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News Focus -

Leading Canon lawyer states Primates' meeting decision on Episcopal Church has no legal basis, may be ignored and is unenforceable

The foremost Anglican newspaper, “The Church Times” has reported the assessment of the director of the Centre for Law and Religion at Cardiff University who says the Primates’ communique is “completely unacceptable interference with the autonomy” of bodies like the Anglican-Roman Catholic International Commission (ARCIC), or an Anglican body such as the Anglican Consultative Council as they transact their own business”. It may be ignored. It is unenforceable.

The Church Times report states -

The communiqué issued by the Primates in Canterbury last week does not bind anyone, because the Primates' meeting has no jurisdiction, a canon lawyer said this week. It represented "completely unacceptable interference" with the autonomy of the bodies to whom it had issued requirements.

"I find it utterly extraordinary," the director of the Centre for Law and Religion at Cardiff University, Professor Norman Doe, said on Tuesday. "No instrument exists conferring upon the Primates' meeting the jurisdiction to 'require' these things. . . Whatever they require is unenforceable."

The communiqué states that the Primates are "requiring that, for a period of three years, the Episcopal Church [in the United States] no longer represent us on ecumenical and interfaith bodies; should not be appointed or elected to an internal standing committee; and that, while participating in the internal bodies of the Anglican Communion, they will not take part in decision-making on any issues pertaining to doctrine or polity".

Professor Doe confirmed: "The decision will not bind anyone — not the Episcopal Church. There

is no question of that.” It was for the bodies referred to in the communiqué to determine what, if any, consequences the Episcopal Church should face, he said.

The communiqué constituted “completely unacceptable interference with the autonomy of each of these bodies as they transact their own business”. It was “absolute nonsense” to suggest that an ecumenical body such as the Anglican-Roman Catholic International Commission (ARCIC), or an Anglican body such as the Anglican Consultative Council, be bound by a decision made by the Primates’ meeting.

The Anglican Consultative Council is the only instrument of the Communion with a written constitution. Professor Doe suggested, however, that, in the light of the communiqué, the Archbishop of Canterbury could feel “bound” not to invite the Episcopal Church to the Lambeth Conference.

The events of the past week highlighted the consequences of the Communion’s failure to adopt the Anglican Covenant, Professor Doe suggested. He spoke as a member of the Lambeth Commission, which had proposed the Covenant and helped to draft it.

The Covenant was, he said, a means of “setting out clearly the jurisdictional boundaries of the instruments of the Communion, including the Primates’ meeting. . . What we have with the Primates’ meeting is an assumption of authority which has no basis in law. It is merely the result of assertion and assumption, and the Covenant project would have filled that vacuum and provided a set of house rules for the Anglican Communion to address these issues. It never happened.”

He predicted that there would be “other cases like this: stimulating litigation, jeopardising ecumenical relations, making people ill, wasting money. . . It is high time that Anglicans got a formal agreement together on how they process this.”

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<https://www.churchtimes.co.uk/articles/2016/22-january/news/uk/primates-ruling-is-not-binding-says-canon-lawyer>