

***Pacta Sunt Servanda:* Church Orders and Their Binding Nature¹**

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[Editors' note: Werner Rudolf Albert Klän (b. 1952) is a retired pastor of the Selbständige Evangelisch-Lutherische Kirche (SELK, Independent Evangelical Lutheran Church) in Germany, and Professor Emeritus of Systematic Theology at the Lutherische Theologische Hochschule (Lutheran Theological Seminary) in Oberursel/Ts., Germany. A steady stream of students from both seminaries of The Lutheran Church—Missouri Synod (LCMS) have studied in Oberursel in a long-standing exchange program and have benefited from Klän's teaching. They have also become aware of deep theological divisions within the SELK that are coming to a head right now. The most divisive of these issues is the question of whether women may be pastors in the SELK. The question is an important one since, if nothing else, how one answers it indicates whether the word of God or culture is the church's highest authority. In 2021 the Japan Lutheran Church adopted the practice of ordaining women and accepting women as pastors, and it was officially excluded from the fellowship of the LCMS by convention action in 2023. The Australian Lutheran Church, with whom the LCMS was not in fellowship, decided to permit women to serve as pastors in 2023, an action that led to their exclusion from the International Lutheran Council. The SELK was formed from small synods in Germany independent from the state churches, with roots in the 19th century. At their merger in 1972 they were the main confessional-Lutheran alternative to the liberal territorial churches, and at that time they enshrined a male-only pastorate in article 7(2) of their constitution: "This office can

¹ A slightly different version of this essay was first published in German as "Pacta sunt servanda": Über kirchliche Ordnungen und ihre Verbindlichkeit," *Lutherische Beiträge* 29, no. 3 (2024): 139–160. It has been translated by the author.

"The Latin expression *pacta sunt servanda* ('contracts must be kept') refers to the principle of contractual fidelity. This principle, which originates from natural law and goes back to canon law, comes into effect when a contract is made. With regard to the making of contracts, however, the parties are free (so-called contractual freedom or private autonomy). . . . The principle of contractual fidelity is also applied in the principle of good faith pursuant to Section 242 BGB [*Bürgerliches Gesetzbuch* (Civil law book)]. This principle states that anyone who breaches contracts is acting unlawfully or impermissibly." JuraForum Rechtslexikon, s.v. "pacta sunt servanda," last modified May 6, 2024, <https://www.juraforum.de/lexikon/pacta-sunt-servanda/>. Unless otherwise noted, all translations are the author's own.

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be transferred only to men.”² But societal egalitarianism in Germany and the hesitancy of some in the SELK to submit to the authority of all parts of Scripture has led to years of tension and conflict.

In this article Klän tells the history of the SELK and explains why the SELK should not accept the ordination of women. He argues from the standpoint of the history of the church’s self-governance, an important topic sometimes overlooked by American Lutherans. Others have given the biblical-theological arguments for the all-male pastoral ministry, arguments that are well known and much debated in the SELK.³ We are pleased to present Klän’s article and hope it will lead our readers to pray for the SELK and to think about what our own church rules and structures confess.]

Church Norms

“I believe that there is on earth a holy little flock and community of pure saints under one head, Christ. It is called together by the Holy Spirit in one faith, mind, and understanding. It possesses a variety of gifts, and yet is united in love without sect or schism. Of this community I also am a part and member” (LC II 51).⁴ This is how Luther explains the formula “the communion of saints” in the Large Catechism. For Luther, it is important to take seriously the existence of the church and “Christendom,” as he prefers to say,⁵ and to prioritize the community of believers over one’s own faith. This point includes the fact that I do not find myself atomized as an individual with my faith and my piety but in a community of faith that always exists before I do and that God the Holy Spirit uses to carry out his work.⁶

The existence and unity of the church depend on one and the same thing: the gospel in the form of scriptural proclamation and the sacraments in the form of a congregational distribution (AC VII). And for the Lutheran church, this is where its identity lies, and consequently this is also the standard for the exercise and confirmation of church fellowship.

² “Dieses Amt kann nur Männern übertragen werden.” Grundordnung der Selbständige Evangelisch-Lutherische Kirche, art. 7(2), <https://www.selk.de/download/100-Grundordnung-El-21.pdf>.

³ For example, Armin Wenz, “Der Streit um die Frauenordination im Luthertum als paradigmatischer Dogmenkonflikt,” *Lutherische Beiträge* 12, no. 2 (2007): 103–127; translated by Holger Sonntag as “The Argument over Women’s Ordination in Lutheranism as a Paradigmatic Conflict of Dogma,” *Concordia Theological Quarterly* 71, no. 3/4 (July/October 2007): 319–346.

⁴ In *The Book of Concord: The Confessions of the Evangelical Lutheran Church*, ed. Robert Kolb and Timothy J. Wengert, trans. Charles Arand et al. (Minneapolis: Fortress, 2000), 438 (hereafter cited as Kolb-Wengert) (= *Die Bekenntnisschriften der Evangelisch-Lutherischen Kirche: Vollständige Neuedition*, ed. Irene Dingel [Göttingen: Vandenhoeck & Ruprecht, 2014], 1062 [hereafter cited as BSELK]).

