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## Motifs and Perspectives in the Reform Process of the Church of Norway

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The bells are ringing the death toll for the state church of Norway. Increasing pressure from a pluralistic, multicultural society has made it more difficult to advocate a politically based supremacy in the market of faiths or life philosophies/beliefs. Moreover, it has become increasingly difficult to defend a distinct political line of governance of the church of Norway as it more clearly manifests itself as a faith community, defined by modern international conventions of religious liberty and human rights. Recent decisions in Norway's Parliament have therefore opened for a juridical framework for the establishment of a self-governed church. But the road to this concession has been long and burdensome. Let us take a look at some of the main factors and ideas that have been at work in this process.

### HISTORIC BACKGROUND

The theoretical or ideological foundation for the concept of "state churches" as they emerged after the Reformation, is rooted in ideas where the state and church were seen as two sides of the same coin, representing a shared set of values in a homogeneous society.

For Richard Hooker, the formative spirit of the Anglican ecclesiastical law in the sixteenth century, the essential identity of the people as a political society and the church as a spiritual assembly motivated his insistence

on church and state as being two interdependent sectors of the same commonwealth, and that each national church had the right to regulate its own external forms of worship and governance.<sup>1</sup> “What distinguishes Hooker from his contemporaries is, first of all, his attempt to give a broader philosophical foundation . . . by treating the church as a species of “politic society,” entitled to the same degree of autonomy in non-divine matters as other forms of civil society.”<sup>2</sup> This autonomy of the church as a politic society Hooker sees exercised through the legislative power of the Parliament and the Convocations. As in a Christian commonwealth the same people constitute both church and state, so the Parliament represents them in a dual capacity. He will not exclude the clergy, “bishops and wise men,” from the drafting of necessary laws to regulate church life. But

when all which the wisdom of all sorts can do is done for devising of laws in the Church, it is the general consent of all that giveth them the form and vigor of laws, without which they would be no more unto us than the counsels of physicians to the sick: well might they seem as wholesome admonitions and instructions, but laws could they never be without the consent of the whole Church, which is the only thing that bindeth each member of the Church to be guided by them.<sup>3</sup>

Hooker claimed that this self-government should stand under the supreme leadership of the lawful Majesty, which he regarded as the representative of the whole nation, and whose authority ultimately must be seen as derived from the consent of the people.<sup>4</sup> In consequence, he states the opinion:

Happier that people whose law is their king in the greatest things, than those whose king is himself their law. Where the king doth guide the state, and the law the king, that commonwealth is like a harp or melodious instrument, the strings whereof are handled all by one, following as laws the rules and canons of musical science.<sup>5</sup>

1. For Richard Hooker, see Thompson, “Philosopher,” with a good assessment of previous literature. The Folger Library edition of the works of Richard Hooker (1977–1998) is the indispensable source for studies in his ideas. His grand work *Of the Lawes of Ecclesiasticall Polity* (published from 1594 and onwards) is published in three parts: I–IV, V, and VI–VIII. Quoted as “Lawes” with reference to book (I–VIII), chapter, section (e.g., 2.4), and page.

2. Thompson, “Philosopher,” 17.

3. Hooker, *Lawes* VIII.6.11, 403; Aarfлот, *Samtidsspeil eller fyrårn?* 212.

4. Hooker, *Lawes* VIII.6.11, 401.

5. *Ibid.*, VIII.2.12, 342.

Johannes Bugenhagen, Luther's close co-worker in organizing the church in Wittenberg, and the great genius of practical reforms in the Lutheran church, formed the basis for church order in his insistence upon the king's authority and duties as the ruler and benefactor of the church, although the sovereign was not yet being seen as the supreme governor of the church. In the twin-monarchy of Denmark and Norway, King Christian III had emerged victorious from the civil war and had deposed all the Catholic bishops for being his opponents and conspirators. Together with a number of evangelical preachers in various parts of Denmark, he immediately began to replace the Catholic ecclesial authority with an evangelical church structure under royal supervision. In this enterprise he called Bugenhagen as the leading architect. He retained the old, medieval diocesan structure, and the new bishops who were to be appointed assumed episcopal functions but had no secular authority. Both the episcopal sees and the institution of cathedral chapters were continued. It is clear, however, that the Danish-Norwegian Church Order was also embedded in the structure of the local ruler's ecclesial authority. The king who saw himself as an evangelical prince and who confessed his evangelical faith in the preamble to the Church Order, has assumed the role of overseer, supporter and carer for the church. But there was no doubt that he thereby reserved the actual ecclesial authority for himself. And thus, in this respect, the bishops also became administrators and servants of the ecclesial authority of the royal ruler that extended to both spiritual and secular matters. There was no clear distinction between *jus in sacris* and *jus circa sacra*.<sup>6</sup>

