative dimension of law is often implicit in the legal instruments of churches. For example, 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'.⁵³ Likewise, a local Baptist church has a constitution to 'govern', 'regulate' and 'enable' church life;⁵⁴ a constitution is established, typically: 'For the purpose of preserving and making secure the principles of our faith' so that 'this body be governed in an orderly manner'; 'for the purpose of preserving the liberties inherent in each individual member of the church'; and in order to present 'this body to other bodies of the same faith'.⁵⁵ In other words, it is a principle of Christian law that regulatory instruments serve to educate the church. Moreover, these instruments often represent the teaching or doctrine of a church, and teaching documents are often prescriptive in so far as they contain norms of conduct.⁵⁶

JURIDICAL REQUIREMENTS TO STUDY CHURCH LAW AND POLITY

In the churches across the ecclesiastical traditions studied here, formal acceptance of the laws and polity of a church is a prerequisite to admission to candidature for ordained ministry.⁵⁷ However, the regulatory instruments of churches

48 Evangelical Lutheran Church in Canada, Constitution, Introduction and Preamble.

49 Free Methodist Church of North America, Book of Discipline, Constitution, Preamble, para 1: the constitution is designed to 'preserve and pass on to posterity the heritage of doctrine and principles of Christian living', 'ensure church order by sound principles and ecclesiastical polity' and 'prepare the way for evangelization [and] cooperation with other branches of the church of Christ'.

50 United Methodist Church in Northern Europe and Eurasia, Book of Discipline, para 7.

51 Weatherhead, *Constitution and Laws of the Church of Scotland*, p 1.

52 Presbyterian Church in America, Book of Church Order, I.10–11.

53 United Church of Canada, Manual, Introduction.

54 Baptist Union of Great Britain, Model Trusts for Churches 2003, Schedule 4.1–4.6.

55 Riverside Baptist Church (Baltimore), Constitution, Preamble.

56 Doe, *Christian Law*, ch 6.

57 *Ibid*, ch 3.

may or may not explicitly require training in church law as part of initial (or continuing) ministerial formation. In the Catholic Church, study of canon law is part of theological formation for those in the seminary,⁵⁸ and judges and others engaged in the judicial process must possess a doctorate or at least a licentiate in canon law;⁵⁹ bishops too must hold a doctorate or licentiate in scripture, theology or canon law.⁶⁰ By way of contrast, the contemporary juridical instruments of Orthodox churches studied here do not generally specify training in canon law – but theological education is a pre-condition for ordination, as is an undertaking to comply with church law.⁶¹ Much the same applies in Lutheran churches. The Lutheran Church in Australia is typical:

it shall receive into its Ministry, by ordination or by colloquy of ministers ordained elsewhere, men whose qualifications for the office have been established, and who: (a) accept and hold the Confession of the Church; (b) accept the Constitution and By-laws of the Church; and (c) undertake to participate in the work of the Church and to promote its Objects.⁶²

A candidate must indicate willingness for and dedication to this office; be found as being of sufficient standard in theological knowledge for this office and of sound confessional standing; and have indicated a willingness to accept a call or appointment.⁶³

As in Catholicism, some Methodist laws expressly require examination in Methodist law or polity as part of ministerial formation. For instance, the Laws of the Methodist Church of Southern Africa provide: ‘The minister being examined is to be questioned about the content of Methodist Doctrine [and] an understanding of Methodist polity’.⁶⁴ Similarly, in the Church of the Nazarene: ‘The candidate must first be examined as to his or her personal experience of salvation, knowledge of the doctrine of the Bible, and the order of the church’; moreover, a candidate for ordained ministry must undertake a ‘validated course of study’ that

58 *CIC*, Canon 252, §2: ‘Lectures are also to be given in . . . canon law . . . and other auxiliary and special disciplines, in accordance with the programme for priestly formation’; see also Canon 247 (students are to be given all the requisite knowledge concerning the duties proper to the sacred ministers) and Canon 253 (concerning the appointment of professors for the provision of canon law teaching). See generally A Cole, ‘Universal norms on priestly formation in the Latin Church’, in N Doe (ed), *The Formation and Ordination of Clergy in Anglican and Roman Catholic Canon Law* (Cardiff, 2009), pp 125–139.

59 *CIC*, Canon 1420: judicial vicar; Canon 1421: judges; Canon 1435: defenders of the bond and promoters of justice; Canon 1483: advocates.

60 *CIC*, Canon 378, §1.

61 Romanian Orthodox Church, Statutes, Arts 52, 115–121.

62 Lutheran Church in Australia, Constitution, Art V.1. See also Evangelical Lutheran Church in America, Constitution, ch 7.23: education.

63 Lutheran Church in Australia, Bylaws, V; North American Lutheran Church, Standards for Pastoral Ministry, 1: ‘educational qualifications’.

64 Methodist Church of Southern Africa, Laws and Discipline, 4.115.

includes ‘the history and polity of the Church of the Nazarene’; candidates must also be provided with courses in skills and ‘Church administration must be included’.⁶⁵ The same requirement may apply to those appointed to serve in lay ministry. For example, in the United Methodist Church, a candidate to be appointed as a lay speaker to serve in the local church must be a person who is

well informed on and committed to the Scriptures and the doctrine, heritage, organization, and life of [the church] and who has received specific training to develop skills in witnessing to the Christian faith through spoken communication, church and community leadership, and care-giving ministries.⁶⁶

In the Reformed tradition candidates for ministry must be eligible, called, trained, examined and ordained – and at ordination and/or induction they undertake to comply with church law.⁶⁷ For Presbyterianism, the ‘officers of the Church’ generally fall into two categories: elders (teaching and ruling) and deacons, and laws provide for the eligibility of candidates, vocation, examination, training and ordination.⁶⁸ The Presbyterian Church in America is typical: to become a teaching elder, a person must submit himself ‘to the care and guidance of the Presbytery in his course of study and of practical training to prepare himself for this office’; training includes study of the ‘rules of government and discipline’.⁶⁹ Parallel arrangements are found in the juridical instruments of some United Churches: for example, the United Congregational Church of Southern Africa requires ministry candidates to participate in courses in ‘the history, theology and polity of Congregationalism’.⁷⁰ However, such arrangements are not found in the instruments of the Baptist unions, conventions and churches studied here – but theological education is required in ministerial formation.⁷¹

COURSES OF STUDY IN CHURCH LAW ACROSS THE TRADITIONS

While the laws and other regulatory instruments of all the churches studied here do not explicitly require training in church law or polity, it is a principle of

65 Church of the Nazarene, Manual, 428.1 and 426.3. See also Free Methodist Church of North America, Book of Discipline, para 5430: an elder must be trained in ‘Church Administration/Team Building’.