⁵ “Christenheit” (LC II 48, in BSELK 1062, line 16).

⁶ Luther’s talk of the church as mother also belongs in this context (LC II 41).

In the constitution of the Independent Evangelical Lutheran Church (SELK), these impulses from the beginnings of the Reformation are taken up in a proper way. First, article 1 defines the place of the SELK in the area of the one Christendom: it “stands in the unity of the holy, Christian, and apostolic church, which is wherever the word of God is preached purely and the sacraments are administered according to the institution of Christ.”⁷

A further stipulation made in the SELK’s constitution is the commitment to the Book of Concord, in the opinion that the confessional texts from the early church and the Reformation, which were summarized in it in 1580, and the truths expressed therein are biblically based and therefore binding for the church. The Confessions are also regarded as the key to an appropriate and common understanding of Holy Scripture.⁸ Admittedly, this can be said only with a certain reserve. For the confession itself is understood as an interpretation of Holy Scripture, as an appropriate, contemporary interpretation of Holy Scripture based on the standard of Holy Scripture and its center—that is, an interpretation of Holy Scripture in accordance with Scripture.

The confession then expresses trust, a trust in accordance with Scripture—that is, a trust focused on Christ rediscovered through the Reformation—the personal trust that is then articulated in consensus as a communal trust that God, as he has shown himself in Jesus Christ, is decisive for my life and the life of the Christian community to which I belong.⁹ And in this respect, church fellowship and then also interchurch fellowship is conditioned by fellowship in confessing and fellowship in the confession in which faith is expressed.¹⁰

The confession as a consensus does not take the same rank as the word and sacraments, as if it were itself a constitutive element of the church; rather, the confession remains assigned to the word and sacraments in an explicative and (derivatively) normative manner. In this sense, the confession also functions as an orienting and integrating authority. At the same time, it is part of a set of norms,¹¹ which also

⁷ Grundordnung der Selbständige Evangelisch-Lutherische Kirche, art. 1(2), <https://www.selk.de/download/100-Grundordnung-El-21.pdf>.

⁸ Joachim Track, “Lutherisch, reformiert, uniert: Warum das Bekenntnis heute noch wichtig ist,” in *Bekenntnis und Profil: Auftrag und Aufgaben der Vereinigten Evangelisch-Lutherischen Kirche Deutschlands*, ed. Friedrich Hauschildt and Udo Hahn (Hanover: Luth. Verl.-Haus, 2003), 20–21; Notger Slenczka, “Die Bedeutung des Bekenntnisses für das Verständnis der Kirche und die Konstitution der Kirche in Lutherischer Sicht,” in *Profil—Bekenntnis—Identität: Was lutherische Kirchen prägt*, ed. Klaus Grünwaldt and Friedrich Hahn (Hannover: Luther. Kirchenamt, 2003), 19–23.

⁹ Track, “Lutherisch, reformiert, uniert,” 19.

¹⁰ Track, “Lutherisch, reformiert, uniert,” 19.

¹¹ On this term and this matter, see International Lutheran Council and Pontifical Council for Promoting Christian Unity, “Final Report of the Theological Conversations between the Churches

includes the decisions of the early church councils regarding trinitarian and christological dogma, the patristic tradition as laid down in the Catalog of Testimonies of the Book of Concord, and the doxological and catechetical tradition. The assertion and application of the norms in force in the church to certain questions at a given time are carried out by means of various procedures and publications. These include doctrinal decisions by the responsible constitutional bodies—in the SELK, the General Pastors' Convention in the first place and the Church Synod in the second place—but also church orders and, for example, local or regional pastoral letters, as well as theological declarations in certain contexts.

Harmony, unanimity, and unity in faith, doctrine, and confession are therefore not the foundation of the church, but they are characteristics of churchly authenticity. The struggle to preserve or regain such unanimity is characteristic of the process by which Lutherans formed all their Confessions, right up to the Formula of Concord. Their solutions to controversial questions are the result of a long-lasting, even controversial, discourse, in several rounds of consultations (Preface to the Book of Concord 10–16), with the aim of “reconciliation” (*Vergleich*)—that is, the consensus-oriented resolution of theological conflicts in the second half of the sixteenth century. Here the description of “thorough and constant unity” is the leitmotif, which also functions as an expression of unanimous agreement (“typus unanimi consensus”; FC SD Rule and Norm 1).¹² The clarifications developed in this way are both elaborated in terms of scriptural theology and answered seriously from an eschatological perspective (Preface to the Book of Concord 16).

The boundaries of unanimity are drawn where divine truth would be violated (AC Preface 6–11); however, the focus is on a pronounced willingness to pursue “anything that can or may serve the cause of Christian unity, as far as God and conscience allow” (AC Preface 13).¹³

Prior Consensus

“Independence” (*Selbständigkeit*), as it is encoded in the name of the Independent Evangelical Lutheran Church, is to be understood as the self-government of the church for its specific (i.e., God-given) purpose—namely, the proclamation of the word of God in law and gospel and the distribution of the gospel in preaching and sacraments.¹⁴ On the one hand, this principle is aimed against external control of

Associated within the International Lutheran Council and the Roman Catholic Church,” *Lutheran Theological Review* 33 (2021): 10–45, esp. 17–21.