For both Hooker and Bugenhagen the presupposition was that church and people constituted an entity, which could not lawfully be separated. There was a common value base, a national treasure of common religious and ethical presuppositions where the church and the political society had mutual commitments. The kings pledged to uphold the sacred traditions of the church, and the church was committed to supporting the king and the secular authorities in their duties of governing society.<sup>7</sup>

As we know, this uniformity, and especially its ideological basis came under pressure from ensuing events. In the twin states of Denmark and Norway the political theory more and more leaned towards the concept of "absolute monarchy," where all sectors of society were seen as part of the exclusive power of the king, granted by God as a divine authority belonging to the monarch alone, without any reference to the will of the people. The king represented God's own power both in secular and spiritual matters. As

6. Aarflot, "Det teologiske og statsrettslige grunnlag," 12–13.

7. Further: Aarflot, "Das bischöfliche Amt," 512–15. See also Aarflot, "Bugenhagen."

supreme proprietor of the territory, the king was not bound to any special loyalty to the national church, but it served his purpose as ruler to keep up the traditions and values that the church stood for. The national church increasingly became a state church, and the king exercised his authority through the clergy, which were seen both as civil servants and ministers for the congregations. In the legislation for Denmark and Norway in the 1680s this was expressed through the so-called prerogative of the king in church matters:

The King also has the sole authority over the whole clergy, from the highest to the lowest, to order and arrange for all public church and liturgical service, all meetings and assemblies concerning religious matters, consistent with the Word of God and the Augsburg Confession, to allow or prohibit according to his judgement.<sup>8</sup>

In the wake of the Enlightenment, the principle of absolute monarchy was abandoned, giving way to the principle of the sovereignty of the people. For Norway this took place in 1814, but the Church of Norway was still left with the principles of royal supremacy as the basis for ecclesiastical law. The paragraphs dealing with religion in the National Constitution from 1814, which until recently were still in force, stated that “the Evangelical-Lutheran religion remains the official religion of the state” (§ 2), and the earlier principle of royal supremacy was expressed in § 16, which said that “the King ordains all public church services and public worship, all meetings and assemblies dealing with religious matters, and ensures that the public teachers of religion follow the norms prescribed for them.” The logical and corresponding consequence of this was drawn in § 4 of the Constitution, stating that “the King shall at all times profess the Evangelical-Lutheran religion, uphold and protect the same.” Until recently this has meant that both the *ius liturgicum* and the *ius ecclesiasticum* were regarded as matters to be decided by royal decree or general legislation.

Through the introduction of parliamentary government in 1884 the real power in ecclesial matters was, however, transferred to the government emerging from the elected constituency in the Norwegian Parliament, called the Storting. The distinction between the so-called prerogatives of the king and the legislative power of the political administration became blurred. The church was seen and treated as one sector of society, the clergy

8. The basis for this concept was already set down in the so-called “Kongelov,” dealing with the supremacy of the Majesty (1665), and fully expressed in The Norwegian Law of 1687, Second Book, entitled “Of the Religion and the Clergy.”

were counted as civil servants, and the parishes were treated as part of the municipal pattern.

### CRITICAL ASSESSMENT OF THE PAST

For more than a century political governments in Norway, seconded by conservative lawyers in the departmental administration, developed a kind of ideology of *democratic supremacy* over the church. The presupposition was that the will of the people in all internal national affairs was expressed through the process of free elections. The real governing authority for the church rested therefore in the hands of the minister for church affairs. Instead of the absolutism of the king there came the absolutism of the person in charge of dealing with church matters. To use the imagery of Richard Hooker, the minister took the role of the master-musician who alone played the harp, using the separate strings to create music accommodated to the political score. This person was bound to be a member of the church, as was until recently half of the ministers of the government, in order to keep up the charade of representing the church as its highest decision-making body. One of the major obstacles for a change in the relationship between church and state has been the fact that this ideology has not been seriously questioned by lawyers and political thinkers.

In the German churches, this principle was abandoned after the Weimar Constitution of 1919. New juridical agreements were developed, recognizing both the supremacy of the state in civil affairs and the autonomy of the churches in all matters pertaining to their organization and work. The pattern developed in the German churches presents an interesting model for the further efforts to clear the ground between church and state in Norway.<sup>9</sup> The German expert on church law, Axel Frh. von Campenhausen, briefly explains this achievement as follows:

The right of churches to self-government is the *lex regia* of church-state law and the core and centre of the church political system created by the Weimar Constitution. It applies to all religious communities regardless of whether they enjoy the rights of a corporation under public law, are private-law associations, or completely lack legal capacity. The Basic Law does not accord them a kind of self-government law, but recognizes the churches' right to govern themselves and thereby their freedom from government oversight and paternalism.<sup>10</sup>

9. See also Aarflot, "Aktuelle forfatningsprinsipper."

10. von Campenhausen, "Churches' Right."

