

PRESIDENTIAL RULING 25

UAICC Regulations & UCA Regulations regarding church discipline

Background

On 12 April 2007 I received a request for a Presidential Ruling from Shayne Blackman, National Administrator, Uniting Aboriginal and Islander Christian Congress ("the Congress").

The request was received pursuant to UCA Regulation 3.6.14 and I note that Shayne as a member of the 11th Assembly is eligible to submit such a request [Regulation 3.6.14(a)].

That request was received by me in writing and was accompanied by a statement of relevant facts, as required by Regulation 3.6.14(a)(i).

In my view the request is otherwise compliant with the provisions of UCA Regulation 3.6.14 and I have decided to provide a Ruling in answer to that request.

Pursuant to UCA Regulation 3.6.14 (a) (iii) I invited various persons to submit statements for my consideration. I have received statements from the Minister concerned ("the Minister"), from the Presbytery concerned ("the Presbytery"), from the General Secretary of the Synod concerned ("the Synod"), and from the Regional Committee of Congress with which the Minister serves ("the Regional Committee").

Circumstances giving rise to the request

The origin of this matter lies in complaints which were made by four persons in relation to the Minister.

The Minister is a Minister of the Word in the Uniting Church in Australia serving in a placement with Congress. In accordance with UCA Regulation 7.5.1(a), the complaints were made to the Chairperson of the Presbytery.

In accordance with UCA Regulation 7.6.3, the Chairperson referred the complaints to the Pastoral Relations Committee ("PRC") of the Presbytery.

The PRC considered that the matter should be referred to the Synod Committee for Counselling in accordance with UCA Regulation 7.6.4(b) through the General Secretary of the Synod.

Various parties were then involved in extensive discussions, both in writing and verbally, as to whether this process was appropriate or whether the complaints should have been referred to the Congress to be dealt with by the Congress.

In these discussions, Congress argued that the relevant applicable set of Regulations is those of the Congress adopted by the National Conference on 11 December 1992, and in particular Regulation 7 of those Regulations headed "Church Discipline".

Although the specific details are not important, it suffices to say that the Synod agreed to allow Congress, and in particular the Regional Committee, to have the opportunity to deal with the complaints.

Congress through the Regional Committee, then began to implement a process of dealing with the complaint, which process did not satisfy the complainants, and some members of the Presbytery or the Synod, and ultimately the complaints process under the UCA Regulations was "reactivated" by the Synod.

In part, the dissatisfaction which led to the "reactivation" of the complaints received under the UCA Regulations relate to an interpretation of Regulation 7.4 of the UAICC Constitution and Regulations. That Regulation provides as follows: -

“7.4 Where a Regional Committee is not a Presbytery, the responsibility for the discipline of ministers is shared between the Regional Committee, the Presbytery of which the Minister is a member and the National Office, with the National Elder(s) playing a major role.”

There is some disagreement between the Presbytery and Congress as to the implications of the words “shared” and how that is implemented in practice.

The issue at the heart of the request for this Ruling is whether the UAICC Regulations apply to a complaint against a Minister who serves in a Congress Placement to the exclusion of the process set out in the UCA Regulations.

Ruling Sought

Specifically, I have been asked to rule that:-

1. A Congress Regional Committee in conjunction with the Congress National Office has authority to receive, process and determine the outcome of a Complaint made against a Minister in a Congress Placement; and
2. A Congress Regional Committee in conjunction with the Congress National Office, has the authority to determine the process to be used in dealing with a Complaint, made against a Minister in a Congress Placement; and
3. The relevant Presbytery shall share in processing the Complaint in accordance with Congress Regulation 7.4.

Dealing with complaints under Part 7 of the UCA Regulations

Originally, and as discussed above, complaints were received by the Chairperson of the Presbytery in accordance with UCA Regulation 7.5.1.

The complaints related to the Minister, who is a member of that Presbytery, although the Minister concerned rejects the notion that he is under the “pastoral oversight” of that Presbytery.

Regulation 7.5.1 reads as follows: -

*“7.5.1. A complaint may be made:
(a) To the Chairperson of the Presbytery:-
(i) by any member of the church...”*

Regulations relating to the Discipline of Ministers

The UCA Regulations relating to the discipline of Ministers are Regulations 7.1.1 to 7.1.3 and Regulations 7.5.1 to 7.13.1. When a complaint (which is not a complaint of sexual misconduct) is made against a Minister, it will initially be dealt with by the Presbytery.

It may then be referred to the Synod Committee for Counselling.

Complaints concerning the serious matters listed in UCA Regulation 7.8.2 may ultimately be considered by the Committee for Discipline, which is appointed by the Synod. One of the possible outcomes of these processes is that the recognition of a Minister may be withdrawn by the Synod (Regulation 2.4.23).