¹² In BSELK 1308–1309.

¹³ In Kolb-Wengert 32 (= BSELK 90–91).

¹⁴ Cf. the principle already established in the early phase of the emergence of independent Protestant-Lutheran churches in the first third of the nineteenth century by Georg Philipp Eduard

the church's work from outside. However, it also implies that the self-government of the church, if it wants to remain true to its mission and to itself, excludes deviations from the standards that establish the church internally. In other words, it is a matter not only of the church's external defense but also of her internal regulation.

Accordingly, article 1(2) of the SELK constitution is to be understood as a self-commitment that cannot be ignored if the content of church identity is to be determined. This is a self-commitment of the church in the form of a prior consensus, to which anyone who enters the service of this church agrees.¹⁵

This principle is also expressed in the constitution of the SELK—namely, in two regulative principles: first, that the confessional status cannot be changed (because such a decision would mean that this church is no longer this church), and second, in the reservation that decisions of bodies, above all the Church Synod, that contradict the Holy Scriptures and the confession are invalid.¹⁶ These two reservations mean that there are regulative principles that cannot be changed and are not at the disposal of the church, not even in its self-government.

This prior consensus—that the doctrine and life of the church have their standard fundamentally in the word of God in the Holy Scriptures and accordingly in the confessional writings of the Lutheran Reformation in the form of the Book of Concord as their proper interpretation, as well as the church ordinances, insofar as these do not contradict the word of God in the Holy Scriptures or the Confessions—is also expressed in the ordination obligation of pastors and their induction into congregational, leadership, diaconal, or academic ministries of the church. The commitment of congregational leaders (*Kirchenvorsteherinnen und Kirchenvorstehern*) and synod delegates to Scripture and confession also belongs in this context;¹⁷ they all fulfill the church's self-commitment, as it has already been put into effect, in their respective

Huschke, *Theologisches Votum eines Juristen in Sachen der K Preuß. Hof- und Dom-Agende* (Nürnberg: Joh. Phil. Raw, 1832), 8: "A church consists not only in the clergy of the same confession, but also in the fact that it governs itself."

¹⁵ The expression in Reiner Preul, "Was bedeutet die kirchentheoretische These: Kirche wird durch Auslegung ihrer Lehre geleitet," in Grünwaldt and Hahn, *Profil—Bekenntnis—Identität*, 79.

¹⁶ The constitution reads,

Resolutions on amendments to this constitution, on the admission of other churches, and on the determination of pulpit and communion fellowship require a majority of two thirds of all synod members, but unanimity should be sought. All other resolutions may be passed by a simple majority of the Synod members present.

The confessional status of the church cannot be changed by resolution of the Church Synod. Decisions that contradict the Holy Scriptures and the confession of the Church are invalid. (Grundordnung, art. 25[9])

¹⁷ "At the beginning of the synod, the synod members are committed to Scripture and the Confession. Anyone who refuses the commitment cannot be a member of the synod. The synod members are not bound by instructions." Grundordnung, art. 25(6).

places of ecclesial responsibility—and this they do voluntarily (!), unless they have made a “mental reservation” during this solemn vow.¹⁸

It follows that an obvious dissent to these basic provisions—“Scripture and confession”—includes dissent with this church. This also raises the question of whether the ecclesial identity, which is marked in the basic texts of this church and its ordinances, is accepted, maintained, or called into question. This is the dimension that is understood in the first article of the Augsburg Confession under the *magnus consensus* (“great consensus”) in the sense of ecclesiastically binding obligation. In the Formula of Concord, this principle is taken up redundantly in the formula “We believe, teach, and confess.” This formula includes various dimensions—namely, that of personal confession, that of ecclesial commitment, and also that of theological, methodological-academic assurance.¹⁹ This includes, in a derived way, the exclusion of positions that are identified as not corresponding to Scripture. This is done by means of “doctrinal condemnations,” which expressly do not want to be “personal condemnations.” However, the structure of the argumentation must be observed and adhered to in how we proceed: affirmation comes before negation; what unites before what divides.²⁰

Responsibility for Doctrine in the Leadership of the Church

The leadership of the church relates to doctrine, liturgy, and expressions of the church’s life. In any case, it must be transparent and comprehensibly justified in the sense of the broadest possible agreement, and therefore cannot be based on mere assertions or authoritative demands. This principle is laid down in the Lutheran confession in the famous formula that the (episcopal) church leadership takes place “not with human power but with God’s Word alone” (AC XXVIII 21).²¹ For the church according to the Reformation understanding, and also for the Lutheran church, it is remarkable that it is something like a community of interpretation, even in the execution of church leadership. This means that there are no individual

¹⁸ “Mental reservation” is a strategy by which someone makes an ambiguous statement in order to prevent others from knowing his true opinion, or to avoid making a clear confession. See Thomas Slater, “Mental Reservation,” *The Catholic Encyclopedia*, vol. 10 (New York: Appleton, 1911), <http://www.newadvent.org/cathen/10195b.htm>.