The constitutions of the German churches are based upon a principle where the state recognizes the role of the churches as important contributors to the common good of the people, while the churches, for their part, are free to develop their own identity and independence, accepting the overall responsibility of the state for the communal life. As a result, the concept of the state became more clearly defined in secular terms, and the concept of the churches became more theologically founded. The basic understanding of state church legislation was that it constituted a secular framework for religious freedom, a frame also seen useful to support the development of the common welfare of the people.<sup>11</sup>

In Norway, however, the supremacy of the state in the governance of the church has been strictly adhered to by political authorities and juridical consultants right until the present day. The main problem with the present state of affairs is that it has become more and more difficult to defend a practice where the actual government (frequently changing due to unstable political party constellations) has felt both constrained constitutionally to deal actively with ecclesiastical law, and at the same time inclined by political preferences to make decisions that are more in line with general public opinion than with the expressed, biblically based opinion of the church.

The idea of a national church with political authorities as arbitrator is difficult to claim in a society of religious and moral pluralism. In this respect one may agree with the Anglican bishop and long-time proponent of greater independence for the Church of England, Eric Kemp: "There is still a feeling that the State has a responsibility to "hold the ring" and ensure that no one group or party acquires control of the Church. The changes that have taken place in the last half century have made this responsibility more difficult to exercise."<sup>12</sup> In Norway, both individuals and groups have advocated the idea that the minister of church affairs might serve as a "referee" in matters under discussion in the church, but this idea has been strongly opposed by representatives of church reform, and the latest events show that the political authorities see the necessity of retracting from such a role and pave the way for a self-governing church with freedom to organize its life and work according to its own standards.

11. Link, *Kirchliche Rechtsgeschichte*; Heckel, "Kirchliche Rechtsgeschichte in neuerer Sicht."

12. Kemp, "Legal Aspects," 49.

## GUIDING PRINCIPLES IN THE PROCESS OF CHURCH REFORM

The process of reform has moved one small step at a time over a period of more than a hundred years. Pages by the thousands have been written and countless proposals have been forwarded with only a smattering of results. One of the milestones is the comprehensive report of an official commission delivered just over a century ago, in 1911. Established in an era of social, religious and political unrest, the majority of the commission concluded that very few changes were needed, while a minority laid out a detailed proposal for a church structure with elected councils, from the parish level, including the establishment of a church assembly as the top of a pyramid.<sup>13</sup> The political interest was lukewarm, and the political will even colder, but after an extended deliberations process the government presented a proposal establishing for the first time a parish council in all congregations (1920). The main issue for debate was the criteria for election and eligibility to this organ. The conservative faction wanted restrictions by way of demanding personal expressions of commitment for those voting or being nominated as eligible, while the more realistic view was that every baptized member of the church with electoral rights in the civil society should be accepted. This view prevailed and has been a main ecclesiological principle ever since. The parish councils were, however, commissioned with very distinct tasks of a spiritual kind, which has safeguarded the churchly character and confessional loyalty of the work of the councils.<sup>14</sup>

Later, small changes indicated a step by step approach, which over the course of a hundred years pointed towards the present stance of the church: 1933 saw the establishment of a diocesan council in each diocese. Elected by parish council members, the main task of the council was to nominate candidates for the appointment of bishops. But the diocese took on a more important role as the organizer of regional meetings for the voluntary movement for church reform through its leading organ the national council of church affairs (*Det frivillige kirkelige landsråd*), which later became the prime mover in the process for further independence of the church.

13. *Kirkekommissjonen av 1908. IV.*

14. With minor amendments the present wording of this paragraph runs like this: "The parish council shall be concerned with everything that may be done in order to awaken and nourish the Christian life in the parish, especially that the word of God may be abundantly proclaimed, and also provided for the sick and dying, that those being baptized may receive Christian instruction, that children and young people be called together for good purposes and corporeal and spiritual need be met." *Kirkeloven*, § 9a. In § 28 it is stated that the church councils and boards shall act in loyalty to the Lutheran confession.