66 United Methodist Church in Northern Europe and Eurasia, Book of Discipline, para 266.

67 United Reformed Church, Manual, A and K, and Schedule B and C.

68 Presbyterian Church in Ireland, Code, paras 177–182: the Presbytery examines the candidate as to ‘his acquaintance with divine truth, his personal faith, and his sense of the responsibilities and duties of the office’; Presbyterian Church of Aotearoa New Zealand, Book of Order, 9.5–9.10: General Assembly determines the policies, procedures and training standards.

69 Presbyterian Church in America, Book of Church Order, 18–21; training also includes study of experiential religion, Greek and Hebrew, the Bible and theology.

70 United Congregational Church of Southern Africa, Constitution, Procedures, 1.4.2.5.

71 See eg Nigerian Baptist Convention, Policies and Practices, Ordination, 1–2.

ecclesiastical practice (or custom) that such training is provided as part of ministerial education (initial and/or continuing) – and churches require this by means of decisions issued executively rather than by formal legislation. Across the ecclesiastical traditions studied here, institutions such as theological colleges and seminaries deliver courses in church law, most in preparation for ministry. Of the fifty institutions contacted for this study, thirty or so responded.⁷² What follows describes courses that are either offered to or required of ministry candidates in terms of the legal texts studied, the purposes of (and justification for) juridical formation, the subjects addressed, the level and duration of study and the methods of delivery and study.⁷³

Catholic canon law

In the Catholic Church, the study of canon law as part of priestly formation is designed to enable seminary students to understand how canon law applies to everyday ministry as parish priests, for them to know, explain and apply the law with confidence in the decisions they make that affect people. Teaching is also provided at a more advanced level in the faculties of canon law at pontifical universities to prepare those to be engaged in the exercise of administrative and judicial offices, and the licentiate (JCL) takes three years.⁷⁴ The Sacred Congregation for Catholic Education provides, *inter alia*, that teaching should cover: the theological foundations of canon law; the application of canon law to concrete circumstances of pastoral life; administrative and judicial practice; and ecumenical aspects of canon law; furthermore, canon law should be included in the continuing education of clergy.⁷⁵ In terms of the purpose of training: ‘Competent canonists are needed in teaching theology, in the structures of diocesan curial offices, in regional Church tribunals, [and] in the governmental structure of Religious Families’; moreover: ‘even a priest who is directly occupied with the care of souls needs an adequate training in law to carry out suitably his pastoral ministry in the way a shepherd should’.⁷⁶ As to the methods of study:

72 I am very grateful to all those who responded by email to my requests for information; the date of the email correspondence is indicated below in the relevant footnotes.

73 The juridical texts of churches do, however, deal with theological colleges: see eg Uniting Church in Australia, Regulations, 2.2.23; Presbyterian Church in Ireland, Code, 217.

74 J Conn, ‘The teaching of canon law in the (Roman) Catholic Church’, unpublished paper delivered at the 14th Colloquium of Anglican and Roman Catholic Canon Lawyers, Rome, 26–27 April 2013; graduate level programmes exist at eg the pontifical Gregorian, Angelicum and Lateran universities in Rome and the Catholic University of America (Washington), St Paul University (Ottawa) and Catholic University (Leuven).

75 *Ibid.* Conn cites the Circular Letter 2 April 1975, ‘On the teaching of canon law to those preparing to be priests’, and other key instruments on the teaching of canon law such as *Sapientia Christiana* 29 April 1979, Art 75 of which states: ‘A Faculty of Canon Law, whether Latin or oriental, has the aim of cultivating and promoting the juridical disciplines in the light of the law of the Gospel and of deeply instructing the students in these, so as to form researchers, teachers, and others who will be trained to hold special ecclesiastical posts’.

76 ‘On the teaching of canon law to those preparing to be priests’, II.

Canon law should be taught in relation to the mystery of the Church as more profoundly understood by the Second Vatican Council. While explaining principles and laws, the point should be made plain, apart from anything else, how the whole system of ecclesiastical government and discipline is in accord with the salvific will of God, and, in all things, has as its scope the salvation of souls.⁷⁷

Orthodox canon law

There are many courses that study the canon law of the Orthodox Church.⁷⁸ Two examples from the USA may be offered: from different Orthodox traditions. St Vladimir's Orthodox Theological Seminary, New York (Orthodox Church in America), offers a course on the 'Orthodox canonical tradition: history, methodology, application, and contemporary problems'. The course examines the definition and sources of canon law, its interpretation and application, and questions that are regularly encountered in ministry practice. Within each unit of study, students are expected 'to acquire a high degree of familiarity of the most important applicable canonical texts' and 'to integrate their knowledge acquired from other classes at the Seminary – Church History, Liturgical Theology, and Dogmatic Theology – in crafting answers to canonical questions'. However, 'it is not enough to know canonical texts – they need to be understood, interpreted, and properly applied', particularly to 'pastoral problems'. Taught through lectures, class discussions and written exercises (eg critical book reviews, research papers, exegetical papers and expository papers), the course culminates in an examination. The students meet fifteen times each semester and each class lasts for two and a half hours.⁷⁹

Holy Trinity Orthodox Seminary, New York (Russian Orthodox), offers a 'Certificate Program in Theological Studies'; its two modules in canon law are mandatory on the Bachelor of Theology degree and taught in the last year of the five years 'since the study of canon law requires maturity and background in pastoral studies and theology'.⁸⁰ The main objectives of Canon Law Module 525 (two credits) are:

- 1) to develop an Orthodox mindset in students through the study of the logic of the canons;

77 *Ratio fundamentalis institutionis sacerdotalis* (Congregation for Catholic Education, 1970), 174: see Conn, 'Teaching of canon law'.

78 For instance, for courses in Orthodox canon law at the theological faculties of the Universities of Athens and Thessaloniki, see González del Valle and Hollerbach, *Teaching of Church-State Relations*, p 183.