¹⁹ Werner Klän, “Doctrina, fides confessio: Konfessorische Formeln im Werk Nikolaus Selneckers (1530–1592),” *Lutherische Theologie und Kirche* 20, no. 1 (1996): 2–28.

²⁰ Hans-Werner Gensichen, *Damnamus: Die Verwerfung von Irrlehre bei Luther und im Luthertum des 16. Jahrhunderts* (Berlin: Lutherisches Verlagshaus, 1955); translated by Herbert J. A. Bouman as *We Condemn: How Luther and 16th-Century Lutheranism Condemned False Doctrine* (St. Louis: Concordia Publishing House, 1967).

²¹ In Kolb-Wengert 94 (= BSELK 195).

authorities for the leadership of the churches, who as such have sole authority to interpret and issue directives.

However, the responsibility of the church as a whole for the purity of the God-given means of salvation in Christianity does not remove the special accountability of the ministers appointed for this purpose, but it includes the entire people of God in such indispensable attentiveness. In all areas of church work, this means that first and foremost the decision-makers appointed by the church—that is, pastors, superintendents, general-superintendents (*Pröpste*), bishops, professors, and also synod delegates—must themselves constantly reflect anew on the word of God, which is fundamentally, authoritatively, and infallibly attested in the Holy Scriptures of the Old and New Testaments.

According to the confession of the Lutheran church, ordained ministers have a special responsibility for the doctrine, its assertion, and preservation: “to preach the gospel, to forgive sin, to judge doctrine and *reject* doctrine that *is contrary to the gospel*, and to exclude from the Christian community the ungodly whose ungodly life is manifest—not with human power but with God’s Word alone” (AC XXVIII 21).²²

They cannot shirk these tasks, because the Lord of the church has called them to these in their ordination and committed them to these for life. This also gives them a special responsibility for the apostolic tradition in the church, because the church lives from the gospel in its apostolic truth.

Accordingly, church doctrine, which is based on the standard of Holy Scripture, or its interpretation, is the primary basis for the leadership of the church, whose main task is to preserve its identity. This means that such doctrine, which is bindingly received by consensus—“Scripture and confession” are the codes for this—must be regarded as the standard and benchmark for church leadership at all levels.

According to the constitution of the SELK, questions of doctrine, worship, and church fellowship must first be decided by the General Pastors’ Convention. These can then be either accepted or rejected by the Church Synod. Consequently, the Church Synod does not have the right to make its own decisions on matters of doctrine, worship, and church fellowship without the General Pastors’ Convention having passed a resolution first. The assertion that “no authority was established in the constitution that has ultimate doctrinal authority over the Synod,” in contrast, lacks any historical knowledge of the origin of the SELK’s constitution as well as any factually correct understanding of the internal system of its composition.²³

²² In Kolb-Wengert 94; emphasis added (= BSELK 194–195).

²³ Against Friedrich Kugler, “Lehrfindung als gesamtkirchlicher Prozess,” *Lutherische Theologie und Kirche* 47, no. 1 (2023): 67. This article in the journal of the Lutherische Theologische Hochschule should have included a critical commentary.

According to article 24 of the SELK constitution, the following applies to the General Pastors' Convention:

It is one of the tasks of the General Pastors' Convention:

- a) to discuss the condition, path, and task of the church;
- b) to advise on matters of doctrine, worship, and church practice. It may pass resolutions on these matters. Such resolutions require the approval of the Church Synod if they are to have a binding effect on the church;
- c) to submit proposals to the Church Synod on pulpit and communion fellowship with other churches. These proposals must be adopted by at least a two-thirds majority.²⁴

The Church Synod, on the other hand, has the following tasks according to article 25 of the constitution of the SELK:

- b) to deliberate on questions of doctrine, worship, and church practice and to comment on resolutions passed by the General Pastoral Convention;
- c) to decide on general church ordinances, including amendments to the Constitution; this also applies to ordinances provisionally put into force (Article 20[4a] of the Constitution).
- d) to elect the Bishop;
- e) to elect the Church Councillors and to confirm the calling of the Executive Church Council;
- f) to decide on proposals of the General Pastors' Convention on pulpit and communion fellowship with other churches;
- g) to admit other churches to the Independent Evangelical Lutheran Church and to confirm the admission of congregations to the Church.²⁵

In all of these cases, the General Pastors' Convention is the doctrinal authority superior to the Church Synod. It is also erroneous to claim that the church is "not entitled and in a position to fix doctrine conclusively and once and for all,"²⁶ because this has already been done by the responsible constitutional bodies of the SELK's predecessor churches by adopting the constitution.