The situation during the Second World War called for consolidated efforts to keep the church united in the front against Nazi infiltration. The Bishops' meeting under the eminent leadership of Bishop Eivind Berggrav in Oslo joined with leaders of the strong lay movement of Norway and representatives of the other denominational churches in the country and established a solid basis for church resistance. The church of Norway severed its organizational ties with the Nazi state and established a kind of independent church led by a few leaders known as "The temporary church government." This form of church structure fit well into the pattern advocated by Bishop Berggrav, who, based upon certain philosophical principles of law and order and an elitist concept of society envisioned a future church organization led by a handful of strong persons with specific leadership qualifications.<sup>15</sup> What he felt was most at stake was whether the church order should be according to political or Christian principles: "The organs of the church must be construed according to the principle that the church is a spiritual brotherhood, organized through entrusted authorization."<sup>16</sup> In a letter from 1932, he already wrote: "My ideal is the few, the most responsible, those representing the broadest contact with reality—these are called to govern. I will add: the most independent ones." Consequently Bishop Berggrav voiced his skepticism to the idea of democratic structures in the church: "Introducing democracy in the church will never overrule the fact that the congregation is no sovereign assembly of the people, but a flock of disciples. No one in this group holds an authority in himself or by the will of the majority."<sup>17</sup> Accordingly, he vehemently opposed the idea that church affairs might be subject to a vote in a representative synod. The reform movement has not pursued this line of thought.

Notwithstanding these principles, Berggrav joined the government appointed commission set up after the war to chart the future order of the Church of Norway. The recommendations included an item proposing the establishment of a national church council with some elected and some called members.<sup>18</sup> In retrospect it seems clear that the functions of this structure were more along the lines of Berggrav's concept, described as a deliberative meeting with no decision-making power.<sup>19</sup>

15. Aarfлот, "Eivind Berggravs kirkeforståelse," 115.

16. Berggrav, *Kirkens ordning i Norge*, 61.

17. *Ibid.*

18. Kirkedepartementet, *Innstilling til Lov om Den norske kirkes ordning*, 21.

19. The proposed composition of the council was this: three bishops with the bishop of Oslo as permanent member and the other two elected by the Bishops' Conference; one representative of the clergy from dioceses not represented by a bishop, plus one extra from Oslo: two lay representatives from each of the larger dioceses, and one from

In the following debate, the Norwegian Storting, dominated by the Labour Party, rejected this and most of the other recommendations from the commission. One small point should, however, prove to be the opening for future development in the process of the reform of the church. The diocesan councils were given the opportunity to convene once in the election period of four years to discuss matters of interest for the church at large. After a few years this assembly made the decision to elect a permanent council, which in due course led to the formal establishment of an official church council, legally based in a revision of the Church Act (1969).

In the meantime, the initiative in the reform process had been assumed by the voluntary movement for church reform and its national council. At its national convention in 1965 it authorized a commission to deal with several topics regarded as important for the renewal of the church, such as the church's answer to the challenge from the changes in society and the need for a more flexible pattern of vocational service in the church. A special focus was to be placed on the relationship between different structures of governance in the church, which led the commission to specifically address the relationship between church and state. The recommendations in the final report signaled a clear preference for a complete national structure of the church, including a national assembly, a synodic structure based on indirect elections by the members of the parish councils. The existing diocesan councils were seen as the core of the assembly, but an equal number of delegates should be elected in separate elections.<sup>20</sup> The commission did not make explicit reference to the question of how these reforms would affect the status as a state church, but expressed hope that several of its recommendations might be realized without breaking the formal bonds with the state. By a narrow margin the following national convention in 1969 voted to appoint a follow-up commission to specify some of the proposals in more detail and deal more explicitly with the relationship between church and state. The report of the new working group, headed by the Bishop of Oslo, Kaare Støylen, was published in 1973 and laid down more significantly the program of the reform movement.<sup>21</sup> In a more persuasive way this report pointed out the discrepancy between a modern concept of both state and church and the existing pattern of church governance with its more and more obsolete historic roots. The political implications of the work obvi-

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each of the smaller; one representative from each of the two theological faculties and one lawyer as legal advisor—a total of twenty-five members. The council was granted status as a consultative or advisory organ in various matters where the government or the Storting claimed the final decision.

