

The Anglican Communion after New Orleans and the Joint Standing Committee Report

By Andrew Goddard

As many predicted, some hopefully and some fearfully, the Joint Standing Committee (JSC) have given a positive assessment of the response of the The Episcopal Church's (TEC) House of Bishops to the Primates' Questions from Dar Es Salaam. In particular, in relation to the two key requests concerning TEC's response to The Windsor Report (TWR), JSC conclude

By their answers to these two questions, we believe that the Episcopal Church has clarified all outstanding questions relating to their response to the questions directed explicitly to them in the Windsor Report, and on which clarifications were sought by 30th September 2007, and given the necessary assurances sought of them (9).

Equally predictably, this has not been well received in parts of the Communion:

- Mouneer Anis, Primate of Jerusalem and the Middle East and member of the Primates' Standing Committee subsequently issued a minority report;
- Henry Orombi, Primate of Uganda and member of the Primates' Standing Committee who refused to participate in the process has also rejected the JSC report;
- The Primates of CAPA issued a statement making clear that it had not won their consent.

Once again, it appears, the Communion is precariously balanced on the cliff-edge or, to return to the imagery of the Secretary General, it would appear that, as we stand at this current crossroads, people are already beginning not just to look down but to walk down different paths away from each other with little likelihood they will all meet at the crossroads scheduled for the University of Kent in summer 2008.

What follows attempts to trace something of the origins and processes behind the JSC report, assess its contents and then note some of the relevant developments within TEC since the report was written. (I hope in the near future to offer a wider analysis of both the different perspectives and forces currently at play in the Communion and the major questions now facing the Communion and possible frameworks for responding to these).

I - Background to JSC Report

Before looking at the report itself, given that the role of the JSC itself in this whole process has itself become rather controversial in certain quarters (the Primate representing African provinces on the JSC, Archbishop Henry Orombi, who absented himself from the process, has spoken in strong terms about its role), it is necessary to sketch some of the background.

The JSC is the Joint Standing Committee of two of the Instruments of Communion and their members are elected by the Primates and by the ACC. The two standing committees usually meet together and are the bodies authorised to act on behalf of the two Instruments between their full meetings. As such, it clearly has a claim to being an important and authoritative body although it is viewed by some with suspicion and considered unrepresentative of the Communion as a whole. It was the JSC which commissioned the Communion Sub-Group from among its members to assess the response of TEC at General Convention 2006. That report was then presented to a joint meeting of the Primates and the ACC Standing Committee at Dar although the final

communiqué came only from the Primates as the ACC Standing Committee had finished before the end of the Primates' own meeting, and ACC members had left the meeting.

The JSC's involvement in this process has been described as an intrusion and so it is important to clarify exactly what happened. In the light of research I've undertaken it appears to me that the following is the sequence of events.

When the Primates met in Dar, they asked for certain clarifications from TEC and stated "The Primates request that the answer of the House of Bishops is conveyed to the Primates by the Presiding Bishop by 30th September 2007". They failed to give any explicit mechanism by which the Primates would then respond but it would appear their intention was for their proposed Pastoral Council to have a role in this exercise. That Council was to "consist of up to five members: two nominated by the Primates, two by the Presiding Bishop, and a Primate of a Province of the Anglican Communion nominated by the Archbishop of Canterbury to chair the Council". It was to work "in co-operation with The Episcopal Church, the Presiding Bishop and the leadership of the bishops participating in the scheme proposed below" to address a number of matters including to

monitor the response of The Episcopal Church to the Windsor Report;

consider whether any of the courses of action contemplated by the Windsor Report §157 should be applied to the life of The Episcopal Church or its bishops, and, if appropriate, to recommend such action to The Episcopal Church and its institutions and to the Instruments of Communion;

take whatever reasonable action is needed to give effect to this scheme and report to the Primates.

The Archbishop of Canterbury urgently sought nominations from the Primates for the Council but before he appointed them TEC's HoB made clear their rejection of the plan. They also requested that the Archbishop attend their September HoB meeting. The Presiding Bishop's formal invitation to attend that meeting was extended not only to the Archbishop of Canterbury but also the Joint Standing Committee as the body best able to represent the wider constituency of the two Instruments. That invitation was accepted and it was decided the JSC should also have one of its regular meetings in New Orleans and include on its agenda the formulation of a report on the HoB's response to the Windsor Report and the Dar requests. The Primate of Uganda refused to attend or participate in this process but all other JSC members attended.

Their report makes clear that the process in New Orleans, Louisiana (NOLA) was not as smooth as it could be – "sadly the House of Bishops were not able to complete the process of developing their response before our meeting concluded" – and the JSC's response to this has itself occasioned further controversy. As the JSC reports:

The Joint Standing Committee were however briefed by Presiding Bishop Katharine Jefferts Schori and other bishops on the Monday evening, and had the opportunity to agree together the main outlines of how they might wish to respond in the light of the various options facing the House of Bishops. All members of the Joint Standing Committee present in New Orleans have been consulted electronically in the preparation of this report once the actual text of the statement of the House of Bishops was available.

This account appears to have fuelled rumours and suspicions of a 'fixing' of the outcome. These have focused on two areas. First, that in their briefing from TEC bishops, the JSC agreed to respond positively if TEC's HoB took certain courses of action or used certain words. Second, that there was a clear conflict of interest as the Presiding Bishop of TEC is a member of JSC and signed the final report and appears to have been involved in assessing the actions of her own province's HoB. Although the reality was messy, neither of these allegations has been substantiated with any evidence and both have been strenuously denied. Individual members of the JSC undoubtedly spoke with members of the HoB about the process of developing a response and the JSC apparently made clear that certain possible responses (such as those arising from the official Writing Committee of the HoB) would not meet what was asked by Windsor. There was, however, no negotiation of a settlement or suggestion from JSC that if certain words were used then the JSC would give support. Rather, after attending discussions with the HoB early in their meeting, the JSC withdrew but was kept informed of the developing situation within the HoB by the PB (Bishop Stanton has charted some of the different versions discussed at various stages) who then absented herself from JSC's deliberations to return to the HoB.

It is clear that the last full set of wording from the HoB of which the JSC was made aware (on the evening of Monday 24th) before its meeting ended was not the final version. It would appear they drew up the main lines of their response in what became Part One of their report based on one of the versions arising from the work of Bishops Jenkins, Bruno and Chane. This possible outcome clearly represented a significant movement from the earlier totally inadequate work of the Writing Committee although it was already clear that the treatment of same-sex blessings was the most problematic and contentious area.

After supper on the 24th the PB reported further to JSC on what became the final summary document with its eight short statements. This meant that the JSC meeting ended hopeful but without sight of the final text and so unable to reach a final definitive assessment during its meeting.

The process agreed by JSC, given these unintended and difficult circumstances, was that the ACO Secretariat would write a first draft based on the JSC's discussions. It was originally hoped this draft would be circulated by Thursday evening with responses given by Saturday morning so that any revisions could be made and the report given to the Archbishop of Canterbury (after his return from the Middle East that morning) by Saturday evening. In line with this, once the HoB's full resolutions were public, the ACO drafted the report in the light of the JSC discussions. Part One was circulated to all JSC members on Thursday 27th for comment and/or approval by 9AM BST Saturday and Part Two (and a revision of Part One in light of initial comments) circulated on Friday. At this stage it was clear that the process of consultation could not be properly completed by the weekend and so the deadline for comments was extended to Monday 1st October at 9AM.

