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# Episcopal Functions in the Anglican Communion

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The ‘noble task’<sup>1</sup> of a bishop finds expression in the canon law of the churches of the Anglican Communion. This paper is structured around those ‘Principles of Canon Law common to the churches of the Anglican Communion’<sup>2</sup> which are concerned with episcopal functions. Examples are drawn from several of the churches within the Communion.

In common with the Roman Catholic and other episcopal churches, Anglican churches distinguish between the order of bishops— admission to which is by consecration to the episcopate— and the particular office which a bishop holds. This paper considers first the functions of the diocesan bishop, as the typical office of a bishop, and then functions relating to episcopal assistants, metropolitans, and primates.

## ***1. The diocesan bishop has a special responsibility and authority as the chief pastor, minister and teacher of the diocese, a governor and guardian of discipline in the diocese, and exercises ministry in accordance with law. (Principle 37.1)***

This principle introduces the responsibilities of the bishop that will be developed in the succeeding principles, and explains that the bishop ‘exercises ministry in accordance with law.’

It is widespread in the churches of the Communion to require the clergy to take an oath of canonical obedience to the bishop or to make an equivalent undertaking. In England this takes the form, ‘I swear by Almighty God that I will pay true and canonical obedience to the Lord Bishop of C and his successors in all things lawful and honest: so help me God.’<sup>3</sup> It has been held that ‘canonical obedience does not mean that the clergyman will obey all the commands of the bishop against which there is no law, but that he will obey all such commands as the bishop by law is authorised to impose.’<sup>4</sup> In other words, canonical obedience means the bishop is entitled to obedience only when exercising powers conferred by the law.<sup>5</sup> The bishop may not legislate unilaterally (Principle 20.6).

In addition to that outlined below, much of the law ascribing functions to clergy generally applies to the bishop, e.g. in England the obligation ‘to say daily the Morning and Evening Prayer... and to celebrate the Holy Communion, or be present thereat, on all Sundays and other principal Feast Days.’<sup>6</sup>

## ***2. The bishop as chief pastor must foster the spiritual welfare and unity of the diocese. (Principle 37.2)***

The bishop’s status as chief pastor gives rise to various provisions, ranging from broad aspirations<sup>7</sup> to detailed processes and procedures.

**a. Visitation.** Visitation of parishes (which is at the bishop’s discretion in some churches and his duty in others) may have a pastoral, governmental, and/or disciplinary function. The bishop may be visitor ex officio, or appointed as visitor, to education institutions or religious communities<sup>8</sup>. In some churches, the bishop is required to visit pastorally each parish or church aside from formal visitations. For example, in Scotland, besides formal visitation the bishop must visit personally each congregation within his jurisdiction ‘at least once in every three years.’<sup>9</sup>

**b. Pastoral provision** England’s canons state a common principle that the bishop ‘shall provide, as much as in him lies, that in every place within his diocese there shall be sufficient priests to minister the word and sacraments to the people that are therein’.<sup>10</sup>

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<sup>1</sup> 1 Timothy 3:1

<sup>2</sup> Anglican Communion Office (London, 2008)

<sup>3</sup> England, Canon C14.3

<sup>4</sup> *Long v Bishop of Cape Town* (1863) 15 English Reports 756 at 776. Also see Bursell, R. “The Oath of Canonical Obedience” in (2014) 16 Ecc LJ, 168-186.

<sup>5</sup> Cases in England include *Calvert v Gardiner* [2002] EWHC 1394 QB, holding that the bishop could not control the ringing of church bells under the oath of canonical obedience; *Sharpe v The Bishop of Worcester* [2015] EWCA Civ 399, ‘The powers of the Bishop to control what an incumbent does are exiguous.’

<sup>6</sup> England, Canon C26

<sup>7</sup> England, Canon C18, where the Bishop is to ‘maintain quietness, love, and peace among all men.’