20. *Reform av Den norske kirke.*

21. *Den norske kirke og staten.*

ously had an impact on the government, which in turn appointed an official commission led by the former Labor minister for church affairs, Helge Sivertsen. Largely to the surprise of many, this commission tabled a clear majority recommendation advocating the disestablishment of the church, much along the same lines of argument as those promoted by the reform movement.<sup>22</sup> Most compelling was the reference to international principles of religious freedom, a factor which should prove to be a dominant trait in later discussions and lead to an erosion of the political support for upholding the state church system.<sup>23</sup>

But the immediate follow-up of the report from the socialist government did not give many indications of a change in the attitude towards the church on the part of the administration. The former ideology of a strong political management of the church still prevailed in the proposed regulations of the Church Act.<sup>24</sup> In many parts of the presentation a strong animosity against the program for church reform could be discerned, and the idea of an independent church organization once again lost ground. On the other hand, the document expressed positive considerations about the role of religion and the values represented by the church as a formative power in society. But the main message was that these elements were best safeguarded when they remained under the control of the state. However, when the revision of the Church Act was finally passed by the Storting, one important achievement was gained for the reform movement through the establishment of the General Synod, designed as the highest representative organ of the Church of Norway (1984).

Later developments saw new initiatives to investigate the burning questions of further relationship between church and state, first initiated by the Church of Norway National Council on behalf of the General Synod, whose study commission issued its report in 2002,<sup>25</sup> and later by yet another official commission, appointed by the government, whose report was published in 2006.<sup>26</sup> Both reports advocated by a substantial majority the

22. Kirke- og undervisningsdepartementet, *NOU 1975:30. Stat og kirke*.

23. *Ibid.*, 143, 154. This was in line with important principles laid down in the commission working on the foundation for the earlier Act related to religious communities (1969), which was a cornerstone in legislation for religious communities in Norway. Justisdepartementet, *Innstilling til lov om trossamfunn*.

24. Kirke- og undervisningsdepartementet, *Stortingsmelding nr. 40 (1980–81) Om stat og kirke*.

25. Kirkerådet, *Samme kirke—ny ordning*.

26. Kultur- og kirke departementet, *NOU 2006:2. Staten og Den norske kirke*.

separation of church and state and the establishment of a juridical framework for an independent church, however with close links to the people.<sup>27</sup>

The Official Norwegian Report from the Government's church/state Commission, aims to establish a new government policy on religious matters. This new policy should provide freedom of religion for individuals and religious communities, as well as active government support for religious communities on an equal basis. The need for a revision of the present acts and regulations of the church structure is based on the following considerations: The Church of Norway is partly governed by a state that administers pluralism, religious freedom and equality between religious and life stance communities. The State is responsible for securing the rights and interests of its citizens, while at the same time ensuring that the Church of Norway serves as the official religion. These two tasks may lead to a conflict of interest for the government. The commission therefore recommended that the formal bonds between the state and the church of Norway should be cut. But the political processing of the proposals seemed rather to fortify than to loosen the bonds of the state. The political parties were divided, with the Labour Party majority forcefully pushing towards the status quo. But following a strong plea from an almost unanimous opinion expressed by the church, the parties finally struck a deal triggering the changes in the Constitution which opened for a new development towards independence of the church.<sup>28</sup> It had become increasingly clear that the commitment to international conventions on human rights and equality are at odds with the idea of any church appearing as "the official religion of the State."

The most recently revised text of the constitution, following up on the political deal, introduces the idea that the Church of Norway remains as "Norway's folk church" (*Norges folkekirke*). This political "truce" had its shortcomings. It takes a lot of explaining to demonstrate the difference between the formula "the official religion of the state" in the old § 2 of the Constitution and the expression "Norway's folk church" in the new § 16.<sup>29</sup>

27. It is interesting to note that several of the commission members, representing a variety of political positions, who formerly were advocates of the status quo in church-state relations, became clear proponents for disestablishment of the state church.

28. Kultur- og kirke departementet, *Stortingsmelding nr 17 (2007–2008) Staten og Den norske kirke*, 67–68. Agreement April 10, 2008 between all political parties represented in the Storting.

29. The new paragraph runs like this: "All inhabitants of the realm shall have the right to free exercise of their religion. The Church of Norway, an Evangelical-Lutheran church, will remain the Established Church of Norway and will as such be supported by the State. Detailed provisions as to its system will be laid down by law. All religious and belief communities should be supported on equal terms." (Passed by the Storting May 21, 2012).

The term carries the notion of a national church, but falls short of stating what the nature of such a church is meant to be and what is seen as the relationship between “folk” and “church.” Moreover, the deal did not give any overriding directions for the future organization of the church, but by removing the “royal prerogative” from §16, which substantiated the idea that the state retained the final authority over the church, it made clear, for the first time, that this political claim, based upon the two-hundred-year-old paragraphs of the constitution, had been abandoned, and the last vestige of the prerogative of the king (i.e., the state) was removed.