When that deadline was reached a third draft of the whole report was circulated and JSC members were asked to give their assent or dissent by Tuesday 9AM. Late on Monday, Mouneer Anis (the Presiding Bishop of Jerusalem and the Middle East) made his first response and requested two extra days. Following discussions with Lambeth Palace, it was agreed that the JSC report would be submitted to the Archbishop if the point was reached where 2/3 of the JSC had signified assent. Those who had yet to respond were therefore asked by email if they could signify assent or make any other comments. By Tuesday morning it was clear that 2/3 of the JSC had given approval to the report and so the report was sent to the Archbishop of Canterbury and circulated to all members of the JSC and all Primates. This timing also enabled the content of the report to be known by the relevant Primates when the Archbishop of York attended the CAPA meeting in Mauritius.

On Wednesday 3rd, the text was finalised as one having the assent of 2/3 of the JSC and with a clear statement as to which members had not yet given consent. This was then sent to the ACC (as recommended by the JSC at their meeting in New Orleans) around 12 noon and made public on the ACO website at 3pm. It appears that it was only shortly after this general publication that comments were first received from Bishop Mouneer and these were duly circulated to the JSC and Primates and then added as an appendix to the main report. Later still on the Wednesday afternoon, Elizabeth Paver (one of the ACC JSC) gave her affirmative response (confirmed subsequently by phone) and on Thursday morning the listings on the internet-published report were accordingly altered and Bishop Mouneer's comments added.

At present the situation appears to be as listed in the report on the ACO website with two members of the ACC Standing Committee yet to signal any response, effectively a minority report from Bishop Mouneer Anis, and another member of the Primates' Standing Committee (Archbishop Orombi) refusing to participate in any of the process and so not included in the consultation. It is also now reported that Elizabeth Paver has sympathy with the evaluation of the HoB response offered by the minority report of Mouneer Anis. It would therefore appear that at the time of writing this assessment, nearly two weeks after publication, (and leaving aside the Presiding Bishop of TEC), two of the Primates on JSC support the majority and two the minority report and that seven members of the ACC Standing Committee support the majority (though one, having assented to the report, has subsequently indicated sympathy with the minority report) while two remain currently undeclared. This raises the interesting question as to whether, if the report had been written with the HoB's full and final response before them and when all JSC members were in attendance (rather than through electronic consultation), the JSC would have modified their final conclusions to reach an agreed consensus or whether we would, in such circumstances, still have ended up with a majority and a minority report.

The report is addressed to the Archbishop of Canterbury who is consulting widely throughout October with Primates, ACC members and other concerned parties before reaching a decision as to how to proceed.

II - The Report

The JSC Report itself falls into two parts. This division is based on the fact that the Primates placed an explicit deadline on responding to the requests to clarify Windsor but not on 'other urgent but distinct matters' (1) raised in their communiqué. While this is clearly true, a case can be made that the issues discussed in the latter category were in some senses more urgent in the view of the Primates (hence their proposed Pastoral Scheme and Council) and their proposals in relation to them were intended (as noted above) to be one means by which the time-limited requests were to be adjudicated. It was, on this understanding, the total and swift refusal of TEC to co-operate with the Primates' response to the 'pastoral issues' (that JSC discusses in Part Two) that created the very two-fold division that now structures the JSC Report. What follows seeks to explain and evaluate the JSC report on the basis of the evidence they had before them. Section III which follows outlines Bishop Mouneer's concerns while section IV explores some of the subsequent developments and their impact on the Report's assessment.

Part One – The Response of The Episcopal Church to the Windsor Report

The JSC provides a succinct summary of the background to the Dar requests and then examines each in turn.

On public rites of blessing for same-sex unions

The JSC report summarises earlier discussions of this subject including their own important assessment in the Communion Sub-Group Report on GC 2006:

It is therefore not at all clear whether, in fact, the Episcopal Church is living with the recommendations of the Windsor Report on this matter. The Primates in their statement of March 2003 did admit that there could be “a breadth of private response to individual pastoral care”, but it is clear that the authorisation by any one bishop, diocese or Province, of any public Rite of Blessing, or permission to develop or use such a rite, would go against the standard of teaching to which the Communion as a whole has indicated that it is bound. We do not see how bishops who continue to act in a way which diverges from the common life of the Communion can be fully incorporated into its ongoing life. This is therefore a question which needs to be addressed urgently by the House of Bishops of the Episcopal Church (para 17).

JSC then quote TEC’s response and conclude that ‘These statements (Summary and Discussion), taken together, address the request of the Primates at Dar es Salaam. The bishops have pledged themselves not to authorise public rites in their dioceses.’ (5).

(a) The House of Bishops and General Convention

In order to defend this conclusion, JSC has to deal with the fact the Primates’ request clearly stated

make an unequivocal common covenant that the bishops will not authorise any Rite of Blessing for same-sex unions in their dioceses *or through General Convention* (italics added).

Rather than doing this the bishops state

We, the members of the House of Bishops, pledge not to authorize for use in our dioceses any public rites of blessing of same-sex unions until a broader consensus emerges in the Communion, *or until General Convention takes further action*.

JSC lets this clear contradiction stand by arguing

In giving this commitment with the proviso “or until General Convention takes further action”, the House of Bishops is acknowledging that it does not have the power to bind future actions of General Convention, in the same way that most of the general synods of the Provinces of the Anglican Communion cannot be bound by any part or section of their polity (5).

While this is a possible explanation it is – for the following reasons - also one of the weaknesses of the JSC analysis that they accepted this line of argument.

First, the Primates clearly included the phrase ‘or through General Convention’ because they were aware of this potential loophole and those involved in drafting and approving the Dar communiqué were also aware of this aspect of TEC’s polity (after all that is why the Dromantine communiqué gave TEC more time so it could respond

“through [its] relevant constitutional bodies to the questions specifically addressed to them in the Windsor Report as they consider their place within the Anglican Communion”).

Second, the HoB is of course one of the two Houses of GC and as such has an effective veto. To do as asked by Dar would not be to bind *another part or section of their polity* but to give an assurance that when acting as *the HoB itself, within and as part of* other sections of the polity, it would uphold the Primates’ requests.

Article 1 Section 1 of the Constitution of General Convention makes clear that the House of Bishops does have power, sitting and deliberating separately, to prevent any proposal being approved by General Convention. It reads

There shall be a General Convention of this Church, consisting of the House of Bishops and the House of Deputies, which Houses shall sit and deliberate separately; and in all deliberations freedom of debate shall be allowed. Either House may originate and propose legislation, and all acts of the Convention shall be adopted and be authenticated by both Houses.

The appeal to the sovereignty of GC and the HoB’s inability to commit not to take certain actions *through* (not apart from) it therefore lacks credibility. This sudden concern for the sovereignty of General Convention is especially dubious given a number of factors in the recent past: apparently the HoB at NOLA could not agree if it was bound by GC resolutions (such wording was in an earlier statement); B033 was processed through GC 2006 by the HoB in a manner which many found unacceptable; in 2004 the HoB effectively vetoed *any* confirmations to the episcopacy unilaterally (irrespective of the views of the Standing Committees). Furthermore, in stating that “The House acknowledges that non-celibate gay and lesbian persons are included among those to whom B033 pertains” the HoB clearly showed they were willing to go beyond what was explicitly stated at General Convention. The reference to wider practice in the Communion is also unconvincing (for example, in the CofE it is not unheard for the HoB in General Synod to take a stand and through a vote by Houses effectively prevent Synod taking certain actions including, on one famous occasion, in relation to the sexuality debate).