<sup>8</sup> e.g. USA Canon III.14.1c

<sup>9</sup> Scotland, Canon 6.2

<sup>10</sup> England, Canon C18.6

The bishop plays an important role in the appointment, licensing, and institution of clergy, which usually includes a liturgical commissioning (See Principle 21.3). In England, when a patron presents a minister to be instituted to a benefice, the bishop may refuse to institute only on certain grounds<sup>11</sup>, but has much greater discretion in licensing other clergy in the diocese. In Scotland, the bishop may accept or reject the presentee to a vacant incumbency at his discretion and may require testimonials as he sees fit.<sup>12</sup> In many other provinces the bishop appoints to every ecclesiastical office, e.g. New Zealand<sup>13</sup>. The bishop licenses lay people to a variety of ministries, such as assisting in the distribution of Holy Communion<sup>14</sup> or working as licensed lay ministers or readers.<sup>15</sup>

The bishop may frequently be involved in cases where the pastoral relationship between priest and people is dysfunctional or has broken down, but legal structures for the resolution of these situations are rare in the Communion.<sup>16</sup>

**c. Pastoral structures.** Changing demographics, the fruits of evangelization, and other causes give rise to the necessity of pastoral re-organization, ecumenical initiatives, or Bishop's Mission Orders. Significant pastoral re-organization usually requires the involvement of the diocesan synod as well as the bishop, e.g. in Wales 'any Diocesan Bishop, with the consent of his Diocesan Conference, may make any change in the existing territorial arrangement of his diocese, as he may think fit.'<sup>17</sup> The bishop is able to decide whether certain forms of ministry are promoted or permitted within the diocese, such as, in England, ordained local ministers or the permanent diaconate, through his discretion as to whom to ordain and what licences to grant to clergy.

**d. The bishop is pastor to the clergy.** In England, 'the bishop takes responsibility for the welfare of the clergy when receiving the oath of canonical obedience'<sup>18</sup> and among many duties is required to make a scheme for the ministerial review of the clergy and to approve arrangements for their continuing ministerial education; he is also empowered to 'instigate an inquiry into the capability of an office holder'<sup>19</sup>. Similar, but usually less detailed provisions obtain in other churches. It is a principle in the Communion (Principle 77.7) that the bishop advises a priest whom a civil court has instructed to breach the seal of the confessional.

**e. Pastoral oversight of occasional offices and other ministry.** The pastoral role of the bishop takes legal form in matters relating to marriage: the bishop frequently determines the nature of marriage preparation (Principle 72.2), may dispense with the baptismal requirement with respect to a party to the marriage (Principle 71.6), and may give consent for marriage of divorcees (Principle 75.7). A bishop's pastoral oversight extends to areas as diverse as deliverance ministry (Principle 78.1)<sup>20</sup> and decisions relating to funeral rites for the unbaptized, suicides, and excommunicates (Principle 79.4). The bishop may determine the minimum ages of those admitted to Holy Communion (Principle 68.2).<sup>21</sup>

**3. The bishop is the principal minister of the word and sacraments, with authority to ensure the worthiness of public worship, and has the right to preside at the Eucharist, administer the sacraments, celebrate the rites of ordination and confirmation, preach the word, and perform such other liturgical functions as are prescribed by law. (Principle 37.3)**

**a. Ensuring the worthiness of public worship:** This is an aspect of both the bishop's quasi-judicial and pastoral functions, and takes the form of many detailed provisions in the law of most churches. The Principles particularly single out music (Principle 54.13), vesture (54.14), authorization of services (55.7-9), and resolution of disagreement over the use of alternative provisions (58.3) as falling to the determination of the bishop. Some example provisions from the very many across the Communion demonstrate the bishop's function as referee, or the giver of permission or authorisation: In Melanesia, 'permission to use the Reserved Sacrament for Devotional Services must be obtained from the Bishop of

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<sup>11</sup> England, Canon C10.3.

<sup>12</sup> Scotland, Canon 13.3.6.

<sup>13</sup> New Zealand, Title A Canon II.

<sup>14</sup> e.g. Melanesia, Canon A2G.

<sup>15</sup> e.g. Ireland, Canon 35.

<sup>16</sup> A rare example is USA, Canon III.9.14 'Reconciliation of Disagreements Affecting the Pastoral Relation'.

<sup>17</sup> Wales, Constitution, Chapter IV, D.2.

<sup>18</sup> Guidelines for the professional conduct of the clergy (Revised Edition) (Act of Convocation of the Convocations of Canterbury and York, 2015) section 14.2.