79 St Vladimir's Orthodox Theological Seminary (Crestwood, NY), Course CL 203, details available at <<http://www.svots.edu/content/course-descriptions>>, accessed 13 June 2013.

80 Email from Deacon Andrei Psarev, Instructor of Canon Law, 17 April 2013.

2) to familiarize students with the Orthodox canonical tradition and particularly with the hermeneutical methodology by which the canons are interpreted;

3) after successful completion of the course, students should have a clear understanding about *corpus canonum* of the Orthodox Church.

The course handbook deals with the syllabus, handouts and assignments (to be read prior to classes), how to address a canonical problem and analyse a canon, presentations, the final examination, grading, class evaluation, the term paper and essay evaluation. The course units are: (1) the topicality of canon law, secular law and the Church, and handbooks of canon law in the Orthodox East and the Slavic countries; (2) canon law as a discipline (method and system), divine law and ecclesiastical legislation (canons), custom, and the opinions of authoritative canonists; (3) state legislation on church matters, and sources of ecclesiastical law (including sacred Scripture and apostolic writings); (4) and (5) canons of the ecumenical Councils; (6) canons of local councils (particularly Sardica and Carthage); (7) Patristic canons; (8) canonical collections (including sources of the law of the Russian Church); (9) Church organization and membership; (10) the sacred and governing hierarchy: bishops and clergy; (11) student presentations; and (12) review and examination.⁸¹

The module Canon Law 526 is designed to familiarize students with the requirements for the clerical ministry and canonical order.⁸² Lectures cover eg (1) the clergy (ordination and duties) and monasticism (dealing with eg with the Guidelines for Clergy of the Russian Orthodox Church Outside of Russia); (2) local churches, ancient Metropolitan districts, Patriarchates, the supreme administration of Orthodox churches, the diocese, and the diocesan bishop and his election (addressing eg the Regulations of the Russian Orthodox Church Outside of Russia); (3) the concept of Supreme Authority and its realization in the life of the Orthodox Church and the Ecumenical Councils; (4) autocephalous and autonomous churches (and the Orthodox Diaspora); (5) parishes and parish clergy and their duties (under the canons and regulations of the All-Russian Church Council of 1917–18 and the Statute of the Russian Orthodox Church (2000)); (6) the Russian Orthodox Church abroad, including

81 Key texts include D Cummings (ed), *The Rudder (Pedalion) of the Orthodox Christians or All the Sacred and Divine Canons* (Chicago, IL, 1957); L Patsavos, *Manual for the Course in Orthodox Canon Law* (Brookline, MA, 2006); L Patsavos, *Spiritual Dimensions of the Holy Canons* (Brookline, MA, 2003); P LHuillier, *The Church of the Ancient Councils: the disciplinary work of the first four ecumenical councils* (Crestwood, NY, 2000); C Gallagher, *Church Law and Church Order in Rome and Byzantium* (Aldershot, 2002); W Hartmann and E Pennington (eds), *History of Byzantine and Eastern Canon Law to 1500* (Washington, DC, 2012).

82 Handouts are included in a reader provided by the instructor and are to be read prior to the class for which they are assigned. Students must bring to class eg *The Rudder* (see n 81 above) and the *Compendium of Regulations, Statutes and Laws of the Russian Orthodox Church Outside of Russia* (New York, 2006).

the Bishop's Council and Synod, the diocese, and the parish (this examines eg the Act of Canonical Communion and Normal Parish By-Laws); (7) marriage; (8) ecclesiastical law in Byzantium, penitential discipline for the laity, the Statute of the Ecclesiastical Court of the Russian Orthodox Church, penitential discipline for the clergy and their deposition, suspension, and voluntary abandonment of clerical ministry.⁸³ These courses are devoted exclusively to the study of Orthodox laws and not those of other ecclesiastical traditions.

Methodist law and polity

The approaches of two institutions may be compared: one in England and one in Northern Ireland. The Queen's Foundation, Birmingham, teaches 'Methodist law and polity' (at BA level 5/6) as a compulsory subject for all Methodist pre-ordination students, and, for a smaller number, at MA level as part of their leadership work; it is designed to introduce students to 'the concept of living within authority'.⁸⁴ Teaching begins with the foundational documents, the Deed of Union (1932) and the Constitutional Practice and Discipline of the Methodist Church. Students then 'engage with the authority of the Conference including the historical developments from the first Conference, Wesley's Rules for the Societies and Rules for the Helpers'; they explore notions of 'corporate episcopate, the connexional principle and Being in Full Connexion with the Conference' and 'order and accountability'.⁸⁵ Students cover the workings of the Methodist Conference, law and polity (importantly, they study 'how policy is debated, theology formed, polity created and practice developed', through an examination of notices of motion, conference debates, reports, statements and resolutions) and how Standing Orders are formed and amended. Moreover, 'Those training as presbyters are taught their responsibility for ensuring [that] Methodist law and polity are communicated and upheld in the life of the local Church at local level'. Candidates promise to uphold these when received into Full Connexion with the Conference prior to ordination and the training is therefore designed 'to ensure they have a thorough working knowledge of the law and polity of Methodism in order to make this commitment with integrity'.⁸⁶

Edgehill Theological College, Belfast, trains ordained ministers for the Methodist Church in Ireland. All ministerial students take a compulsory course called 'Preparation for circuit ministry' for two semesters, with classes

83 Texts studied include A Bogolepov, *The Canon Law of the Time of the Ecumenical Councils* (Crestwood, NY); J Erickson, *The Challenge of Our Past* (New York, 1991); P Viscuso, *Orthodox Canon Law: a case-book for study* (Berkeley, CA, 2006).

84 Email from the Revd Helen Cameron, Oversight Tutor and Co-Director of the Centre for Ministerial Formation, The Queen's Foundation, Birmingham, 15 April 2013.

85 The principal document is the Conference Statement *Called to Love and Praise* (1999).

86 Email from the Revd Helen Cameron, 16 April 2013: 'I can confirm that we teach Methodist law and polity in various places throughout the course [as] compulsory sessions for Methodist pre-ordination students in their third year'.

for one and half hours a week (usually in seminar format); the course is not university-validated but is part of internal formational training. About six weeks of the course involve ‘a specific examination of the Manual of Laws’ and the sessions deal with: the duties of the minister in relation to church structures; disciplinary procedures; church governance, especially the annual Conference; and doctrine (also dealt with in a separate module on Methodist history, ethos and theology). The course also covers liturgy ‘requirements and good practice’ as to the Eucharist, baptism, funerals, marriage and other services, and the principal text studied is *The Methodist Worship Book*.⁸⁷

These two courses at Birmingham and Belfast study only the laws of the relevant Methodist Church and not those of other church families, or the wider civil laws applicable to these churches.