If this understanding of TEC’s polity is accepted as an excuse by the wider Communion then it is effectively being accepted that no moratorium can be implemented until a new consensus emerges in the Communion and indeed for longer than three years. As a result, TEC and the Communion are simply going to stagger from one crisis to another as every three years this issue is revisited. This fear has been confirmed by Gene Robinson who concluded his response to New Orleans with the call – “Do I wish we could have done more? Absolutely. Can I live with it? Yes, I can. For right now. Until General Convention, which is the appropriate time for us to take up these issues again as a Church, with all orders of ministry present. I am taking to heart the old 60’s slogan, “Don’t whine, organize!”.

Third, the HoB has by keeping open the option of this pledge running out at the next General Convention, in effect, made no clearer or fuller commitment in relation to public rites of blessing than it did in 2005 after Dromantine (“Nevertheless, we pledge not to authorize any public rites for the blessing of same sex unions, and we will not bless any such unions, at least until the General Convention of 2006”). Indeed, in some senses this is a lesser commitment as there is nothing equivalent to the 2005 assurance they would not themselves officiate at any blessings.

(b) The House of Bishops, Local Option and Pastoral Provision

The JSC - unsurprisingly, given the statement in the earlier Communion Sub-Group report (para 17 quoted above) and the explicit statements of the Primates – address the issue of ‘local option’ and ‘pastoral provision’ in relation to the HoB statement that “the majority of bishops do not make allowance for the blessing of same-sex unions” and the appeal by the HoB to the 2003 Primates’ Statement about “a breadth of private response to situations of individual pastoral care”. The JSC report draws on the wider context of that 2003 statement (and refers to Lambeth I.10) to assert as JSC that they understand the current position of the Communion to be that “given that there is no agreed theological framework on ministry to homosexual persons entering into committed relationships, it is currently widely understood that it would be inappropriate to develop liturgical expressions of blessing for such relationships” (5).

This clearly creates tensions with GC 2003 (which JSC has just stressed it acknowledges is the supreme authority in TEC) and its resolution C051. Here the JSC analysis (6) needs quoting in full:

The Episcopal Church has acknowledged in the past, however, that “local faith communities are operating within the bounds of our common life as they explore and experience liturgies celebrating and blessing same-sex unions”. In answer to the way in which this resolution was understood in the Windsor Report, it has been said that this statement was to be understood descriptively of a reality current in 2003 and not as permissive, and the Special Commission on the Episcopal Church and the Anglican Communion prior to the 75th General Convention (2006) specifically denied that it was intended to authorise such rites.

This paragraph in the JSC report answers four questions relating to the practice of same-sex blessings in the following terms:

- Is it acceptable within TEC to explore and experience liturgies celebrating and blessing same-sex unions? Yes (C051, GC 2003)
- Are such liturgies descriptive of the present reality in TEC? Yes (that is what C051 says)
- Has permission been granted for such liturgies by GC? No, C051 is not permissive (although, by implication, the HoB acknowledges that the current reality is that some bishops do ‘make allowance’ for them)
- Are such liturgies authorised? No – GC has never authorised them and bishops will not authorise them in their diocese (unless GC in future gives permission or authorisation)

The JSC does not pass any judgment on the coherence or integrity of this position but simply gives this summary which simply confirms the current confused situation and explains why both the JSC Communion Sub-Group (para 17, see above) and the Primates at Dar expressed the concerns they did about the fact “that local pastoral provision is made in some places for such blessings” and “it is the ambiguous stance of The Episcopal Church which causes concern among us” (para 21).

What has been said by the HoB to change this situation? The strongest statement is their summary that ‘*We pledge as a body not to authorize public rites for the blessing of same-sex unions*’ which is very close to Dar’s request (“bishops will not authorise any Rite of Blessing for same-sex unions in their dioceses or through General

Convention'). It is clear that the JSC view this as highly significant. However, it is (as noted above) more or less exactly the pledge given in 2005 in their covenant ("we pledge not to authorize any public rites for the blessing of same sex unions"). It would appear that there are the following options given this similarity:

1. *The bishops meant in 2005 to alter the reality described in C051 and succeeded in doing so but it was time-limited ('at least until the General Convention of 2006') and though implemented as an effective Windsor-compliant moratorium until GC it was then relaxed leading to the situation that caused concern to the Communion Sub-Group and Primates at Dar. This new statement restores the adequate moratorium of 2005.* This interpretation says that the 2005 covenant negated C051 (passed by GC 2003) and effected the necessary moratorium, GC 2006 failed to address this tension within TEC's polity and the HoB has now reaffirmed its 2005 position and re-imposed a moratorium. This would need to produce evidence of a more restrictive attitude from bishops to any public same-sex blessings in their dioceses after 2005 (the examples of Vermont (discussed below) and the PB's former diocese of Nevada would be possible case studies) and then a more lax attitude after GC 2006 (here the example of Arkansas gives support to the claim that some bishops and dioceses did progress to a form of authorization after GC).
2. *The bishops meant in 2005 to alter the reality described in C051 but they then failed to implement their pledge.* This interpretation would require evidence that this is what they meant in 2005, that they believe they failed to fulfil their 2005 pledge and they are now committed to rectifying that failure.
3. *The bishops qualified the 2005 moratorium in that the pledge in the covenant is prefaced by 'Some in our church hold such "pastoral care" to include the blessing of same sex relationships. Others hold that it does not. Nevertheless, we pledge...'. This interpretation would require that this qualification is now withdrawn but it would appear that it is simply reiterated in different wording in the commentary reference to 'the majority of bishops do not make allowance for the blessing of same-sex unions. We do note that in May 2003 the Primates said we have a pastoral duty "to respond with love and understanding to people of all sexual orientations." They further stated, "...[I]t is necessary to maintain a breadth of private response to situations of individual pastoral care."*
4. *The bishops in 2005 meant something less than they mean now and have at NOLA committed themselves to effecting change so that C051 is no longer descriptive of the reality in TEC.* This interpretation has to explain the shift given that (a) the only change in the wording is the addition of 'as a body', (b) the HoB have declared they cannot bind (or presumably countermand) decisions of General Convention and (c) both the additional commentary and the statements of a number of bishops (see section IV below) suggest the intention was exactly the same as 2005: no authorisation of set liturgies for use but acceptance of public liturgies as part of pastoral care.
5. *The bishops mean exactly the same now as they did in 2005 and the situation will not change after this new commitment. This is because 'authorize' had then and still has a limited sense (hence the Communion Sub-Group assessment that it was 'not at all clear whether, in fact, the Episcopal Church is living with the recommendations of the Windsor Report on this matter') and so TEC has never had and still does not have the full moratorium sought by the Communion (and described by JSC).* This interpretation would have to show there was no effective moratorium after 2005 and that there is not one now after NOLA (see section IV below).

This final interpretive option is, I would suggest, the most plausible. As nothing is said by the HoB to change the situation described in C051 on any normal understanding there is not currently “a moratorium...on all such public Rites” (TWR, para 144) and the HoB has not responded adequately to the Dromantine Primates’ request asking “our fellow primates to use their best influence to persuade their brothers and sisters to exercise a moratorium on public Rites of Blessing for Same-sex unions” (para 18).

The JSC, however, then states (in marked contrast to the description it has just given):

It needs to be made clear however that we believe that the celebration of a public liturgy which includes a blessing on a same-sex union is not within the breadth of private pastoral response envisaged by the Primates in their Pastoral Letter of 2003, and that the undertaking made by the bishops in New Orleans is understood to mean that the use of any such rites or liturgies will not in future have the bishop’s authority “until a broader consensus emerges in the Communion, or until General Convention takes further action”, a qualification which is in line with the limits that the Constitution of The Episcopal Church places upon the bishops.