The adoption of the SELK constitution by its predecessor bodies was an act of doctrinal definition, in which the SELK's public confession was stated clearly. The decisions on the adoption of the draft *Grundordnung der vereinigten Selbständigen Evangelisch-Lutherischen Kirche* (Basic order of the united Independent Evangelical Lutheran Church) were in fact made "by the legislative bodies of the participating churches with a majority in favor of amending the constitution." This meant that

²⁴ Grundordnung, art. 24(3).

²⁵ Grundordnung, art. 25(8).

²⁶ Kugler, "Lehrfindung als gesamtkirchlicher Prozess," 68.

the “determination pursuant to Art. 26.1 of the constitution regarding its entry into force” had been made.²⁷ There is no doubt that the provisions on “self-understanding and confessional status” (art. 1), “church fellowship (art. 2), “church membership (art. 5), church services (art. 6) and the “preaching office” (art. 7) as well as the “congregations” (art. 11) implied doctrinal decisions that were made by the first General Pastors’ Convention of the SELK in Uelzen and by its first Church Synod, which met in Radevormwald in 1973 and adopted the constitution, including the provisions on the preaching office, by an overwhelming majority.²⁸

The Binding Nature of Church Ordinances

In 1530, when the Western church was not yet divided, the Augsburg Confession stated unequivocally with regard to ecclesiastical orders (with the intention to reform the church, not to establish a separate church), “Concerning church regulations made by human beings, it is taught to keep those that may be kept without sin and that serve to maintain peace and good order in the church, such as specific celebrations, festivals, etc. However, people are also instructed not to burden consciences with them as if such things were necessary for salvation. Moreover, it is taught that all rules and traditions made by human beings for the purpose of appeasing God and of earning grace are contrary to the gospel and the teaching concerning faith in Christ” (AC XV 1–3).²⁹

This means that Christians are called to freedom—freedom in Christ and freedom in the realm of forgiveness. Believers are free children of God and do not have to work for or earn their childhood in God. After all, Christianity is the God-given space and framework in which this is already given to them. Nevertheless, life in the family has and needs God’s rules. It is clear that community in Christianity cannot do without obligation. In order to live together in the church, agreements and rules are necessary.

In any case, the orders of the church are assigned to serve the factors that create faith and churches, call them into being, and maintain them in existence—namely the gospel and its forms of application. In this way, the ecclesiastical orders provide the framework for carrying out the divine will of salvation. This is where the leadership tasks of the office-bearers have their place. Of course, these tasks do not belong

²⁷ *Kirchenbericht der Kirchenleitung der Selbständigen Evangelisch-Lutherischen Kirche für die 1. Kirchensynode vom 23. bis 27. Mai 1973 in Radevormwald*, 7, <https://www.selk.de/download/Synodalbericht1973.pdf>.

²⁸ Article 7(2) excludes the ordination of women to the ministry of the church; on the debate in the SELK about the right and wrong of ordaining women to the ministry of the church, see the concise documentation at *Lexikon A–Z*, s.v. “Frauenordination,” accessed March 3, 2025, <https://www.selk.de/index.php/a-z/lexikon-f/>.

²⁹ In Kolb-Wengert 48 (= BSELK 108–111).

to them exclusively, since the church as a whole, and also the local congregation, is certainly assigned the authority to establish “practices” from the point of view of expediency, “to change, reduce, or expand” them “in an orderly and appropriate manner” (FC SD X 9).³⁰ Here “the chief article of the Gospel”—namely the justification of the sinner “through faith in Christ”—is in force as the previous proposition before any talk of church order (AC XXVIII 52).³¹

Such orders therefore serve the freedom of faith and cohesion among believers. Children of God therefore live in the free space of grace and faith into which God has placed them. But this God-given space of freedom is also a space of service: the brothers and sisters of Jesus adopted by God are called to serve God and love their neighbor. This is why God-given freedom is not an area of arbitrary choice but of obligation.

This obligation applies reciprocally to ordained, called, and ecclesiastically inducted ministers in their respective pastoral, leadership, academic, or diaconal tasks, on the one hand, and the congregation, on the other. The pastoral office belongs to the essence of the church for the sake of its mission, because the church can come into being, exist, and remain only where the proclamation of the pure gospel and the proper administration of the sacraments take place. This is why the ecclesiastical serving office should exist in the church. It is therefore best for the order of the church if the ecclesiastical serving office is given the greatest possible opportunity to perform its service in the name of the Lord of the church and at the same time on behalf of the church itself.

Insofar as the office-bearers stand “for Christ” in the exercise of their mission, are his messengers and representatives, they also stand facing the congregation. Preaching the word of God, administering the sacraments, dealing with expulsion from and admission to the congregation, responsibility for the doctrine of the church in teaching, preaching, pastoral care, and witnessing are, according to the Lutheran confession, the core tasks of a bishop/pastor, to which the congregation’s duty of obedience corresponds. This is the “church government” (AC XIV)³² as the task of those who, as “ministers of the Word,” are at the same time “the leaders of the congregation of God [. . . those whom God has appointed to rule His Church]”:

We believe, teach, and confess also that at the time of confession [when a confession of the heavenly truth is required], when the enemies of God’s Word desire to suppress the pure doctrine of the holy Gospel, the entire congregation of God, yea, every Christian, but especially the ministers of the Word, as the leaders of the congregation of God [as those whom God has appointed to rule

³⁰ In Kolb-Wengert 637 (= BSELK 1550).