Lutheran church law

Lutheran theological seminaries and colleges teach Lutheran polity as part of ministerial training. For example, the polity of the Evangelical Lutheran Church of Southern Africa is taught at Umphumulo Lutheran Theological Institute (Kwa-Zulu Natal) as part of ordination training. The course deals with the institutional organisation of the church, ministry, doctrinal rules, liturgy, rites, property and ecumenism. It is taught over one year following completion of a Bachelor of Theology degree by means of 39 hours of seminars (half of which focus on liturgy); there is also provision for long-distance learning. The legal texts are studied in the context of the confessional documents of Lutheranism.⁸⁸ By way of contrast, at Pacific Lutheran Theological Seminary (Berkeley, California):

Our ordination track, masters-level students are exposed to Lutheran polity in a number of ways, including as part of their required year-long internship in a congregation, which includes attending the annual regional (synodical) assembly, which is our regional legislative body.

Formal study specifically in polity is by means of one three-hour class in a compulsory semester-long course on church leadership and administration. In addition to polity, this course covers ‘property, stewardship, personnel issues, Robert’s Rules of Order, finance and budgeting, organizational principles and leadership styles’. However, ‘Doctrine and liturgy are not really considered by us under the heading of polity or church law. Other classes teach our students

⁸⁷ Email from the Revd Dr Richard Clutterbuck, Principal, 16 April 2013.

⁸⁸ Email from Dr Detlev L. Tönsing, Deputy Principal and Lecturer, Systematic and Lutheran Theology, 18 April 2013.

the Lutheran Confessions and Lutheran Liturgy.’⁸⁹ Likewise, the Lutheran Theological Southern Seminary, Lenoir-Rhyne University, teaches ‘Lutheran polity and all that pastors need to know about serving as the chief officer of a congregation and corporation’; undertaking the course is ‘required by our candidacy system’. The course deals with ‘synodical and church-wide requirements and expectations’ under the Master of Divinity curriculum and is taught in a three-hour class each week for 15 weeks on the basis, mainly, of lectures.⁹⁰

Lutheran juridical norms are also taught in several universities in Europe, such as at the Protestant Institute for Church Law at the University of Potsdam. Founded in 2003, this is an institution of the Evangelical Church in Berlin-Brandenburg and Silesian Upper Lusatia. Members of the Institute include professors, judges, administrative officials, lawyers and theologians.⁹¹ The purpose of the Institute is ‘to foster and promote research and teaching in the field of church law and the law governing Church–state relations as well as in the connected sections of theology and history’. This is done by means of lectures at the Law Faculty of Potsdam University (on the basis of an agreement with it), advice on and supervision of publications and research projects (in particular, masters’ and doctoral theses), the implementation of research projects of the Institute, and access to an academic library on church law.⁹² Indeed, in 2004 an agreement between the Institute and the Law Faculty at Potsdam University resulted in a doctorate in both civil and church law (*iuris utriusque*) and students may study church law at Potsdam University as part of its masters programme in law (LLM).⁹³

Reformed Church Order

Reformed Church Order is taught at several universities around the world, and there is ample scope for its study in the universities of the Netherlands.⁹⁴ For example, the Faculty of Theology at the University of Stellenbosch, South

89 Email from Phyllis Anderson, President, 18 April 2013: ‘We do not have faculty . . . specifically trained in polity’.

90 Email from Clay Schmit, Provost, 17 April 2013.

91 The members of its Governing Body are Professor Dr Detlev Belling (Potsdam) and Professor Dr Gerhard Robbers (Trier). The Institute is managed by Dr Joachim Gaertner, church official (retired) and former deputy head of the Berlin liaison office of the Evangelical Church in Germany, and Dr Martin Richter, church official of the Consistory of the Evangelical Church in Berlin-Brandenburg and Silesian Upper Lusatia.

92 Protestant Institute for Church Law, Articles of Association, Art II. In 2002 the Catholic Institute for Church Law was launched at Postdam University Law Faculty, with the Protestant Institute in 2003, on the basis of agreements with the University.

93 See the website of the Institute, available at <<http://www.uni-potsdam.de/u/eikr/ueber-en.html>>, accessed 13 June 2013.

94 Email from Dr C (Leon) van den Broeke, Assistant Professor Religion, Law and Society/Church Polity, Chair, Centre for Religion and Law, VU University, Amsterdam (and Pastor, Protestant Church St Pancras), 15 April 2013; the Protestant Theology Faculty at VU University and the theology faculties in Kampen and Apeldoorn ‘all run courses in Reformed Church polity’.

Africa, teaches ‘the Church Order of the different churches that have their students trained at the Faculty’, such as ‘the Church Order/Constitution’ of the Dutch Reformed Church (created by its General Synod) and the bylaws of the ten regional synods of the church (since 2012 provision also exists to study ‘Canon Law through the course in Anglican Studies’). The course covers ‘the theological foundations of reformed church order and church law’, governance, institutional organisation, ministry, doctrinal rules, liturgy, rites (such as marriage), property and ecumenism. Theological training lasts five years: four years for the Bachelor of Theology (or Divinity) and a fifth year for a Master of Divinity which is compulsory to qualify as a minister in the Dutch Reformed Church. ‘Church Law is taught in the second semester of the fifth year’, two lectures each week for 14 weeks and one weekly hour-long tutorial (42 hours in all).⁹⁵

Courses are also provided at theological seminaries and colleges as part of preparation for ministry in, for example, Canada,⁹⁶ the USA⁹⁷ and Australia. For instance, at the Reformed Theological Seminary, Jackson, Missouri, polity is one credit hour weekly for 13–14 weeks over a semester:

The goals of the course are to expose the students to the principles of Presbyterian polity; to acquaint them with our Book of Church Order (Form of Government, Rules of Discipline, and Directory for Worship); to help them learn the mechanics of the functioning of church courts (session, presbytery, assembly); and to introduce them to parliamentary procedure (Robert’s Rules).