Such a clear statement as to the limits of pastoral care – with the surely irrefutable argument that a *public* liturgy cannot be an acceptable form of *private* pastoral response - is welcome. It also appears JSC is saying that the bishops have now moved from the *laissez faire* position embodied in C051 to one of refusing authority (presumably interpretation 1 offered above) but there is no evidence cited that this is the belief of TEC and its HoB. The JSC is also careful to say that TEC’s undertaking ‘is understood to mean’ something rather than it ‘means’ something. Furthermore, it is not even understood to mean that ‘any such rites or liturgies’ will cease or be prevented where possible by the bishop but rather that they ‘will not in future have the bishop’s authority’. It was, surely, the intention of the Primates (and the Communion Sub-Group when it said that ‘permission to develop or use such a rite, would go against the standard of teaching to which the Communion as a whole has indicated that it is bound’) that the practice in TEC should become that followed personally by the Archbishop of Canterbury himself in his earlier episcopal ministry. He described this in an interview (with The Daily Telegraph) in February 2003

Q: Apart from that unity point, what is your own view of same-sex blessings?

A: I've never licenced one or performed one because I believe that there are significantly serious questions about how that is to be distinguished from marriage not to rush into the innovation. So it is very complex and I don't have a quick answer.

Q: How will you deal with bishops or clergy in this country who do undertake them?

A: I can only speak with past experience. When I have encountered cases where a cleric has performed a same-sex blessing I have said that this must not happen again. Anything that is done in the name of the Church must be something done by more than just an individual.

Although the statement about ‘not having the bishop’s authority’ could imply that the JSC believes this is how they understand the HoB commitment, there is nothing explicit in either the HoB statement or the JSC report that confirms this is now the agreed commitment in practice of bishops in TEC. Indeed, the wording of the HoB statement as a whole is ambiguous about what is and is not authorised.

Given that the JSC appear to have had the summary statements presented to them during their meeting but not the fuller discussion, this may be significant and explain the more expansive interpretation offered by the JSC. The summary states, “We pledge as a body not to authorize public rites for the blessing of same-sex unions” and it is presumably on this basis that the JSC felt able to conclude they were saying that any such rites would lack the bishop’s authority. However, the final agreed HoB discussion says “We, the members of the House of Bishops, pledge not to authorize *for use* in our dioceses any public rites of blessing of same-sex unions” (italics added). There are clearly differences here – one is a pledge ‘as a body’ and the other seems to include all ‘members of the HoB’; one is not to ‘authorize public rites’ and the other is not to ‘authorize for use’ - but their nature and significance remains unclear. Given recent uses of ‘as a body’ in certain statements, the summary may be understood to allow individual bishops to authorize public rites (even though the HoB as a body does not). However, the fact that ‘as a body’ is the subject of the pledge rather than the subject of the pledged authorisation (‘we pledge not to authorize as a body’) tells against such a reading. Nevertheless, the discussion may be understood simply to prevent bishops authorizing rites *for use* in the sense of developing and issuing a formal rite which clergy in their diocese are instructed they should use in any public rite of blessing they choose to perform. This would then permit individual bishops to allow other forms of episcopal authorization (falling short of an officially authorised rite for use) to continue in dioceses. The only way to avoid this is to see the summary as preventing such a reading of the commentary (although as noted above the fact that its wording is almost exactly that used in 2005 weakens this position) rather than reading the commentary as expounding and clarifying what was meant by the summary. It would appear that in stating that it is ‘These statements (Summary and Discussion) taken together’ (5) which address the request of the Primates, the JSC is reading the summary in a maximalist sense in order to compensate for the weaker commentary.

(c) Summary on public rites of blessing

The JSC conclusion is, therefore, flawed on two counts. *First*, their conclusion that the HoB has met the request of the Primates at Dar is only able to be described as provided ‘explicitly in those terms’ by removing the additional phrase ‘or through General Convention’ from the request. The justification for this is not only a dubious understanding of TEC’s polity but, if accepted, would render any moratorium sought by TWR impossible to give. *Second*, they only understand the HoB statement to have met the request of TWR ‘on this basis’ of a maximalist reading of the statement. This includes the strong limits they place on the boundaries of legitimate private pastoral response and the fact that the statement means that ‘the use of any such rites or liturgies will not in future have the bishop’s authority’. Such conditions show JSC’s commitment to the understanding of Windsor and Dar and so tell against the accusation that they have simply lowered the bar in order to allow a positive assessment. However, that basis is not explicit in the statement but rather has to be read into it (and, some would argue, *against* its plain sense). If the Presiding Bishop’s assent to the JSC report signals that this strong reading is her own understanding of the HoB’s commitment then she needs to make that clear and to explain its implications within the life of TEC.

On elections to the episcopate

Here again the JSC begin with a short narrative overview of the Communion’s responses to what they call ‘the epicentre of tensions in the Communion’ (6). Again they focus on the Communion Sub-Group report published just before Dar. This concluded that, through passing B033 (which made clear that restraint was to be expressed in a particular way – ‘by not consenting’), ‘the group believes therefore

that General Convention has complied in this resolution with the request of the Primates' (para 12). They note however that 'not all of the primates were fully convinced of this interpretation' and so asked for confirmation that 'the passing of Resolution B033...means that a candidate for Episcopal orders living in a same-sex union shall not receive the necessary consent...'

After quoting the HoB response the JSC now conclude:

By confirming the interpretation of the Communion Sub-Group and quoting it explicitly, as well as making the explicit acknowledgement in the last sentence of their text that Resolution B033 does refer to "non-celibate gay and lesbian persons", the Episcopal House of Bishops is answering the question of the Primates positively. They confirm the understanding of the sub-group that restraint is exercised in a precise way "by not consenting", and that this specifically includes "non-celibate gay and lesbian persons". They have therefore clearly affirmed that the Communion Sub-Group were correct in interpreting Resolution B033 as meeting the request of the Windsor Report.

While this is a much more persuasive line of interpretation than that offered in relation to blessings, it is not unproblematic. The Primates did not ask for confirmation that the JSC Communion Sub-Group's reading of B033's phrase 'by not consenting' was correct. Rather they were concerned that 'B033...does not in fact give the assurances requested in TWR' (Dar, para 23) and asked that it meant 'a candidate *shall not* receive the necessary consent'. Rather than stating this, the HoB has said, 'we agree with the argument of the Communion Sub-Group that B033 gives the undertaking requested by Windsor'. This may well be sufficient, however it assumes that the Primates who were unhappy were working with the same understanding of TWR as the Communion Sub-Group. In fact, it may be the case that the Primates' problem was that they wished for a clearer statement of a moratorium, hence their request to clarify that a candidate '*shall not* receive the necessary consent'. A case can certainly be made that B033, even as interpreted by the Communion Sub-Group and now confirmed by the HoB, does not 'give the assurances requested in TWR' as it simply represents a call to bishops not to consent (a call which may or may not be heeded) and not a commitment by bishops that they shall not give consent.