<sup>19</sup> England: The Ecclesiastical Offices (Terms of Service) Regulations 2009 .

<sup>20</sup> e.g. Melanesia, Canon B3C 'Ministry of Deliverance must be under the general control of the Diocesan Bishop'

<sup>21</sup> e.g. England, Canon B15A(c) and Admission of Baptized Children to Holy Communion Regulations 2006.

the Diocese.<sup>22</sup> In Ireland, questions as to whether liturgical variations are of ‘substantial importance’ ‘shall be referred to the bishop’; and the bishop may authorise hymns or prayers for use in public worship.<sup>23</sup> In Nigeria the bishop may not ‘authorise for use in his Diocese any alterations in a Service approved by the Episcopal Synod’<sup>24</sup> (except for temporary experiment) but may ‘authorise services for special occasions in his Diocese, and for occasions not otherwise provided for.’ (See also Principles 56.7,8; 59.4; and 60.1-2.)

**b. Presiding at the Eucharist and Preaching the Word:** Liturgical rules in most churches agree that ‘it is the bishop's prerogative, when present, to be the principal celebrant at the Lord's table and to preach the Gospel.’<sup>25</sup> In parts of the Communion where concelebration is common, there are rules that ‘normally the Archbishop or Bishop is the President, with others concelebrating.’<sup>26</sup>

**c. Celebrating ordination:** The minister of ordination is always a bishop. It is the bishop's decision as to whom to ordain. The law constrains the bishop's choice, e.g. according to age, education, or training<sup>27</sup>— but the bishop may be able to dispense with some of the requirements.<sup>28</sup> The bishop is usually involved in the selection of candidates for training and formation, prior to ordination.<sup>29</sup> At the ordination of deacons, the bishop ordains alone. At the ordination of priests, the bishop ordains with priests assisting at the laying on of hands. At the consecration of bishops, three bishops ordain together as co-consecrators,<sup>30</sup> (see the chapter in this volume on the Appointment of Bishops).

**d. Celebrating confirmation:** In the Anglican Communion, the minister of confirmation is always a bishop.<sup>31</sup> (Although Anglicans do not practise presbyteral confirmation, presbyteral confirmations administered within other episcopal churches are recognised, e.g. when Christians thus confirmed wish to be received into an Anglican church.)<sup>32</sup> Some churches prescribe a minimum frequency for confirmation in each parish (e.g. in Scotland and the USA, at least once in three years; in Australia and England, ‘as often and in as many places as convenient.’)<sup>33</sup> The bishop has no discretion over the requirement that confirmands must be baptized and must not have already been confirmed; but the bishop may have discretion over other matters, such as the permitted age of confirmands to be presented.<sup>34</sup> The rite of confirmation is usually administered at a celebration of the Eucharist.<sup>35</sup> It always involves the bishop laying on hands upon the candidate and the invocation of the Holy Spirit. The use of chrism is not mentioned in the rubrics of the 1662 Book of Common Prayer. However, modern Anglican rites do frequently provide that chrism will be consecrated on Maundy Thursday by the bishop of the diocese (along with oil of baptism and oil of the sick), and that chrism may be used at confirmation.<sup>36</sup>

**e. Reception into the Communion of an Anglican Church:** The precise rules for reception into Anglican churches of those who have received confirmation in another episcopal church vary across the Communion. In the USA and Australia, for example, the bishop always conducts the ministry of reception.<sup>37</sup> In England, reception is only reserved to the bishop when the Christian wishing to be received is a priest.<sup>38</sup>

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<sup>22</sup> Melanesia, Canon A2I.

<sup>23</sup> Ireland, Canon 5(4); Canon 6(c)

<sup>24</sup> Nigeria, Canon XV 2.

<sup>25</sup> TEC (USA): BCP 1979, p.311. Also, see Scotland, Canon 6.3. See Principle 66.8. However, the 1662 Book of Common Prayer (England) contemplates the Bishop may be present at the Eucharist other than as the celebrant, in which case he is to give the absolution and blessing (somewhat analogous to a *missa coram episcopo*).

<sup>26</sup> Melanesia, Standing Resolution 35 of the General Synod.

<sup>27</sup> Ireland, Canon 21. New Zealand, Canon XIII 3.