### ECCLESIOLOGICAL BASIS FOR REFORMING THE CHURCH

By and large there has been general agreement on the theological understanding of the church in the documents of the reform movement. The principles were most clearly summed up in the report delivered to the national assembly of the reform movement in 1973. The structures and organizational system of the church cannot be defined only by general sociological or community-related criteria. Church governance must take its orientation from a theological understanding of the church. This fundamental ecclesiological basis for the self-understanding of the church has been confirmed, developed and honed through a series of decisions in the General Synod and the Bishops’ Conference over the last decades. It has been the point of departure for all work dealing with strategies and structural proposals for the Church of Norway to the present day.

Based upon a comprehensive concept of the identity and self-understanding of the church, the General Synod, as the representative body of the Church of Norway, has coined the description of the church as “a confessing, missionary, diaconical, open folk church.” In general terms this theologically based understanding of the church is rooted in the conviction that the church finds its existence as a fruit of God’s plan for the salvation of mankind, linked with the commission that Jesus gave his disciples to deliver the gospel to the whole world. According to the New Testament, the church is founded by Jesus Christ and commissioned by him to be an instrument for the divine salvation. The passage in Matt 28:16–20 shows that Jesus selected the small band of disciples and empowered them as the core of his church, the new people. By following his designation they put themselves under his authority, and pledged obedience to his commission. To this mixed group of individuals, among whom according to the narrative there were some who doubted, Jesus gave the calling to impart his teaching to the world and bring forth the gifts he had prepared in the gospel and the sacrament of baptism. The church is characterized by the dual movement: *gathered to*

meet the Lord in worship and faith, and *sent* to the world to call people into his discipleship. The church is rooted in God's plan for salvation. The great commission, proclaimed by Christ, is the constitutive principle for all church organizations, all structures and administrative regulations and all constitutional and juridical rules for the church. The Christian church bears its true mark in being a church under the gospel and for the gospel.

Sensitive to the guidance of Jesus Christ, the church and those who are called to serve it, regardless of what functions they are entrusted, should be responsible for organizing the communal life in faith. Collectively they share the responsibility for developing the instruments of leadership that are necessary for the church to function as an instrument for God's mission in the world. It is in this context one should read the passage in 1 Pet 2:9 talking about what is commonly called "the priesthood of all believers." The main concern of the saying is to ascertain the fundamental principle that all believers bear a common responsibility and accountability for the commission of the church. This vouches for the legitimate spiritual basis for all the elected members in the various boards and councils sharing in the governance of the church. They are part of representative structures of authority and leadership reflecting the collective responsibility for the church and all its members. They give a visible confirmation of the fact that the people of God take the responsibility for the world in earnest. Bearing this in mind, one may conclude that elected councils and other representative organs in the church are legitimate and necessary expressions of the God-given task to contribute to the growth of the church as the body of Christ.

From this basic conviction it becomes clear that the elected representatives of the councils and governing boards of the church are functioning from an authority which is different from what is framed by general democratic principles. We are talking about baptized members of the church placing themselves at the disposal of the church for qualified ecclesiastic tasks and purposes. They may be regarded as having been "chosen" and "called" for this assignment, in the biblical sense of the words,<sup>30</sup> even if the nomination and election processes have been ordered in accordance with general public elections in society. Sitting on a church council, being elected to serve in the general assembly or holding another office in the church means carrying the confidence of the church at large, the communion of the baptized, and thus also being entrusted by the church as the body of Christ. The election process is an expression and representation of the church as the "communion of saints." This gives reason to believe that those who are

30. Rom 1:7 "To all God's beloved in Rome, who are *called* to be saints . . ."; 1 Cor 1:26 "Consider your own *call*, brothers and sisters."

elected may count on the blessing of God, equipping them for the spiritual service in the governing organs. There is a need to reinforce this kind of biblically based self-confidence in the members of the elected church boards.

The structures of leadership in the church are founded on a general principle of cooperation, shared responsibility and representation, where lay people, based upon their baptism, and ordained ministers, based upon their pledged loyalty to the church, are working together in mutual respect towards a common goal. This principle is not identical with a political concept of democracy, which is based upon the sovereignty of the people. The representation of laypeople in the church, emanating from the status as baptized member, is qualitatively different from the political democratic representation based on secular rights of civil citizens. But the church may be free to apply appropriate principles of human rights, oriented from international law and guided by the belief in God's creative will, and thus have a positive regard for the principle of democracy and recognize many justified biblical concerns in its program. The church has both a spiritual and a sociological nature, and the task of ordering the structures and work of the church as a community in this world is a legitimate and necessary part of church leadership. The official position of the church is that it welcomes the process of democratization that has taken place in recent years in the organizational structures of the church.