The course is compulsory – that is, ‘it is a required course for all students pursuing the [Master of Divinity] (the degree that most Presbyterian ordaining bodies require of candidates for ordination)’. Other students are also free to take the course. There is a separate course on worship and one on the doctrine of the church. In the first six to seven hours of the Polity course the students

95 Emails from Professor Pieter Coertzen (retired) and Dr Mary-Anne Plaatjies Van Huffel, Senior Lecturer, Ecclesiology (Church Polity), Faculty of Theology, University of Stellenbosch, 18 and 19 April 2013. Canon law is taught by an Anglican priest.

96 The Canadian Reformed Theological Seminary runs two ‘Church polity’ courses on the Master of Divinity, with 2 hours per week for 12 weeks (by lecture and seminar) on ‘Church order’, eg Offices, Assemblies, Discipline, Marriages, Funerals (email from Dr Gerhard H. Visscher, Principal and Academic Dean, 17 April 2013).

97 Whitefield Theological Seminary, Florida, has ‘modules in Reformed Church law and polity (eg on the Book of Church Order)’; it is compulsory for ministry and taught at ‘seminary level’ in the ‘third year of the MDiv. It is a 3 credit one-hour course’ covering ‘confessional doctrine, marriage, property, church–state relations, [and] ecumenism’ (email from Dr Kenneth Talbot, 16 April 2013). See also email from David M Mellott, Vice President of Academic Affairs and Dean of the Seminary, Associate Professor of Practical Theology, Lancaster Theological Seminary, Lancaster, PA, 16 April 2013: polity issues are discussed on the theology courses.

review set texts by means of seminars; in the remainder they cover ‘the mechanics of church courts (and this concludes with a mock session meeting in which the students participate)’ and the Book of Church Order.⁹⁸ Similarly, at the Reformed Theological College, Victoria, Australia, 6 hours of a course on Church leadership (which lasts for 36 hours over one semester and is taught for both the Bachelor of Theology and the Master of Divinity) are devoted to ‘Church order and church government’. Subjects include managing ministry, financial management, managing change and conflict, and institutional life-cycles. There are other courses on subjects such as worship, creeds and confessions.⁹⁹

In one church of the Reformed tradition, the United Church of Christ, the ‘History, theology and polity’ course for the General Synod 2013 seeks to help members understand ‘how Congregational, Christian, Evangelical and Reformed traditions have shaped and continue to shape the UCC and how multiple cultural traditions continue to shape community life and theological thinking’ by exploring ‘current theological issues and structural questions’. It is a ‘two-week intensive learning experience’ spread over 40 hours.¹⁰⁰ Polity and history courses are ‘usually required for ordination’ and this course satisfies that requirement; thus: ‘Normally, M.Div. students take the course as part of their seminary curriculum, but regularly enrolled seminarians may take the course as a three credit course if their seminary will transfer in the credits’. The course is also open to seminarians whose seminary does not offer a history and polity course, pastors and ‘interested lay persons’; a fee is payable.¹⁰¹ The course materials include texts and commentaries that are offered as required reading.¹⁰²

Each of these seminary courses, once again, focuses only on the norms of churches of the Reformed tradition in preparation for ministry within them; there is no comparative element in which Reformed Books of Church Order are compared with the laws of other traditions.

Presbyterian law and church order

Courses from Scotland and the USA illustrate the Presbyterian approach. In the Church of Scotland, students in their years of ministerial training attend conferences at which ‘the Church’s practice on matters such as Baptism, Communion, Ordination etc are taught’ and in their final year all probationers are taught the

98 Email from Dr Guy Prentiss Waters, Professor of New Testament, 17 April 2013.

99 Email from Henk DeWaard, Registrar, 17 April 2013: ‘The reason perhaps not too much emphasis is given to Church law and polity is the fact that we are not a denominational college. We give the basic principles but denominations will have to supplement if they see fit.’

100 Lead instructors the Revd K Ray Hill, the Revd Carol Barriger; it is delivered both online and at Long Beach, using General Synod (summer 2013) as ‘a laboratory for learning about UCC’.

101 The Pacific School of Religion is a fully accredited institution and the course carries three credits.

102 Eg J Hoffmann, *Covenant: a study for the United Church of Christ* (Cleveland, OH, 2008).

'Church of Scotland Law'.¹⁰³ This study is 'compulsory for all new entrants and for ministers coming from other churches and from other Presbyterian churches overseas'. The courses are taught over four years with some 24–30 hours of lectures/seminars, which include 'interactive learning' and a 'mix of theory and practice'. The courses cover church governance, ministry, doctrine, liturgy, rites (such as marriage), property and ecumenism. Students undertake 30 weeks of part-time practical work during college studies and 15 months of full-time probation, during which 'they are introduced to the practical application of the law at all levels' – namely, the Kirk Session (local), the Presbytery (regional) and the General Assembly (national). Students must complete a 1,500–2,000 word essay on 'an issue that requires some knowledge of a wide range of the Church's law'. Refresher courses are offered throughout ministry, 'especially [for] Presbytery Clerks who have to handle the law and its implications every day'.¹⁰⁴

Austin Presbyterian Theological Seminary (Austin, Texas) runs a course on the 'Polity of the Presbyterian Church (USA)'.¹⁰⁵ The primary text studied is the Book of Order (which is Part II of the Constitution of the Church; Part I is the Book of Confessions).¹⁰⁶ The purpose of the course is 'to prepare students to use the polity of the Presbyterian Church (USA) as a tool for effective ministry . . . within Presbyterian congregations' (though 'polity is not "church law" but the concrete expression of a church's ecclesiology, which is itself an expression of its theology'). The course deals with the sections of the Book of Order on the foundations of Presbyterian polity, form of government and rules of discipline. The course works through these sections systematically, 'the foundational principles on which each chapter of the section rests' and 'the ways those principles are expressed in the practical applications of the polity'. (The Directory of Worship is studied in another compulsory and examined course,¹⁰⁷ as is the Book of Confessions, in a separate course on Reformed confessions.)¹⁰⁸ Taught as a three-hour/credit single-semester course on the Master of Divinity degree, the polity course can be taken by any Masters student but it is routinely only taken by Presbyterian students.¹⁰⁹ Indeed,

103 The Acts of General Assembly, available at <http://www.churchofscotland.org.uk/about_us/church_law/acts>, accessed 6 June 2013.