<sup>28</sup> e.g. Scotland, Canon 11.2.

<sup>29</sup> e.g. Melanesia, Canon 7 provides that the Bishop receives recommendations and decides who may begin training, and who is ordained.

<sup>30</sup> e.g. New Zealand, Canon XIII 2.1; Nigeria Canon VI 4. The principal consecrator is generally the Metropolitan or a commissary appointed by the Metropolitan.

<sup>31</sup> Principle 65.3.

<sup>32</sup> Legal Advisory Commission of the General Synod, ‘Ordinands: Requirement of Confirmation’, 2009.

<sup>33</sup> Australia, Canon concerning Confirmation 1992; England, Canon C18.6.

<sup>34</sup> Melanesia (Canon A3B) gives the Bishop the discretion whether or not to confirm those below the age of 12.

<sup>35</sup> Principle 65.5 directs that confirmation ‘should be administered at a celebration of the Eucharist’. Historically in England confirmation was frequently administered outside of the Eucharist (see 1662 Book of Common Prayer).

<sup>36</sup> e.g. Common Worship 2000 (Church of England); see the liturgy for the Chrism Eucharist at which the Bishop presides on Maundy Thursday. See also note 6 to *Baptism and Confirmation*.

<sup>37</sup> TEC (USA), Canon I.17.1(c). Australia, Reception Canon 1981.

<sup>38</sup> England, B28.3; Notes 1, 2 in Common Worship *Reception into the Communion of the Church of England*. The question of a deacon seeking reception is not considered in these texts.

**f. Consecration of churches and churchyards:** Principle 81.3 states that ‘The consecration, dedication or other act which sets aside property for the purposes of God is customarily performed by a bishop.’ This is a liturgical function, but in some churches it is also the exercise of an executive function with legal consequences. In England, for example, the effects of consecration upon a church building provide exemption from the requirements of listed building consent and conservation area consent, and bring the church, its contents, and objects within its curtilage into the church’s faculty jurisdiction.

**4. *The bishop must teach, uphold and safeguard the faith and doctrine of the church.*** (Principle 37.4, also Principle 53.6)

This principle finds expression in the law of most churches,<sup>39</sup> but the detail of how to carry out these functions is largely left to the bishop’s discretion, rather than detailed legislation. The custom or law of a church sometimes empowers the bishop to deliver a Charge to the clergy and a Pastoral Letter to the people of the diocese. In the USA, the bishop ‘may require the Clergy to read the Pastoral Letter to their Congregations.’<sup>40</sup>

By this principle, it is understood that the individual bishop’s duty is to teach the church’s doctrine. The Court of Review (USA) has held that ‘the doctrine of this Church is fixed by the whole Church, acting in its corporate capacity, and not by the individual opinions or interpretations placed upon any documents supposed to contain the Church's doctrine, by any bishop, priest or deacon speaking individually.’<sup>41</sup>

**5. *The bishop has a role of leadership in the governance of the diocese, is president of the diocesan synod, council or equivalent assembly, and performs such other governmental functions as may be prescribed by law.*** (Principle 37.5.)

**a. President of the diocesan synod, council or equivalent assembly:** In addition to presidency, the bishop frequently has a veto in the diocesan synod.<sup>42</sup> The bishop has no unilateral general control over finance within the diocese. (Principle 86.4)

**d. Church courts and the appointment of legal and judicial officers:** Usually, the Bishop appoints diocesan judicial officers but does not personally sit in the diocesan court but may have an oversight role in its operation. In Melanesia, ‘the Diocesan Bishop will have the final say whether the Diocesan Court will sit’<sup>43</sup> and after the Court’s judgment is passed to the Bishop, the Bishop ‘will then decide what will be done’<sup>44</sup> within specified limits. The Bishop may be appointed as judge in a supra-diocesan court, e.g. in England, the Court of Ecclesiastical Causes Reserved.

**6. *The bishop has a primary responsibility to maintain ecclesiastical discipline in the diocese amongst clergy and laity in the manner and to the extent prescribed by law.*** (Principle 37.6)

All churches of the Anglican Communion have procedures for the discipline of clergy in which the bishop is involved, directly or indirectly. In proceedings in England pursuant to the Clergy Discipline Measure 2003, the bishop has an important role at various stages. The majority of cases are dealt with directly by the diocesan bishop; in other cases, the matter may be referred to a bishop’s disciplinary tribunal. In Scotland by contrast, the procedure for trials laid down in Canon 54 direct that bishops exercise their disciplinary function collegially, and a particular diocesan bishop is generally excluded from direct participation in the trial of a priest or deacon from his or her own diocese.