³¹ In Kolb-Wengert 98 (= BSELK 206).

³² In Kolb-Wengert 46 (= BSELK 108).

His Church], are bound by God's Word to confess freely and openly the [godly] doctrine, and what belongs to the whole of [pure] religion, not only in words, but also in works and with deeds; and that then, in this case, even in such [things truly and of themselves] adiaphora, they must not yield to the adversaries, or permit these [adiaphora] to be forced upon them by their enemies, whether by violence or cunning, to the detriment of the true worship of God and the introduction and sanction of idolatry. For it is written, Gal. 5, 1: *Stand fast, therefore, in the liberty wherewith Christ hath made us free, and be not again entangled in the yoke of bondage.* (FC SD X 10–11)³³

The office-holders—ordained, called, and inducted by the church to their various duties—stand not only for themselves but also for the faith of the church. They are called to a special responsibility to watch over the purity of preaching and unity among the faithful. They themselves will therefore always be asked to what extent they and their congregations conform to the divine standards of which Christian proclamation must speak. And they will have to admit and confess, both for themselves and for the congregation and the church as a whole, the failure to meet, and any offenses against, the divine standards. They will therefore also have to give warning if the validity of the divine standards is disputed within Christianity.

The SELK's Pfarrerdienstordnung (Pastors' service regulations) implement the confessional basis accordingly in application to their circumstances:

(2) The Pastors' Service Regulations govern the service relationship of pastors and vicars in the service of the Independent Evangelical Lutheran Church (SELK) and its congregations. The Pastors' Service Regulations shall apply insofar as applicable to vicars.

§ 2 Obligation arising from the ordination

(1) The pastor is bound by ordination to teach the word of God, which is given in the Holy Scriptures and testified to in the confession of the Evangelical Lutheran Church, in obedience to God and to administer the sacraments in accordance with the institution of Christ.

(2) The ecclesiastical ordinances of the SELK and the agendas approved by the SELK are binding for him.³⁴

On the basis of the church in the word of God, as laid down in Holy Scripture and bindingly attested in the confession of the church corresponding to this word,

³³ In *Triglot Concordia: The Symbolical Books of the Ev. Lutheran Church, German-Latin-English*, [ed. and trans. F. Bente and W. H. T. Dau] (St. Louis: Concordia Publishing House, 1921), 1055; bracketed text in the original (= BSELK 1550–1553).

³⁴ Pfarrerdienstordnung der Selbständigen Evangelisch-Lutherische Kirche, § 1(2)–§ 2(2), <https://www.selk.de/download/110-Pfarrerdienstordnung-El-21.pdf>.

the following applies, for example, to the question of church fellowship: “Differences in doctrine on the fundamental questions of faith are not merely a matter of taste or even enrichment, but this fact leads to painful but necessary separation. . . . For this reason, there can be no general invitation to all baptized Christians to celebrate Holy Communion in the SELK.”³⁵ For the liturgical organization of the services, for example, the following applies: “The consecration (including the sign of the cross) should be carried out in such a way that it is clear which elements are consecrated. . . . Everything that is consumed must be consecrated.”³⁶

In both of these cases, it is a matter of implementing valid doctrine in the church’s worship practice, on the one hand concerning Lutheran identity in ecclesiastical obligation,³⁷ and on the other hand concerning the unambiguous clarity of the liturgical performance, since it is about nothing less than making the communicants certain that in, with, and under the distributed elements they are actually receiving the body and blood of their Lord and Savior Jesus Christ, as the biblical-Lutheran understanding of the Lord’s Supper states.

However, the same degree of obligation also applies to unordained church councillors, also regarding church ordinances. This is stated in the trial draft of the *Evangelisch-Lutherische Kirchenagende* (Evangelical Lutheran church agenda) volume *Amt, Ämter, Dienste* (Ministry, offices, service): “Bishop: Are you prepared to exercise your office in Christian fellowship with those who are called with you to lead the church and to fulfill your duties in accordance with the ordinances in force in the Independent Evangelical Lutheran Church, then answer: Yes, with God’s help. Answer: Yes, with God’s help.”³⁸

³⁵ Theological Commission of the Selbständige Evangelisch-Lutherische Kirche, revised version of “Ökumenische Verantwortung,” draft for the 14th General Pastors’ Convention of the SELK in 2022 in Hofgeismar, 25, 27. This draft corresponds to the regulations of Selbständige Evangelisch-Lutherische Kirche Ständige Kommission zur Erarbeitung von Stellungnahmen zu Aktuellen Fragen der Gegenwart, *Mit Christus leben: Eine evangelisch-lutherische Wegweisung*, Lutherische Orientierung 6 (Hanover: Selbständige Evangelisch-Lutherische Kirche, 2009), 21–22, 54. However, the draft was not adopted by the Pastors’ Convention but was instead referred to the church leadership and the Theological Commission for revision. The Theological Commission declared that it was not in a position to undertake such work.