104 Email from the Revd John P Chalmers, Principal Clerk, Church of Scotland, 16 April 2013.

105 CM.301: email from Paul K Hooker, Director of Ministerial Formation and Advanced Studies, 16 April 2013.

106 The Book of Church Order contains the polity of the former Presbyterian Church in the United States, part of the merger in 1983 that created the current Presbyterian Church (USA).

107 Presbyterian students are also required to take and pass an ordination examination in Worship.

108 Another Master of Divinity course is 'Supervised practice of ministry', in which students are exposed to ministry in congregational or institutional settings and required to reflect theologically on that ministry.

109 There is an alternative course in the United Methodist Book of Discipline, taught by an adjunct professor.

Presbyterian students 'are required to pass denominationally-administered standard ordination exams, one of which is in Church Polity'. Lectures, small group discussions of case studies, individual and group out-of-class projects, and free-form class discussions are used; however, there is no comparative dimension.¹¹⁰

An 'experiential approach' is also used at Louisville Presbyterian Theological Seminary in the course entitled 'Presbyterian polity'. On this programme 'students learn to think theologically and systematically as they apply the Constitution of the Presbyterian Church (USA) to specific issues and practices at the congregational, presbytery, synod, and general assembly levels', as well as 'ministry and administration in the Presbyterian tradition based on the theology of the church in the Book of Order'. In terms of objectives, at the conclusion of the course, students will have 'a basic theological understanding of the ecclesiology' of the church, will be prepared for 'leadership and participation "in government and discipline"', will be able 'to moderate sessions, shape congregational life, and lead the worship and sacramental life of the congregations in conformity with the Constitution of the PCUSA' and will be familiar with 'the basic principles of the Constitution ... and be prepared for the Standard Ordination Examination in Church Polity'. The syllabus consists of eight sessions: (1) 'Introduction to Presbyterian polity'; (2) 'Basic foundations and vision of the Church and its mission in our Constitution' (eg Theological foundations of our polity, the contribution of Presbyterian polity to trust, community and mission renewal, and leadership and reformed polity); (3) 'Congregations: the basic but not sufficient form of the Church' (eg the mission of the congregation, categories and ministries of members, and the rules of discipline); (4) 'Teaching and ruling elders and deacons'; (5) 'Councils of the Church' (and the principles of administration); (6) 'Presbytery, Synod and General Assembly and the Church ecumenical'; (7) 'Decently and in order' (eg finances and property, trustees and incorporation, ethics for church leaders, and alternatives for conflict resolution); (8) 'Worship and sacraments in Presbyterian polity' (eg the centrality of Word and Sacrament in Reformed worship, overview of the Directory of Worship, and the confessions).¹¹¹

110 Email from P Hooker, 16 April 2013: 'Some presbyteries (the district-level church council that oversees the ministerial preparation process) require students under their care to have a course in Presbyterian polity, and many also require students who are seeking to transfer ordination into the PC(USA) from some other tradition to take the course. Thus we do, occasionally, have auditors or special students in the class who are not seminarians.'

111 Presbyterian Polity, CM 217-2; reading includes the Book of Order 2011–2013, The Constitution of the Presbyterian Church USA, Part II, and J Gray and J Tucker, *Presbyterian Polity for Church Leaders* (fourth edition, Louisville, KY, 2012). The seminary also runs a course entitled 'Leaders in a connectional Church: congregations and the General Assembly' (email from Steve Cook, Registrar, 23 April 2013).

Baptist principles and polity

In the Baptist colleges examined here (predominantly in the United Kingdom) the study of Baptist ‘polity’, ‘principles’ or ‘ecclesiology’ is often ‘a compulsory part of the course for ministerial students’.¹¹² One purpose of the course at the Bristol Baptist College, on Baptist History and Principles, is to ensure that ‘a genuinely Baptist Christian culture is ingrained into the way we do things and relate to one another’.¹¹³ At Regent’s Park College, Oxford, ‘Baptist ecclesiology’ may be integrated into the diploma or degree programme for undergraduates and taught alongside other things for masters students.¹¹⁴ It is taught at different times through the three years of ministerial formation and with different aspects (historical, theological and practical) having an emphasis at different times. In the third year it lasts for 16 hours¹¹⁵ and is taught by ‘interactive seminar/class’ and other methods (such as guided reading) – and it is examined.¹¹⁶ Study covers the Baptist Union of Great Britain, ‘Associations, local congregations, covenants, models of church, ordination, ecumenical relations, the

- 112 Email from the Revd Anthony Clarke, Tutor in Pastoral Studies and Community Learning, Regent’s Park College, Oxford, 18 April 2013. See also Bristol Baptist College, Baptist History and Principles: ‘The unit is mandatory for most ministerial students’; also email from Stephen Finamore, Principal, 16 April 2013; the Prepare for Service programme is designed ‘for those engaged in different forms of lay ministry or regionally recognized ministry’. In the South Wales Baptist College, Cardiff, ‘all candidates for ordained Baptist ministry are required to complete modules on Baptist history and Baptist principles (email from the Revd Dr P Stevenson, Principal, 16 April 2013). For the Northern Baptist Learning Community, Manchester, courses on eg ‘governance’ are compulsory at Level 5 (email from the Revd Dr Ann Phillips, Co-Principal, 16 April 2013). Compare the Irish Baptist College: Baptist Ecclesiology (which covers ‘polity’) is not compulsory for training for ministry and is open to non-Baptist students (email from David Luke, 16 April 2013). At the International Baptist Theological Seminary (USA), the module ‘Baptist history and identity’ is compulsory (email from the Revd Dr Keith Jones, Rector, 29 April 2013).
- 113 Email from Stephen Finamore, 16 April 2013. At the South Wales Baptist College, ‘Baptist principles’ are taught in part on the basis that at ordination the candidate within the Baptist Union of Great Britain is asked if they fully support its Declaration of Principle: ‘as each church has liberty to interpret the laws of Christ, there is a degree of diversity in the way in which Baptist principles are interpreted’.
- 114 Email from the Revd A Clarke, 18 April 2013. At Bristol Baptist College, ‘Baptist history and principles’ is a unit carrying 20 credits at Levels 2 and 3; at the Irish Baptist College, ‘Baptist ecclesiology’ is a degree module; at the South Wales Baptist College, ‘Baptist history’ and ‘Baptist principles’ are not part of a degree programme.
- 115 Email from the Revd A Clarke, 18 April 2013. See also Northern Baptist Learning Community: the Level 5 course on governance etc involves 15 hours’ contact and independent study time; Irish Baptist College: ‘Baptist ecclesiology’ consists of 12 lectures over a term; South Wales Baptist College: ‘Baptist principles’, 10 hours of lectures; International Baptist Theological Seminary (USA): ‘Baptist history and identity’ is taught over one year (email from K Jones, 29 April 2013).
- 116 Email from the Revd A Clarke, 18 April 2013. Bristol Baptist College: ‘Teaching methods vary from unit to unit and between accredited and non-accredited programmes . . . a combination of prescribed reading, classroom presentation, classroom discussion and seminars. The non-accredited learning takes place primarily through guided theological reflection’ (email from S Finamore, 16 April 2013); Irish Baptist College: ‘Baptist ecclesiology’ is ‘lecture based’ but ‘class discussion is encouraged’ and the course is ‘examined by way of an assignment on some aspect of Baptist polity’; International Baptist Theological Seminary (USA): ‘Baptist history and identity’ is virtual, with a two-hour seminar each week with reading and research activities (email from K Jones, 29 April 2013).