Furthermore, as Mouneer Anis points out in his minority report, if the HoB genuinely believed that it should refuse consent to someone living in a same-sex union because that 'manner of life presents a challenge to the wider church and will lead to further strains on communion' then it could not with integrity proceed to make a strong call (not discussed in the main JSC report) for Gene Robinson's 'full participation' at Lambeth. The only way around this is if HoB believed that (contrary to all the evidence) although confirming another bishop in a same-sex union will lead to further strains, the Archbishop giving full status and recognition to the existing bishop whose 'manner of life presents a challenge to the wider church' will not lead to further strains.

Despite these continued ambiguities this is clearly less pressing in terms of ongoing disregard for the Communion than the question of continuing same-sex blessings. Although it is impossible to be sure, many believe there is now little likelihood that such a candidate will be elected in the near future. It is also claimed that even if they are elected by a diocese then although some bishops will give consent (and much pressure will be put on bishops by many Standing Committees and others to consent) it is now practically certain that the necessary consents will not be received. As a result, it is argued that, until proven otherwise, the Communion has reasonable grounds for believing a moratorium on confirmation and consecration (though not election which was sought by TWR) of such candidates is now in practice in place within TEC. If this case is accepted then, even if the wording of the HoB

response strictly falls short (to some degree) of what the Primates sought, it represents as far as TEC can go and, in practice, delivers what is sought.

Conclusion

In their conclusion to this section the JSC write

By their answers to these two questions, we believe that the Episcopal Church has clarified all outstanding questions relating to their response to the questions directed explicitly to them in the Windsor Report, and on which clarifications were sought by 30th September 2007, and given the necessary assurances sought of them.

While such a conclusion could possibly be justified in relation to elections to the episcopate, it is very difficult to defend in relation to rites of blessing where the JSC has had to read into the statement conditions which are not present (and subsequently being denied by many bishops, see below) and to ignore key elements of the Primates' request.

A further problem is evident early in Part Two where the JSC express their conclusion by reference to the Primates' communiqué. This spoke of three urgent needs, the first of which was that (para 31)

those of us who have lost trust in The Episcopal Church need to be re-assured that there is a genuine readiness in The Episcopal Church to embrace fully the recommendations of the Windsor Report.

The JSC then rephrases its conclusion to Part One in these terms –

In the first part of this report, we have indicated that the further clarifications offered by the House of Bishops at New Orleans do address the first of these points (10).

This is, however, impossible to conclude without presuming that the conclusion of Part One will be universally accepted. Those who need to be re-assured are those Primates who have lost trust in TEC. The JSC report was agreed by Primates who did not obviously fall into that category (Australia, Wales, US) while those Primates who did (Jerusalem and the Middle East and Uganda) have clearly not been given the reassurances they need.

It was, in short, rather presumptuous for the JSC to claim that the first of the urgent needs identified by the Primates had been addressed (especially given that the Primates at Dar took a different and less optimistic view of the situation from that offered in the Communion Sub-Group's report on GC's response). The best that can be said is that, 'if our interpretation of the HoB statement is accepted by those who have lost trust then they should be reassured and this urgent need will have been addressed'. One of the major problems (which is proving almost impossible to address) is that the loss of trust is such that it cannot be overcome – and indeed distrust may be increased - by a small group of people offering their own interpretation of written statements which they then presume 'those who have lost trust' will accept.

Part Two – Pastoral Issues

On care of dissenting groups

The JSC provide a short overview of this problem (unhelpfully, given the contentious nature of such figures, citing the numbers concerned provided by the Presiding Bishop and declaring them ‘relatively small’ while acknowledging ‘some of those parishes seeking alternative arrangements are amongst the larger congregations within TEC’ (10)). They interpret this in the following terms:

At the heart of the growing pattern of alienation and competing jurisdictions are pastoral concerns. How can provision be made for the pastoral care of parishes and dioceses that feel that those charged within The Episcopal Church with their episcopal or primatial oversight (that is, the existing diocesan bishop or the Presiding Bishop) are not able to exercise that charge effectively because of theological differences? How can their legitimate theological perspectives be safeguarded, and the aspirations of those called to ministry from those theological perspectives be nourished? (10).

While encouraging that this is set in terms of safeguarding this tradition for the future, to see the *heart* of the problem as ‘pastoral concerns’ is misleading. Those alienated and those intervening would say that, while there are pastoral concerns, the heart of the problem is theological and the issue is one of whether this theological difference is communion-breaking because the bishop (and/or the institutions of governance within the province) no longer has true authority and jurisdiction given their departure from the orthodox faith. By framing the problem as centrally one of ‘pastoral concerns’, the JSC misinterprets what the alienated are saying. Even if one believes they are misguided and wrong, this approach is unlikely to help in building trustful dialogue and resolving the problem.

The JSC more accurately recognise that a large part of the problem is

The leadership of the Episcopal Church is content that sufficient provision and protection can be provided within the DEPO scheme, while the congregations that have sought alternatives, have, by that very action, indicated that they believe such provision is insufficient (10).

It must also be said that the Primates at Dar effectively agreed with those who judged the provision insufficient, hence their proposed Pastoral Scheme and Council and their strong support for the Windsor/CA bishops and the CA Principles which JSC notes and explains (11):

The primates were indicating to those who felt alienated from the leadership of The Episcopal Church that there were identifiable bishops within The Episcopal Church able to meet the needs identified by the groups seeking alternative pastoral provision without the need for “foreign intervention”.

However, the JSC simply class TEC’s speedy and wholly negative response to the Primates in this area as ‘unfortunate’ and in response ‘recommend that the Archbishop of Canterbury encourage the duly constituted authorities of TEC, as a matter of urgency, to consult further’ (11) with the concerned parties and ‘find ways to encourage the leadership of TEC to draw those who are seeking alternative patterns of oversight into conversation with those who are charged with their oversight under current structures about the way ahead’ (12). They link these consultations to the development of the Presiding Bishop’s scheme for Episcopal Visitors (‘a

viable basis on which to proceed' (11)) rather than defending the hard work of the Primates at Dar. They do recognise, however, that

Unless some measure of reassurance and security is given to those congregations, parishes, bishops and dioceses who are feeling an increasing sense of alienation from The Episcopal Church, there will be no reconciliation either within The Episcopal Church or within the wider Anglican Communion (12).

The real challenge now is whether, having waited for the Communion's response, the alienated congregations, parishes, bishops and dioceses will be able to find any viable structural solution within TEC or whether extra-provincial remedies (most obviously the Common Cause Partnership) will be viewed as the only way forward. The JSC clearly believes there is an alternative but (perhaps because it thinks it is not its role) it does little to provide the framework for that despite the fact one was articulated by the Primates at Dar and given expression in their proposed Pastoral Scheme and Council. For any such alternative to work will depend not only on heeding the Primates' call – strongly reaffirmed by the JSC - to end litigation (a matter not mentioned at all by the HoB) but also in large part depend on the practical effects of the next area they examine.

On Consultation with the wider Communion

Here TEC's HoB have once again rejected Dar's proposals but they have now explicitly accepted the principle that, in the words of the JSC, 'the co-operation and participation of the wider Communion, in a way which respects the integrity of the American Province, is an important element in addressing questions of pastoral oversight for those seeking alternative provision' (13). The JSC therefore encourage not just the Archbishop but 'all the Instruments of Communion to participate in a discussion with the Presiding Bishop and the leadership of TEC to discern a way in which to meet both the intentions behind the proposals in the Dar es Salaam Communique and this statement by the House of Bishops' (13, emphasis original). Unfortunately, rather than pointing to the Pastoral Council as a model for the way forward, the JSC propose the revival of the Panel of Reference which was viewed by most of those who were most alienated (and many others) as an expensive and largely ineffectual body whose work failed to contain let alone resolve the crisis within TEC.