However, a more fundamental basis for the issue of “jurisdiction” may be obtained when one examines the Constitution of the Uniting Church.

The Constitution

Clause 15 of the Constitution provides as follows:

“Ministers and Lay Pastors will be responsible to a Presbytery and Synod in matters of faith and discipline and to the Presbytery or other appointing body for the exercise of their ministry.”

This clause, with which all Regulations made pursuant to it must comply, requires that in matters of faith and discipline Ministers are responsible to a Presbytery and Synod.

There is then a differentiation as to the body to which they are responsible for the “exercise of their ministry”, which is the Presbytery *or other appointing body*.

There is an echo of this in Clause 3 of the Constitution, in relation to the definition of the Uniting Aboriginal and Islander Christian Congress. This is defined to be the body.... “having responsibility for the oversight of the Ministry of the Church with the Aboriginal and Islander people of Australia.”

This wording is more general than the words “exercise of their ministry”, referred to above, and in my view, does not provide any authority to the Congress in “matters of faith and discipline” in relation to Ministers.

A key factor in this Ruling is that the complaints made against the Minister relate to the discipline of the Minister, not to the way in which the Minister exercises his ministry.

Congress and the 1992 Congress Regulations

Division 4 the Constitution of the UCA deals with the Uniting Aboriginal and Islander Christian Congress.

Clause 49 provides that a Synod may prescribe that the Regional Committee may have and exercise all specific rights, powers, duties and responsibilities of a Presbytery.

In December 1992 the National Conference of Congress adopted the current Constitution and Regulations for Congress.

The Congress Regulations set out the responsibilities of Regional Committees which shall include: -

“The Pastoral oversight of all Parishes and Ministers within their bounds.”

Part 7 of the UAICC Regulations then deals with the issue of discipline of Ministers, and has been referred to above.

This Regulation is part of a number of Congress Regulations which purport to deal with matters relating to Ministry, including formation, training and discipline.

Those Regulations have been in place since 1992, and it is worth noting that the Congress website states, “They are currently being revised but at this stage it is uncertain when they will be finalised.”

On behalf of Congress and the Minister, it has been argued that the fact that the Minister is in a Congress placement, and that Congress has Regulations relating to the discipline of Ministers, acts to effectively supplant the jurisdiction of the Presbytery and the Synod.

Application of the Constitution

When one is faced with an apparent conflict between the UCA Constitution and Regulations purportedly made in accordance with it, one must always have primary regard to the Constitution (note Constitution clauses 62 and 69 and the last sentence of Regulation 3.6.34).

The starting point is to acknowledge that the Minister is a Minister of the Word in the Uniting Church in Australia.

The Constitution states quite clearly that a Minister of the Word in the Uniting Church in Australia shall be responsible to Presbytery and Synod in relation to matters of faith and discipline.

Clause 49 of the Constitution provides that a Synod may prescribe that the Regional Committee “may have and exercise all specific rights, powers duties and responsibilities of a Presbytery”. It does not say that in such circumstances a Regional Committee shall be a Presbytery.

In any event, in this particular case the Synod has not prescribed that the relevant Regional Committee has any rights, powers, duties and responsibilities of a Presbytery.

In such circumstances, where there has been no relevant prescription, it is clear that the bodies to which the Minister is responsible in matters of faith and discipline are Presbytery and Synod, and, relevantly, the Presbytery of which the Minister is a member.

The fact that the Minister is responsible to the Regional Committee in relation to the exercise of his Ministry is a separate matter, and as the appointing body, the Regional Committee has that power within Clause 15 of the Constitution. As mentioned above, this is quite distinct from the responsibility for matters of faith and discipline, which remain the responsibility of Presbytery and Synod pursuant to Clause 15 of the Constitution.

Conclusion

Accordingly, I rule as follows: -

1. In this matter the Congress Regional Committee does not have authority to receive, process and determine the outcome of complaints made against the Minister notwithstanding that the Minister is in a Congress placement.
2. Accordingly, the Congress Regional Committee does not have the authority in this circumstance to determine the process to be used in dealing with the complaints (which have been made against a Minister in a Congress placement).
3. The Minister is responsible to the Presbytery and Synod in matters of faith and discipline, and the complaints should be dealt with under Part 7 of the UCA Regulations.

A note re some issues which arise from this Ruling

I note for the record that I will be bringing to the Assembly Standing Committee a brief paper listing pastoral and administrative issues arising from this Ruling. The pastoral issues particularly arise from the fact of the UCA's covenant with Congress, and my own strong commitment to the Covenant relationship. The administrative issues arise from my perception of the need for greater clarity in the Regulations vis-à-vis the requirements of Constitution clause 15.

GREGOR HENDERSON
9 July 2007