nature of ministry, church governance, authority, liturgy, trustee issues, finance, administration, safeguarding responsibilities, weddings, funerals'; the course may also cover 'membership, church offices, and church and state'.¹¹⁷ Separate courses may be run on the administration of worship and doctrine.¹¹⁸ In the South Wales Baptist College (Cardiff):

In the first year of their training ministerial students have an overnight visit to the National Resource centre for the Baptist Union of Great Britain to meet with staff [there] and with staff from BMS World Mission ... This gives ordinands some idea of how the denomination seeks to function.¹¹⁹

Reading material is prescribed and includes secondary literature.¹²⁰

SECULAR LEGAL EDUCATION AND CRITICAL LEGAL STUDIES

To date there seems to have been no ecumenical study of the relationship between juridical formation in the church and legal education in secular society in terms of their similarities and differences as to purpose, subject matter and pedagogical methodology. First, in the secular world, the core purpose of legal education, at its various levels (academic and vocational), is to produce lawyers – to serve society and the administration of justice through law. Within legal education there has been longstanding debate about what precisely is embraced by this broadly agreed objective.¹²¹ Typical outcomes

117 Email from the Revd A Clarke, 18 April 2013. For teaching on the Union, associations and congregations, see also Northern Baptist Learning Community, Manchester: compulsory courses cover 'history, governance, ministry, Baptist Declaration of Principle, theology and practice of baptism and communion' and 'non-accredited formational learning at all levels including CME on worship, rites of passage, property' (eg 'Managing Trusteeships, Trusts Deeds etc') (email from Revd Dr A Phillips, 16 April 2013); Irish Baptist College: 'Baptist ecclesiology' deals with history and 'what is distinctive in Baptist polity', the church, baptism, Lord's Supper, membership, church offices and 'church and state'; South Wales Baptist College: 'Baptist principles' covers governance, as does the pastoral programme spread over three years; International Baptist Theological Seminary (USA): the module on 'Baptist history and identity' covers 'denominational history, polity, ecclesiology, practice of ministry' and rites, ecumenism and property (email from K Jones, 29 April 2013).

118 Bristol Baptist College: 'Free church worship' is a 10-credit unit at Level 1 and mandatory for ministerial students; it is supplemented by a unit of homiletics. 'Issues of worship are also addressed in the unaccredited programme and in the 20 credit unit taken by all our ministerial students called Portfolio of Baptist Ministerial Practice' including 'rites for weddings and funerals, infant presentations, baptism etc, and requires theological reflection on practice'. 'Ecumenism is taught within the non-accredited programme' and 'is practised through our partnership with Trinity College, Bristol'. Doctrine is covered in accredited units on systematic theology.

119 Email from the Revd Peter Stevenson, Principal, 16 April 2013.

120 Ibid. Reading material includes eg N Wright, *Free Church, Free State: the positive Baptist vision* (London, 2005); S Holmes, *Baptist Theology: doing theology* (London, 2012).

121 In turn, the purposes of a law school, typically, are: to discover and transmit knowledge of the law to achieve distributive justice for all; to train students for the practice of law, instilling in them the

for secular legal education are: the acquisition of legal knowledge through teaching and research; skill in the analysis of facts and laws and legal reasoning; the ability to apply the relevant law to particular factual circumstances; thoroughness of preparation and communication; practical and prudential wisdom (for example, by practice-based learning); ethical conduct and integrity; dedication to justice and the public good; and the critical appraisal of law.¹²² In the churches, ministerial formation in church law is equally vocational but fundamentally different: it not to produce lawyers but to enable ministers to know, understand and use church law as a tool for effective ministry. Needless to say, theological colleges and seminaries are not law schools. Nevertheless, like legal education in secular society, juridical formation in Christianity is designed to promote ethical public ministry in accordance with the mind and standards of the churches as expressed in their various systems of polity, church law and church order.

Secondly, the subjects studied in secular legal education depend on the juristic tradition of the state in which it is delivered and the academic or professional stage at which it is undertaken. They are determined by the regulatory authorities of the legal profession in question and/or the educational institutions that deliver legal education. Typically, in the common law tradition, the core disciplines studied in initial legal education include constitutional, criminal, contract, tort, land and trusts law – with optional subjects beyond such as commercial, family, medical, international, social welfare and intellectual property law – all designed for the practice of law. Alongside these are more ‘academic’ subjects such as legal history, legal philosophy and sociology of law; and professional training will include ethical practice, drafting, interviewing, litigation and advocacy.¹²³ The subjects studied in juridical formation in the churches are similarly compartmentalised: institutions of church governance (constitutional law), ministry (the law of persons), discipline (penal law),

ethical responsibilities of the legal profession and the social responsibility to work for the attainment of a just and humane society; to contribute to the improvement of the legal system and the quality and administration of justice in society for the full protection of human rights; to train lawyers for leadership that is innovative and responsive to the needs and aspirations of the people; and to develop a new level of legal education to enhance knowledge of the law among citizens (University of the Philippines, College of Law).