The bishop has limited powers of discipline over the laity. In England, it falls to the bishop to review any decision by the parochial clergy to refuse Holy Communion to a communicant, and the bishop’s direction must be obeyed<sup>45</sup>. A similar but more detailed procedure is in force in Ireland, where the canons also indicate that the bishop, in the appropriate circumstances, ‘shall restore the penitent to the communion of the Church’<sup>46</sup>. The bishop may also have limited powers to disqualify lay people from membership of the Parochial Church Council or equivalent bodies.<sup>47</sup>

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<sup>39</sup> e.g. England, Canon C18.1

<sup>40</sup> USA, Canon III.12.4(b)

<sup>41</sup> In the Matter of the Presentment of Bishop William Montgomery Brown, Decision and Opinion, Court for the Review of the Trial of a Bishop, January 15, 1925 at 15

<sup>42</sup> e.g. Nigeria, Canon VII 1. See Principle 20.6.

<sup>43</sup> Melanesia, Canon C3A(3)

<sup>44</sup> Melanesia, Canon C3A(11)

<sup>45</sup> England, Canon B16(1). See also UK statute known as the Sacrament Act of 1547.

<sup>46</sup> Ireland, Canon 16.

<sup>47</sup> e.g. In England, see Incumbents (Vacation of Benefice) Measure 1977, 10(6).

### **7. The bishop must reside in the diocese as required by law. (Principle 37.7)**

The churches lay down rules concerning the bishop's residence in the diocese.<sup>48</sup>

### **8. The ministry of a diocesan bishop terminates on vacancy of the see by the death, retirement, resignation or removal of that bishop in accordance with the law. (Principle 37.8)**

The law of the churches indicates the circumstances in which episcopal ministry ends. A retired bishop, for example, needs to seek permission of the diocesan bishop in order to carry out any episcopal functions in the diocese (see section 10 below).

### **9. The functions of the diocesan bishop connected with the wider church (Principles 15.9-11)**

**a. Performing functions in other dioceses.** A principle universally to be observed is expressed in USA Canon III.12.4e: 'No Bishop shall perform episcopal acts or officiate by preaching, ministering the Sacraments, or holding any public service in a Diocese other than that in which the Bishop is canonically resident, without permission or a license to perform occasional public services from the Ecclesiastical Authority of the Diocese in which the Bishop desires to officiate or perform episcopal acts.' Bishops of one member church of the Anglican Communion are not directly bound by the canon law of another such church, but there is a common understanding that this principle mutually extends across the Communion<sup>49</sup>. Principle 42.5 states this understanding, which was formalised at the Council of Nicaea in AD325<sup>50</sup>.

**b. Wider church roles:** Diocesan bishops are members of a Church's General Synod or equivalent body by virtue of their office (Principle 18.5).<sup>51</sup> Bishops may also belong ex officio to other bodies (such as, in England, the Upper House of Convocation and the College of Bishops). Bishops may be appointed on a case-by-case basis to positions on provincial or national bodies and committees, or bodies connected with the Anglican Communion or ecumenical work. Their presence expresses episcopal leadership (Principle 15.10) and collegiality among bishops (Principle 15.11).

**c. Functions connected with establishment (in England):** Bishops' duties in this connection include the membership of senior diocesan bishops in the House of Lords, the Archbishops' participation at the coronation of the monarch, various court functions, and the like.

### **10. Episcopal Assistance (Principle 38)**

In a few churches, there exist coadjutor bishops, with right of succession to the diocesan see<sup>52</sup>.

More generally, there is provision for assistant bishops 'if a Diocese discerns a need for another Bishop due to the extent of diocesan work'.<sup>53</sup> Assistant bishops are subordinate to the diocesan, and generally carry out episcopal functions only 'at the request of the Bishop Diocesan'<sup>54</sup> or in accordance with a scheme agreed by the diocesan bishop and the diocesan synod<sup>55</sup>.