³⁶ Selbständige Evangelisch-Lutherische Kirche Kirchenleitung, *Der Hauptgottesdienst mit Predigt und Heiligem Abendmahl und sonstige Predigt- und Abendmahlsgottesdienste*, vol. 1 of *Evangelisch-Lutherische Kirchenagende* (Freiburg: Herder, 1997), 12, para. 27.

³⁷ Cf. Werner Klän, ed., *Lutherische Identität in kirchlicher Verbindlichkeit: Erwägungen zum Weg lutherischer Kirchen in Europa nach der Millenniumswende* (Göttingen: Ruprecht, 2007).

³⁸ Selbständige Evangelisch-Lutherische Kirche Kirchenleitung, *Amt, Ämter, Dienste*, 2nd ed., vol. 4/1 of *Evangelisch-Lutherische Kirchenagende* (Göttingen: Ruprecht, 2017), 107. There is very similar confirmation in church leadership offices (superintendent, provost, bishop) (103), in the confirmation in the office of a theological lecturer (109), and in the induction (introduction) of a pastor in a temporary (pastoral) ministry (112).

In addition, the agenda states, “The wording of the spoken and sung texts given in the Ordinaries of the Agenda is binding within the framework of the principles generally applicable to orders of worship, insofar as it concerns biblical passages, the Creed, the responsive greetings and versicles, the Confessions of sin, forms of blessing and the forms of solemnization. The same applies to the collect prayers and the final collects of the main service; however, variations are possible in individual cases for special reasons by the officiating liturgist.”³⁹

The question remains as to how many of the pastors and congregations of the SELK actually comply with this obligation in their worship practice; the impression of widespread linguistic and liturgical “uncontrolled growth” in liturgical matters can hardly be dismissed out of hand.

Furthermore, according to the SELK pastors’ service regulations, the pastor is also bound by instructions. He is obliged to “comply with orders issued by those called to lead or supervise in the church within the scope of their commission.”⁴⁰ At the same time, this makes binding the resolutions of the General Pastors’ Convention on matters of doctrine, worship, and church fellowship, which have been approved by the Church Synod. Observance of and compliance with the resolutions of the two high constitutional bodies of the SELK—the General Pastors’ Convention and the Church Synod—is therefore an integral part of the service obligation of pastors in the SELK.

A Test Case: The “Atlas of Women’s Ordination”

The *Atlas Frauenordination* (Atlas of women’s ordination) was presented to the 14th General Pastors’ Convention of the SELK by the working group responsible for preparing it, to be used as a working draft.⁴¹ Due to time limitation, the pastors in plenary did not have enough time to examine the paper thoroughly. In retrospect, this proved to be a serious procedural error. Nevertheless, the *Atlas Frauenordination* helpfully documents the resolutions on this issue to a good extent in its

³⁹ Selbständige Evangelisch-Lutherische Kirche Kirchenleitung, *Der Hauptgottesdienst*, 15, para. 55.

⁴⁰ Pfarrerdienstordnung, § 22.

⁴¹ 14. Allgemeinen Pfarrkonvent der Selbständigen Evangelisch-Lutherischen Kirche (SELK), *Atlas Frauenordination: Papier zur Diskussion über die Frage nach der Ordination von Frauen in der Selbständigen Evangelisch-Lutherischen Kirche (SELK)* (n.p., 2022), <https://www.selk.de/download/Atlas-Frauenordination-SELK.pdf> (hereafter cited as *Atlas Frauenordination*). Even the information on the authorship is questionable, as the paper was presented in this form to the General Pastors’ Convention before it was even able to comment on it.

appendix.⁴² Since presumably not all church members, not even all ordained ministers, are aware of the actually valid decisions, they are summarized here once again.

The first General Pastors' Convention of the SELK in Uelzen (1973) did not deal with an overture from the Epiphany congregation in Bochum-Hamme, which sought the removal of article 7(2) of the SELK constitution, "since it violates the teaching of the Holy Scriptures."⁴³ The first Church Synod (1973) likewise did not take up the overture and at the same time suggested a documentation on the topic of "equal rights for women."⁴⁴ The second Church Synod in Bochum (1975) decided, "The synod unanimously acknowledges the result of the commission's work [i.e., the documentation *Dienste der Frau in der Gemeinde* (Service of women in the congregation)], according to which the ordination of women to the holy preaching office in the Independent Evangelical Lutheran Church is still not possible today. The Synod is convinced by an overwhelming majority that the statements of Holy Scripture itself bindingly exclude such a possibility."⁴⁵

This resolution was adopted with four votes against and three abstentions.⁴⁶ Also, when the second Church Synod on June 17, 1975, revised its resolution of June 15, it "retained the content of the replaced resolution on the doctrinal question of ordaining women," albeit in a new formulation.⁴⁷ In the founding and consolidation phase of the SELK, both high constitutional bodies therefore decided with an "overwhelming majority"—that is, not unanimously but with one accord—that the ordination of women to the ministry of the church in the SELK was ruled out on the basis of the scriptural evidence.