But the general concept of democratic structures in the reform process has consistently supported the understanding of a fully shared responsibility between lay people and representatives of the ordained ministry. The Lutheran Confession describes the ministry of word and sacrament as a constitutive element for the church.<sup>31</sup> The means of grace create communion in the church. In the same manner one may say that the ordained ministry, serving in the office of word and sacrament, is constitutive for the church in so far as the Holy Spirit, actively imparting the effect of the gospel, is brought forth to men through this ministry. The Lutheran Confession further underlines the prerequisite that a person who is assigned the ordained ministry must be "lawfully called" (*rite vocatus*).<sup>32</sup> Through such a lawful procedure it is safeguarded that at all times a permanent, regular and public service of preaching and administering the sacraments will be provided in order that persons may be called and led to the salvific faith. The orderly calling into this ministry may take different forms, but it signifies that the appointed minister has been entrusted with the authority needed for his work through lawful and valid procedures by recognized governing bodies

31. *Augsburg Confession*, art. 5.

32. *Ibid.*, art. 14.

or persons in the church. Essentially the ordained ministry of the church represents a uniform service, but within this singular ministry there is room for a differentiation between the office of a minister in a local parish and the office of bishop in a regional community of congregations, a diocese. Church leadership and administration are elements designed to deal with practical issues which are in need of a certain degree of recognized power. In this context the office of the bishop is also the bearer of a genuine authority from the church, provided it has been granted through a recognized and accepted procedure.

The question of representative leadership and legal authority of governance in the church may be seen from different perspectives. In Norway the general attitude, also in documents from the reform movement, has been that the General Synod, constituted by both lay members and clergy on an equal basis, is the ultimate decision-making body of the church in all matters, including issues of doctrine and liturgy. But the concern for the greatest possible unity in the whole church has led to acceptance of a demand for a qualified majority on certain doctrinal issues and a requirement of consensus between the Bishops' Conference and the General Synod in such matters. It is also worth noting that in the decision-making bodies of the church of Norway, the representatives of the clergy have the same voting rights as the lay members.

### THE ISSUE OF THE FOLK CHURCH

In the concept of the reform movement, the church is commissioned by Jesus to dedicate its work to the people and all mankind. Its aim is to draw as many as possible into the attraction of the gospel and offer every human being the possibility to enter into the fellowship with Christ in faith. The church stretches beyond its boundaries to encompass the civil society, the neighborhood, the country. This intentional program lies at the root of the idea of the folk church. From the very beginning the church appeared with formative elements to ensure its physical existence in the world, thus showing forth sociological traits and characteristics. There is no fundamental contradiction between the spiritual nature of the church and its outward appearance as a community. The reform movement is not advocating a spiritualistic concept of the church which does not see the visible church as a proper church. Throughout its history the leading spokesmen for church reform have distanced themselves from the idea that the real church is limited to the number of true believers, and that the organized church only functions as "a scaffolding to stand on while we are building the true church,"

as one of the critics of the state church once formulated his opinion.<sup>33</sup> But, on the other hand, the reform movement has not been inclined to give the outward organization and the democratic structures of the church as a folk church constitutive legitimacy for the identity of the church. It is not the people that constitute the church, but baptism and the gospel. The church is not a fruit of creation, but of salvation. One might hardly claim conformity with the Reformation's concept of natural man in an effort to ascribe a certain quality to human nature or the people at large in the definition of the nature of the church. Ecclesiology, according to Luther, is basically derived from soteriology and eschatology, and not from the concept of creation. This does not mean a spiritualization of the church. The church as the body of Christ also has the marks of an outward, bodily form in this world. The nature of the church, however, is decided from within, from the gospel, and not from outside, from the people as a sociological entity.

The church is there for the people. But the true sociological legitimacy of the church lies in its identity as a communion of a different kind than the civil society. The church is not and cannot be a melting pot for various expressions of a privatized, civil religion. It is a creature of the Spirit, a pilgrim people. From this point of view there may be reason to question the tendency to describe the church mainly in terms and vocabulary taken from a sociology of business administration or corporate enterprise structures. But admittedly the future establishment of the church as a self-governing legal personality calls for structural forms that may sustain it in a context of common law and corporate regulation.