As the above list of episcopal functions makes clear, the bishop's task is extensive, and so assistant bishops are frequently appointed in some parts of the Communion. In the Church of England, almost every diocese has at least one suffragan bishop, to use the terminology of that particular church. In England and some other church, a scheme may establish a system of area bishops, i.e. specifying that functions delegated 'may be discharged by the suffragan throughout the diocese or only in a particular area thereof'.<sup>56</sup>

The designation of 'assistant bishop' in the Anglican Communion sometimes refers to retired bishops— as in the Church of England— who have been licenced by the diocesan, and to whom may be delegated episcopal functions, either regularly or occasionally.

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<sup>48</sup> e.g. Nigeria, Canon VIII. In England, specific consideration is given to the Bishop's attending Parliament or the Court, Canon C18.8.

<sup>49</sup> See Lambeth Conference 1988 Resolution 72 *Episcopal responsibilities and diocesan boundaries*; Lambeth Conference 1998 Resolution III.2 *The Unity of the Anglican Communion*.

<sup>50</sup> Canon 8.

<sup>51</sup> e.g. Melanesia, Constitution Article 7A1; Nigeria Canon XII 8.

<sup>52</sup> e.g. USA, Canon III.11.9(a), a Bishop coadjutor is elected 'in order to provide for orderly transition' and Canon III.5.1(a), 'the canonical authority assigned to the Bishop Diocesan by this Title may be exercised by a Bishop Coadjutor.'

<sup>53</sup> USA, Canon III.11.9(b)(1).

<sup>54</sup> USA, Canon III.5.1(a).

<sup>55</sup> e.g. England, Dioceses, Pastoral and Mission Measure 2007, Section 13.

<sup>56</sup> *Ibid*, 13(3). Area schemes are in place in some larger English dioceses such as London, Oxford, and Chelmsford.



Non-territorial episcopal ministry is not common in the Anglican Communion. Some churches appoint a bishop to minister to the armed forces. This bishop may be empowered to licence chaplains and exercise oversight over ‘the ministrations of the church among men and women of the Defence Force and their families’.<sup>57</sup> In England, a Parochial Church Council may petition the bishop, on grounds of theological convictions that make them unable to receive the ministry of women as bishops and priests, for special arrangements to be made. ‘It is the responsibility of the diocesan bishop to put... arrangements in place after consultation with the PCC’<sup>58</sup> and this frequently involves the diocesan bishop entrusting some episcopal functions to a colleague in the College of Bishops.

### ***11. Metropolitan and Primate Functions***

Archbishops exercise metropolitan jurisdiction and oversight. England’s Canon C17.4 is typical: ‘The archbishop is, within his province, the principal minister, and to him belongs the right of confirming the election of every person to a bishopric, of being the chief consecrator at the consecration of every bishop, of receiving such appeals in his provincial court as may be provided by law, of holding metropolitan visitations at times or places limited by law or custom, and of presiding in the Convocation of the province either in person or by such deputy as he may lawfully appoint.’ C17.5 further provides that the Archbishop’s consent is required for an Act of Convocation, and C17.6 provides that it is for the Archbishop to give Permission to Officiate to clergy ordained by an overseas bishop or a bishop with recognised orders outside the Anglican Communion.

Each church in the Anglican Communion comprises one or more provinces. The senior bishop or archbishop in each of the 38 churches is known as the primate, and may or may not be a metropolitan archbishop. The primates meet at Anglican Communion Primates’ Meetings, which have no formal jurisdiction. A principal function of the primate is to preside over the synod of the national church, e.g. the General Synod in England or the General Convention in the USA.

### ***Conclusion***

The ‘Principles of Canon Law common to the churches of the Anglican Communion’ have helped us to demonstrate that across Anglicanism there is a high degree of consistent practice in regard to episcopal functions. The various principles are expressed by the laws of particular churches, and those laws differ in detail. Nevertheless those laws together point to a common understanding of what makes up the bishop’s task.

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<sup>57</sup> Australia, Defence Force Ministry Canon, Canon 6, 2001.

<sup>58</sup> England, ‘House of Bishops’ Declaration on the Ministry of Bishops and Priests – Guidance note’ (2014)