The challenge (which JSC does not appear to recognise) is that the situation has undoubtedly deteriorated further since Dar both within the US and the wider Communion. This means – especially if much of the wider Communion prove unconvinced by all the analysis and the conclusion offered in Part One – an even higher level of ordered Communion participation in relation to alternative oversight within the life of TEC is now required than that proposed at Dar or the likelihood is that more and more parishes (and, even more worryingly, dioceses) will decide to order their ecclesial life apart from TEC and establish their own relationships with other provinces.

This leads into the third area of concern in Part Two –

On Interventions in the life of TEC by Other Jurisdictions

The JSC notes that the Primates 'acknowledged that a robust scheme of pastoral care for dissenting groups would enable an end to interventions in the life of TEC' (13) and then cite the TEC HoB response with the very strongly favourable comment – 'As the Joint Standing Committee of the Anglican Consultative Council and the Primates of the Anglican Communion we feel obliged to note that the House of Bishops makes a point here which needs to be addressed urgently in the life of the Communion' (13). They rehearse the long-standing tradition of 'upholding the principle of local jurisdiction' including in TWR and at various Primates' meetings, most recently at Dar,

recommending the Archbishop of Canterbury to remind certain primates 'of their own words and undertakings' (14).

The JSC then sketch the origins of AMiA and the Instruments' response, arguing that recent consecrations 'with respect to "missionary initiatives" in North America would seem to fall into the same category' and that they 'took place either without consultation with or even against the counsel of the Archbishop of Canterbury' (15).

In an apparent shift of stance the JSC note TWR's and Dar's more understanding response in relation to these intervention but then state, "However, we believe that the time is right for a determined effort to bring interventions to an end" (15). They therefore recommend the Archbishop 'explore ways of facilitating conversation between these primates and the Presiding Bishop...so that the dimensions of the problems faced may be fully articulated and understood, and so that ways forward may be discerned' (15). This 'way forward' is then related to the earlier proposals for a scheme of extended pastoral care and the role of CA/Windsor bishops stressed and JSC reaffirm their belief that healing and reconciliation 'remains a laudable goal' (15). There is, however, insufficient recognition that the Primates recognised cessation can only realistically happen and happen in a principled manner when 'it becomes clear that sufficient provision has been made for the life of those persons' within TEC.

The Life of Persons of Homosexual Orientation in the Church

Omitting any reference to the section on the Lambeth Conference (presumably in recognition that it is not the role of JSC to advise the Archbishop on how he should exercise his prerogative in this area), JSC conclude by citing in full the two sections from the HoB on the listening process and justice and dignity for gay and lesbian persons. They then refer to Lambeth I.10 in the following terms (16):

- 'the widely accepted teaching for the Communion'
- 'not *per se* binding on the faithful of the Churches of the Anglican Communion'
- Expressing 'the understanding on Christian marriage and sexual relationships actually taught and held by the vast majority of Anglican churches and bishops across the globe – indeed, by the vast majority of Christian denominations and their leadership'

It is, they state, 'the call to pay heed to this teaching that is at the centre of our current disputes' before citing parts of the resolution and statements from the Primates at Dromantine and TWR.

Their final paragraph concludes –

The life of the Anglican Communion has been much damaged in recent years following the tensions raised by the consecration in The Episcopal Church of a bishop living in a committed same-sex relationship and the authorisation in some dioceses of Rites of Blessing for same-sex unions. With the response of the House of Bishops of the Episcopal Church in September 2007, the Communion should move towards closure on these matters, at least for the time being. The Communion seems to be converging around a position which says that while it is inappropriate to proceed to public Rites of Blessing of same-sex unions and to the consecration of bishops who are living in sexual relationships outside of Christian marriage, we need to take seriously our ministry to gay and lesbian people inside the Church and the ending

of discrimination, persecution and violence against them. Here, The Episcopal Church and the Instruments of Communion speak with one voice. The process of mutual listening and conversation needs to be intensified. It is only by living in communion that we can live out our vocation to be Communion.

Clearly this call depends in large part on a positive reception to their analysis in Part One. There will also be many concerned that what they describe as the position around which there is Communion convergence is – in relation to suitability for ordained ministry – not that of Lambeth I.10 but rather that which was the focus of TWR ie the issue is limited to that of ‘the consecration of bishops’ rather than ‘ordaining those involved in same gender unions’ (one of the few parts of I.10 not cited explicitly by JSC in the report). There can be no doubt that ‘the process of mutual listening and conversation needs to be intensified’, the pressing question now is whether JSC have listened carefully enough to what TEC’s HoB have said and whether the wider Communion will listen carefully enough to JSC and TEC’s HoB and be willing to engage in the conversations necessary to discover if and how we can, with integrity, ‘live our vocation to be Communion’.

Conclusion

Perhaps one of the most noticeable differences between Part Two and Part One is the influx of the language of recommendations from the JSC. In Part One the language of recommendations comes with reference to past recommendations from TWR and the Primates and their conclusion is not expressed as a recommendation but a belief. It is in large part on the basis of that belief that TEC is now committed to TWR that Part Two proceeds to make the following four explicit recommendations:

As a Joint Standing Committee, we recommend that the Archbishop of Canterbury encourage the duly constituted authorities of The Episcopal Church, as a matter of urgency, to consult further on the issue of the provision of pastoral care and oversight for dissenting congregations and parishes in consultation with those who are requesting it and those bishops of The Episcopal Church who by their theological stance should be able to command the respect of dissenting congregations (11)

We recommend that the Archbishop of Canterbury find ways to encourage the leadership of The Episcopal Church to draw those who are seeking alternative patterns of oversight into conversation with those who are charged with their oversight under current structures about the way ahead (12).

We recommend that the Archbishop remind them [the intervening Primates] of their own words and undertakings... (14)

We recommend that the Archbishop of Canterbury explore ways of facilitating conversation between these primates and the Presiding Bishop, which may have to include other bishops of the intervening Provinces and the bishops of those dioceses where interventions have taken place, so that the dimensions of the problems faced may be fully articulated and understood, and so that ways forward may be discerned (15).

The cumulative effect of this gives the impression that (as almost explicitly stated in the final paragraph) TEC and the Instruments are now basically reconciled in relation to issues of sexuality and all the energy of the Archbishop of Canterbury has therefore to be put into seeking some form of agreed pastoral provision for those who remain

unhappy with TEC and thereby bringing an end to the interventions by other provinces. If their analysis in Part One is correct then there is much to be said for the integrity and pressing necessity of such a focus but if that analysis is false and/or fails to be accepted by many provinces and many within TEC then, while the four recommendations above remain important and urgent, focussing only (or even primarily) on them would represent a serious misjudgement and likely increase rather than decrease the current tensions and risks of serious fracture.

III – The Appended Minority Report (Bishop Mouneer Anis)

Shortly after publication of the report, a submission was received from Bishop Mouneer which raised concerns about the process of the report's compilation and strongly disagreed with the main conclusion of Part One, arguing that the response of the HoB was only 'a **superficial shift** from their previous position' (emphasis original). His reasons for this dissenting view are divided into four categories

Public Rites for Blessing of Same-Sex Unions

Here Bishop Mouneer argues that the HoB met neither the request of TWR for a moratorium nor the request of Dar for 'an unequivocal common covenant' not to authorize any rites. The moratorium is held to be lacking as there is not a 'cessation of activity' as 'a number of bishops will continue to make allowances for the blessing of same-sex unions' and so the HoB has given an '**equivocal and unclear response**'. The Dar request has not been met as although not authorised by bishops the 'exploration of liturgies celebrating the blessing of same-sex unions' will continue and this 'unashamedly disregards the standard teaching of the Anglican Communion which is still torn over this issue'.