## DECISIVE ELEMENTS IN INTERNATIONAL CONVENTIONS ON RELIGION

The documents of the reform movement, confirmed in large part by the General Synod, have increasingly underscored the nature of the church as a faith communion, or a "community of believers" as defined in the declaration of human rights.<sup>34</sup> This identity of the church has also been increasingly accepted in recent public documents from the government dealing with the relationship between church and state. Most explicitly this tendency is apparent in the follow up to the latest report from a public commission dealing with the role of religion in society.<sup>35</sup> The commission report struggles with the restrictions given in its mandate to deliver proposals and recommenda-

33. Hope, *Kyrkja og Guds folk*, 240.

34. See Conference on Security and Cooperation in Europe, *Concluding Document*, § 16.

35. Kulturdepartementet, *NOU 2013:1 Det livssynsårne samfunn*.

tions without jeopardizing the present stance of church/state relations. But taking a natural starting point in the international conventions of religious liberty, the commission felt constrained in posing critical questions about the practice of political influence in the work of churches and religious societies. The dominating focus of the report is on the implementation of guidelines for individual religious freedom, and the safeguarding of equal conditions for the various groups of both religious and philosophical life view communities. But in dealing with the Norwegian church as an historic, national church, the commission fails to see the extent of the positive impact of this church in society, and the need for a wider implementation of the collective freedom for the church, bearing in mind the increasing stress on this issue in international human-rights organizations. The commission underestimates important elements of popular adherence to the church and other religious communities in our country. Only little regard is taken of the *de facto* influence of the church as a sustaining institution in society through social and diaconal initiatives, educational enterprises and its function as a binding factor, a glue in the local society. The important contribution of the evangelical revival movements for the liberation of lay people and the development of democratic elements in our social and political culture is largely overlooked. The role of the church as a socializing factor and inspiration of cultural expressions in art and music deserves greater appreciation.

In the view expressed by proponents of church reform, the holy traditions and rites of the church do not serve solely as the foundation for the faith of the church, but may also serve as inspiration and guidance for a moral life and right decisions by those in power in our society. They serve as a reminder of fundamental norms that have to do with the sacredness of life as created by God and protected by God's will. The churches are convinced that by presenting this concept of life they are offering something which is to the benefit of all human beings. The common welfare and the shared good life are gifts from a God who loves people, and the churches are called to be stewards of this divine blessing.

The fact that the conventions of human rights have their main focus on the freedom of the individual may lead to certain conflicts in relation to the freedom of collective structures. This may also be seen in the jurisdiction and decisions made in the treatment and practice of international courts dealing with issues of human rights. While the conventions are mainly concerned with safeguarding the freedom of the individual citizens when it comes to their political, social and religious rights against the *state*, the jurisprudence in the courts is often dealing with complaints forwarded by individuals or groups as to violation of their freedom caused by *churches or religious societies*. The material from the case decisions indicates that

considerations in favor of religious pluralism are dominant. This may prove important as a protection against a religiously based intolerance. But the danger is that the courts consolidate pluralism as a superior principle taking on almost religious characteristics. This may lead to an intolerance based on secularism, where political authorities demand conformity from the religious societies according to political or opinion-based positions. "Religious intolerance gives a religious dogma the status of law of the state. Secular intolerance claims the law of the state as a religious dogma."<sup>36</sup>

Some of the directives from the international commissions and courts give perspectives and possible guidelines for the future legal basis that needs to be established for the church of Norway, the main precondition being the recognition of the church as a self-governing body, with legal status as a juridical personality. A summary comment on international law and jurisprudence from one of the leading writers on church law in Europe points out important issues. They also have bearing for the Norwegian church and may serve as appropriate guidelines for the future efforts on establishing an independent church:

At the Convention level after initially refusing standing to churches, the European Commission of Human Rights accepted that it was artificial to distinguish between rights of the individual members and of the religious body itself. It is now clearly established that a Church or a religious body may, as such, exercise on behalf of its adherents the rights guaranteed by Article 9 of the Convention. Moreover, it has been recognized that protection of collective religious liberty may require the giving of legal status or personality to religious organizations. This enables them to hold property (important for establishing premises in which to meet and to fund-raise), to employ staff, to enter binding contracts, and to sue and be sued. . . . Since religious communities traditionally exist in the form of organized structures, Article 9 must be interpreted in the light of Article 11 of the Convention, which safeguards associative life against unjustified State interference. Seen in that perspective, the right of believers to freedom of religion, which includes the right to manifest one's religion in community with others, encompasses the expectation that believers will be allowed to associate freely, without arbitrary State intervention. Indeed, the autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which Article 9 affords. . . .

36. Martínez-Torrón, "(Un)protection of Individual Religious Identity?"

The way in which national legislation enshrines this freedom and its practical application by the authorities reveal the state of democracy in the country concerned. . . . In this key passage the ECtHR endorses a vision of religious organizations free of state interference, allowed to take their place in civil society as one of the building blocks of pluralism.<sup>37</sup>

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37. Ibid.

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