122 R Stuckey, *Best Practices for Legal Education: a vision and a road map* (US Clinical Legal Education Association, 2007): the ‘principles’ include the view that learning outcomes should be formulated in collaboration with the bench, bar, students, the practising profession and clients; ‘Competence builds on a foundation of basic professional skills, legal knowledge, and moral development. It includes a cognitive function: acquiring and using knowledge to solve real life problems; an integrative function – using legal and factual data in legal reasoning; a relational function – communicating effectively with clients, colleagues, and others; and an affective/moral function – the willingness, patience, and emotional awareness to use these skills judiciously and humanely. Competence depends on habits of mind, including attentiveness, critical curiosity, self-awareness, and presence. Professional competence is developmental, impermanent, and context-dependent.’

123 See eg W Twining, *Blackstone’s Tower: the English law school* (London, 1994).

doctrine and worship (intellectual and devotional freedom), rites of passage, property and finance (the law of things). The material differences between the subjects studied in juridical formation in the churches and secular legal education are fundamentally shaped by the respective purposes and subject matter of state law (the temporal well-being of society and the common good)¹²⁴ and church law (the spiritual well-being of the church and its faithful witness to Christ).¹²⁵

Thirdly, there are similarities and differences between Christian juridical formation and secular legal education in terms of the pedagogical methods used. In the secular world, legal education is delivered by a host of pedagogical tools that focus on text and context, description, explanation and evaluation. Noteworthy among these in recent years have been the themes and techniques of the Critical Legal Studies movement: for example, legal materials do not wholly determine the outcome of legal disputes (the so-called ‘indeterminacy debate’); legislative and judicial decisions are a form of political decision (the ‘law is politics’ debate); law tends to serve the interests of particular groups (the ‘power elite–social justice’ debate); the positive legal order contains inherent contradictions (the ‘individualism–altruism’ and ‘rigidity–flexibility’ debates); and legal assumptions about the autonomy of the individual are misplaced (the debate about the ‘socio-economic’ dimension on legal activity).¹²⁶ The exploration of equivalent themes in juridical formation in the churches would enrich the study of church law and order in the pursuit of ecclesial issues, provided a balance is struck with the basic purpose of training in church law (to equip for effective ministry). While there are obvious parallels with ecclesiastical training in church law (such as the focus on texts, their theological foundations and the application of norms to concrete circumstances met in ministry), there are significant omissions that could be addressed by learning lessons from secular legal education. For instance, church law courses studied in this article do not compare the regulatory system of the institutional church in question with those of other churches of the same tradition (the course on the law of the Methodist Church in Ireland does not study the laws of the Methodist Church in New Zealand, for example); they do not compare the norms of a church with those of churches outside the tradition (study of a Reformed Book of Church Order does not include study of Orthodox canon law, for example); and there is very little on state laws applicable to churches. Above all, the information gathered here does not

124 See eg D Galligan, *Law in Modern Society* (Oxford, 2010).

125 N Doe, *Christian Law*, ch 10.

126 See eg R Unger, *The Critical Legal Studies Movement* (Cambridge, MA, 1996) and *What Should Legal Analysis Become?* (New York, 1996).

demonstrate that theological colleges/seminaries engage in criticism of the details of church law.

CONCLUSION

Each of the churches across the ecclesiastical traditions studied here employs law or other system of regulatory instruments, from canons to charters, from constitutions to covenants. These juridical instruments have an educative role: to guide the faithful so as to order and facilitate ecclesial life. This includes the exercise of ministry – and often laws explicitly provide that ministers must accept the laws and other rules of their church as binding upon them. However, the laws of few churches expressly require training in church law and polity as part of ministerial formation. Nevertheless, training is provided through a plethora of courses, many of which form a compulsory part of ministerial education (initial and/or continuing). As well as Catholic and Orthodox programmes in canon law, Lutheran, Methodist, Reformed, Presbyterian, United and Baptist institutions, theological colleges and seminaries provide a wide range of programmes on church law, order and polity, either free-standing or as part of other courses.

The following shared principles emerge from a comparison of these:

- i. Candidates for ordained ministry should be trained in the law, order or polity of their own church;
- ii. Church law, order or polity should be studied in the context of their theological foundations as part of the discipline of theology;
- iii. The key juridical instruments of the churches should be the principal focus of study;
- iv. Juridical formation ensures that ministers honour with moral integrity the commitments they make to comply with ecclesiastical norms;
- v. The purpose of and justification for juridical formation is that ministers use juridical norms as a tool for effective public ministry (with regard to their own rights and duties and those of others to whom that ministry is owed);
- vi. The subjects that should be studied to acquire competence, knowledge and understanding in church law, order or polity include norms on church governance, ministry, doctrine, worship, the rites of passage and the administration of property and finance;
- vii. Ministerial formation should include instruction in the practical application of norms to concrete circumstances met in the exercise of ministry, so that norms may be used as a tool for effective ministry;
- viii. Juridical formation should be provided after but integrated within theological formation;

- ix. Provision should be made for continuing ministerial education to keep abreast of developments in church law, order and polity; and
- x. The duration of training and the methods of delivery and assessment should involve preparatory reading, lectures, seminars, case studies and other forms of practice-based learning and tests provided by competent teachers.

What are conspicuous by their absence in the courses studied here, however, are: comparative church law; the relation of church law to civil law; and critical reflection on church law, order and polity. In this context, obvious comparisons may be made with secular legal education. Evidently, the study of church law is designed primarily to foster competence in the exercise of ministry, whereas legal education in the secular world (academic and vocational) is oriented towards the production of lawyers. Yet both seek to discover and transmit knowledge of law, to engender ethically sound legal practice, and to train individuals for leadership responsive to the needs and aspirations of people. Nevertheless, aspects of the secular critical legal studies movement might usefully be applied to the teaching of church law to contextualise it critically as a social, political and moral function of the church. Above all, an ecumenical debate on these matters would contribute to an understanding between the ecclesiastical traditions of how much they share juridically. In any event, a study of the teaching of church law in a global ecumenical perspective underscores the fact that Anglicanism and its rich canonical traditions is very much the exception to the rule. It is high time that Anglicans engage with this debate about the nature, purposes and delivery of juridical formation in the church.