It is important to recognise that the disagreement here is not primarily over whether the JSC had the right goal but whether that goal has been met. For the reasons given above in section II of this paper, Bishop Mouneer would appear to have a strong case that it has not and the evidence below in section IV further confirms this.

On the elections of non-celibate gay and lesbian persons to the Episcopate

Taking the whole response of the HoB, Bishop Mouneer presents two arguments. First, he claims that the language of 'full and equal participation in the life of Christ's Church' for 'gay and lesbian persons' is a statement which '**contradicts** their explanation of B033 which put a *restraint* on electing and consecrating *non-celibate gay and lesbian persons* to the Episcopate Order, as it restricts them from full participation in the church'. This is a flawed argument but its use is revealing. It is flawed because the language of full participation applies to 'gay and lesbian persons' whereas the language of restraint applies to a sub-set of this group – non-celibate gay and lesbian persons. Of course, many who oppose Communion teaching on sexual ethics would agree that there is a contradiction here and argue, against Bishop Mouneer, that the principle of inclusion should triumph. This paradox reveals that the problematic element is the status given to the category 'gay and lesbian persons' and the use of the language of 'non-celibate'. By not questioning this, Bishop Mouneer risks being enticed into a frame of reference that should be rejected. If the church accepts the division of humanity into the categories 'gay and lesbian' and 'straight' and focuses its sexual teaching on 'celibate or non-celibate' then it appears there is an injustice – 'non-celibacy' is demanded of the former if they are to experience 'full and equal participation in the life of Christ's Church' but not the latter. If, however, the church holds that the primary division within humanity is between 'male' and 'female' and focuses its sexual teaching on the virtue of chastity (sexual relationships only within marriage) then there is no injustice and no contradiction within the HoB statement.

The second pointed, as noted above, is more powerful – that the request for the full participation of Gene Robinson in the Lambeth conference contradicts their claim that B033 refers to ‘non-celibate gay and lesbian persons’.

On the Pastoral Scheme

Bishop Mouneer’s dissenting assessment highlights that the ‘House of Bishops did not respond positively’ to the Dar proposal and argues that their own internal plan ‘is completely different’ and that only the Dar proposal ‘has the ability to stop the interventions of outside Provinces because it represents TEC, the Primates, and the Archbishop of Canterbury’.

Suspending All Legal Actions

It is here accurately noted that ‘the House of Bishops did not address this issue’.

IV - Reception of JSC Report

In the aftermath of the House of Bishops meeting (and even between the writing and the publication of the JSC Report) a significant number of statements have been made that question the generous reading offered, especially in relation to a moratorium on same-sex blessings. The [most explicit rejection](#) of the JSC reading came from Gene Robinson, **Bishop of New Hampshire**, himself:

Let me also state strongly that I believe that the Joint Standing Committee of the ACC and Primates misunderstood us when they stated that they understood that the HOB in fact declared a ‘moratorium on all such public Rites.’ *Neither in our discussions nor in our statement did we agree to or declare such a moratorium on permitting such rites to take place.* That may be true in many or most dioceses, but that is certainly not the case in my own diocese and many others. The General Convention has stated that such rites are indeed to be considered within the bounds of the pastoral ministry of this Church to its gay and lesbian members, and that remains the policy of The Episcopal Church”.

Although less directly challenging the JSC interpretation, others have signalled that they do not intend to change their current practice of allowing such public services blessings within the breadth of pastoral response. This maintenance of the *status quo ante* was apparently given support by the Presiding Bishop herself who was [reported](#), on Sept 30th, as speaking at San Francisco’s Grace Cathedral (which it was reported would shortly host a same-sex union ceremony for Christopher Hayes, 40, of San Francisco and his partner of 13 years) in the following terms:

"All people - including gay and lesbian Christians and non-Christians - are deserving of the fullest regard of the church," the Most Rev. Katharine Jefferts Schori declared during an hourlong discussion before services. "We're not going backward."

The **Bishop of Vermont** [stated](#) after the HoB meeting:

The second matter addressed public rites of blessings for same-sex unions. Again, we rehearsed the actions of General Convention, which in 2006 took no action to authorize such rites. We acknowledged as well that “the majority of bishops make no allowance for the blessing of same sex unions.” Of course that means some bishops do. *I am one who makes*

allowance for such blessings, and I intend to continue the current pastoral approach we have in place in the Diocese of Vermont for the blessing of holy unions. This was clearly addressed and understood in the House of Bishops.

We in the Diocese of Vermont have not authorized any public rites for the blessing of same-sex unions. That is the work of General Convention, and I long for the day when the Episcopal Church adopts a public rite for the blessing of same sex unions. During our discussion in New Orleans I made it clear to my colleagues that our pastoral care of lesbian and gay couples is important to our common life in the Diocese of Vermont.

The “current pastoral approach” that will continue is explained (and directly linked to in the post-HoB letter by Bishop Ely) in a [2004 document](#) which includes the following summary of recommendations:

Policy: The Diocese has a policy governing Holy Matrimony that outlines requirements couples and clergy must meet in order for a marriage service to take place in the church. The Task Force recommends that congregations and clergy be allowed to continue offering services of blessing for civil unions and that a new unified policy, to take effect on July 1, 2004, govern both Holy Matrimony (the solemnization of a civil marriage) and Holy Union (the blessing of a civil union). The terms Holy Matrimony and Holy Union are intended to emphasize the covenantal aspect of sacred trust and commitment witnessed through the liturgy of the church.

Resources: Episcopalians are a people of “common prayer,” with a Book of Common Prayer containing liturgical services for a variety of occasions: Baptism, Holy Communion, Holy Matrimony, Ordination, Burial and many more. The task force offers liturgies for trial use that will bring the celebration of Holy Union into the life of common prayer in the Diocese of Vermont. In addition, the task force will provide resources to assist congregations in continuing conversations about issues of human sexuality and intimacy, and it will provide resources for clergy and couples preparing for both Holy Matrimony and Holy Union.

Such an understanding of the (non-)effect of the HoB’s actions also appears to be held by two of the main writers behind the final resolution. **Bishop Chane of Washington** (who himself [presided at a blessing of one his priests’ same-sex union](#)) is quoted in his [diocesan newspaper](#) as making clear

Bishop John Bryson Chane said that the Diocese of Washington does not have an authorized rite for blessing same-sex relationships. However, he added that the statement passed by the House of Bishops will allow such blessings to continue in the diocese.

The Bishop of Los Angeles (Bishop Bruno) who was also instrumental in framing the HoB response was [quoted as saying](#) in the course of the HoB meeting that “same-sex blessings do not occur in my diocese with my permission” but the reality on the ground was captured by the *New York Times* reporter drawing attention to an announcement in the *Times* of a celebration of a blessing at All Saints’ Beverly Hills and the reported email on [Brad Drell’s blog](#) that “Our parish (St. Wilfrid of York Episcopal Church in Huntington Beach, CA) is currently conducting a search for a new rector, and Bishop Bruno is our acting rector in the interim. A same-sex blessing was conducted at the church on August 26. While Bishop Bruno neither conducted nor attended the service, he could not have been unaware of the service as the church’s acting rector”. The reality is perhaps best captured by

the Revd Susan Russell who commented, "Same-sex blessings occur in the Diocese of Los Angeles all the time...We don't ask for permission because Bishop Bruno has told us that he cannot give it until General Convention approves an official liturgy. He has told us that we are free to exercise appropriate pastoral care".

The Bishop of Utah is [reported](#) in the following terms: "In the meantime, Bishop Irish said she will continue to bless same-sex unions, acknowledging that there are "all kinds" of restraints that she must follow to make those blessings happen. Those restraints include not doing the blessing during a Sunday service and making sure each person is a member of the church".

The Bishop of Nebraska explained that

With regard to the question of same-sex blessings, we also reiterated what has already been said many times before, that most bishops/dioceses do not provide for these. The fact is, no bishop can "authorize" rites in any institutional sense apart from the action of General Convention. That such blessings do occur in some places and at some times is a pastoral reality. These blessings are "outside" the official umbrella of the authorization of General Convention. However, they are within the provisions of the resolution of General Convention 2003 which affirmed that such pastoral actions are "within the bounds of our common life."

The Diocese of Massachusetts continues to have on its website '[Pastoral and Liturgical Guidelines for the Blessing of Holy Unions](#)' which clearly states

It is not necessary to ask permission to bless a same sex civil marriage or to inform the bishop of such blessings.

At least one bishop has, however, clearly followed the JSC interpretation. **The Bishop of Hawaii**, although clearly not convinced by the Communion's teaching, has [written](#) (italics added):

While I believe that the blessing of same-sex unions is an important and right evolution in the life of Christ's Church and I am formulating my own understanding of the topic for public teaching and critique, The Episcopal Church has not authorized such rites and we have no clear teaching (or even a mind of the House of Bishops preliminary report) on this matter. *In keeping with this statement, I will therefore not authorize such public blessings of same-sex unions in the Diocese of Hawai'i and I formally ask the clergy of this Diocese to refrain from officiating in any liturgies in our churches that might be construed by the reasonable outside observer as a formal public "blessing" or "marriage" of a same-sex couple.* As a Church in the catholic tradition, individual priests and vestries (or, in my mind, bishops and dioceses) have no authority to act unilaterally in such matters. We are not congregationalists or presbyterians. Our catholic heritage demands a broader action of a national church in consultation with the Communion worldwide (even if the local national church chooses to act on its own in keeping with its canons and governance). This part of the House of Bishops statement is a response, I think, to the need to have clearer teaching before acting. It is a fair statement of our Church at this time, though the limits for this Diocese noted above are my own.

One key question is whether there are other bishops and dioceses who are clearly changing their stance as a result of the HoB statement and implementing a moratorium. The **bishop-elect of Olympia**, for example, was [quoted before the meeting](#) as saying "he is comfortable continuing Bishop Warner's stance of letting individual

priests decide whether to perform blessing ceremonies for same-sex unions". The **Diocese of Northern Michigan**, in its response to Dar, clearly [states](#) in its September newspaper (presumably before NOLA), "We affirm the sacramental gift of all persons, their Christ-ness, especially those who are gay and lesbian, and reject any moratorium on the blessing of same sex unions and consents of gay bishops, as it would compromise their basic dignity". It is in dioceses such as these that, if JSC is correct, there will be clear changes in practice after the HoB statement.

There is some evidence that – even prior to New Orleans – some were shifting to conform with the Communion. For example, the Living Church [reported](#) the following from the **Bishop of Arkansas**

Priests are expected to use only authorized public liturgies when responding to the pastoral needs of gay and lesbian members, according to the Rt. Rev. Larry Benfield who said the shift became effective with his installation as Bishop of Arkansas last January. The policy shift was explained during a meeting of the clergy prior to diocesan convention last February and was a factor in the voluntary renunciation of vows by at least one priest recently.

The evidence, however, is that most of those permitting or making allowance for same-sex blessings will continue to do so and it now appears clear that, unless there are many more statements such as those from Arkansas and Hawaii and also some significant retractions on the part of other bishops and dioceses, the situation on the ground - widespread practice of public services of blessing for same-sex couples - will remain exactly as it was before New Orleans (indeed, a number of diocesan conventions will shortly be considering resolutions and reports which reaffirm this practice). And that situation was clearly judged to be unacceptable by both the Communion Sub-Group and the Primates at Dar and is incompatible with the JSC interpretation of what TEC's HoB agreed.

V - Conclusion

It may be helpful to distinguish two questions in relation to the JSC Report:

1. Has it been faithful to Windsor and Dar in the criteria it has set by which to judge TEC?
2. Has it been accurate in its interpretation and assessment of the HoB's response?

On the first question, it is clear that the JSC have not stuck to the letter of TWR or Dar. The HoB could have embraced the Windsor/Camp Allen Bishops' resolutions which took this path but they refused. However, it is also clear that JSC have sought to determine whether or not, in practice, TEC has made a commitment to the two requested moratoria. Furthermore, their report understands the moratorium on same-sex blessings in a stronger sense than simply whether or not there is in existence an authorised rite. It appears to be requiring a moratorium that would mean (whatever the private and pastoral response to gay and lesbian Christians) there are no longer any public liturgies of blessing known to be occurring within TEC. Its test, in other words, is captured in the instruction of the Bishop of Hawaii – there must be the bringing to an end of "any liturgies in our churches that might be construed by the reasonable outside observer as a formal public "blessing" or "marriage" of a same-sex couple".

On the second question, the interpretation and assessment offered was undoubtedly a very generous one. The rejection of the Dar Pastoral Scheme and Council was largely passed by and TEC's replacement proposals of Episcopal Visitors and wider consultation accepted as a viable alternative model. In addition, there was a

willingness to accept the claimed constraints on the HoB due to the alleged supremacy of General Convention in TEC's polity and a strong and maximalist reading of their commitments (especially in relation to same-sex blessings) that depended more on reading between the lines with a very strong presumption of good faith than on any evidence in the HoB statement (or apparently discussions) itself or any evidence on the ground in many dioceses of TEC. While it will, perhaps, be some time before the generous reading of B033 is tested, it is already becoming clear that the assessment in relation to same-sex blessings was overly optimistic and that a good number of bishops and dioceses have no intention of ending their current practice. What should have been evident from the wording of the statement is now crystal clear in the light of subsequent statements – nothing in the HoB statement is likely to alter the assessment of the Communion Sub-Group Report (para 17) that it is “not at all clear whether, in fact, the Episcopal Church is living with the recommendations of the Windsor Report on this matter” and the Primates’ statement at Dar (para 21) remains as true after NOLA as before – “we understand that local pastoral provision is made in some places for such blessings. It is the ambiguous stance of The Episcopal Church which causes concern among us”. The proof of the pudding will, as always, be in the eating but it seems almost certain that liturgies blessing same-sex unions will continue being conducted in the face of the congregation with the explicit or implicit authority of the bishop in a significant number of dioceses. Furthermore, though contrary to JSC’s maximalist interpretation of the HoB response, this outcome is quite compatible with (indeed perhaps the best understanding of) the intended and plain sense of the HoB statement itself.

In summary, although it may be argued that the JSC slightly lowered the bar set by Windsor/Dar, on the whole they kept faith with the developing Windsor process in terms of the criteria they used. However, the more serious problem is that –as has become increasingly obvious since its report was published - they gave the HoB credit for clearing the Windsor/Dar bar when, in fact, they have demonstrably fallen short. That failure at New Orleans sadly means the Archbishop of Canterbury must now face even more difficult decisions than those JSC have already outlined in Part Two of their report.