This issue was not dealt with publicly for the next twenty years or more. Finally the debate flared up when a lecture series was given on "Aspects of the pros and cons of the ordination of women" at the Lutheran Theological Seminary (Lutherische Theologische Hochschule) in Oberursel in the winter semester of 1993–1994 at the repeated instigation of the student body.⁴⁸ This is not the place to shed light on what happened after this lecture series. In any case, it should be noted that the subsequent meetings of both the General Pastors' Convention and the Church Synod reaffirmed the implicit doctrinal decision that led to the wording of article 7(2) of the

⁴² 14. Allgemeinen Pfarrkonvent der Selbständigen Evangelisch-Lutherischen Kirche (SELK), "Dokumentation der Beschlussfassungen der SELK zum Thema und Systematisierung der Begrifflichkeiten Bekenntnisstand – Lehrentscheidungen – Lehrmeinungen," in *Atlas Frauenordination*, 27–40 (hereafter cited as "Dokumentation").

⁴³ "Dokumentation," 27.

⁴⁴ "Dokumentation," 27–28.

⁴⁵ "Dokumentation," 28.

⁴⁶ "Dokumentation," 38.

⁴⁷ "Dokumentation," 39.

⁴⁸ Volker Stolle, ed., *Frauen im kirchlichen Amt: Aspekte zum Für und Wider der Ordination von Frauen* (Oberursel: Oberurseler Hefte, 1994).

constitution, as well as the legal validity of this constitutional article: “We hold: Articles 7.1 and 2 of the constitution apply in our Independent Evangelical Lutheran Church (SELK). . . . This means that the question of women’s ordination in the SELK is settled. This is to be upheld internally and externally. The progress of the debate must take this into account.”⁴⁹

Thus, the resolution of the 8th General Pastors’ Convention in Uelzen (1997) noted “different patterns of argumentation” on this issue and declared, “The SELK has so far borne this tension in its ranks without jeopardizing its approach and claim to be a scriptural and confessional church.” The subsequent 9th Church Synod in Farven (1999) “adopted and confirmed” this resolution.⁵⁰

The 9th General Pastors’ Convention in Oberursel (2001) was also unable to avoid admitting that the “biblical evidence . . . is judged in contradictory ways among the pastors of the SELK,” but reaffirmed the 1975 resolutions—namely that “articles 7.1 and 7.2 of the constitution are in force.” However, the relative importance of this article was disputed.⁵¹ Finally, the 10th Church Synod (2003) also reaffirmed the resolutions of the previous synod and asked for a draft resolution to be submitted to the next General Pastors’ Convention.⁵²

However, this was not done until the 11th General Pastors’ Convention in Berlin (2009), which was able to state that the convention meetings that took place “contributed greatly to confidence-building, making the discussion factual, and better theological understanding.” Furthermore, it noted a lack of “unanimity on the question of the permissibility of ordaining women.”⁵³

Both sides proceeded “from a common commitment to the Holy Scriptures,” so that it could be concluded “They therefore *for the time being* bear with the different answers to the question of the permissibility of the ordination of women to the ministry of the church.”⁵⁴

This means that respect for the commitment to Scripture and confession undertaken at ordination is not mutually questioned, despite subjectively differing interpretations of the scriptural evidence. Therefore, these divergences were to be borne “for the time being”: “The existence of the two positions on this question is *at this time* not considered church-divisive.”⁵⁵

It should be noted that there is an implicit time limit on the shared opinion of not right away attributing any divisive effect to differences in the interpretation of

⁴⁹ “Dokumentation,” 28–29.

⁵⁰ “Dokumentation,” 29.

⁵¹ “Dokumentation,” 29.

⁵² “Dokumentation,” 30.

⁵³ “Dokumentation,” 31.

⁵⁴ “Dokumentation,” 31; emphasis added.

⁵⁵ “Dokumentation,” 31; emphasis added.

Holy Scripture. There is no doubt that this assessment applies for the time being, but *not in principle*. Efforts to maintain church unity thus took precedence in 2009 over the evaluation of differences as divisive.

The 11th General Pastors' Convention (2009) presented these results to the 12th Church Synod in Berlin (2011) as an overture.⁵⁶ In fact, the Church Synod "adopted the insights of the 11th General Pastors' Convention" and decided that it "respects and accepts" these insights. Moreover, it concluded, "The 12th Church Synod holds that the current teaching on the reason for Article 7(2) of the SELK Constitution has not been changed by the decision of the 11th General Pastors' Convention. It is therefore not an open question, but a controverted question."⁵⁷

With this decision, the Church Synod did nothing other than reaffirm the previous doctrinal decisions that its predecessor synods had already received on several occasions, as cannot be otherwise in the constitutional system that exists between the General Pastors' Convention and the Church Synod.

The qualification of the state of affairs as a "controverted" but not "open" question means that a clear, scripturally based, and confessional answer is to be expected, but not an undecided, arbitrary position, much less a contradictory position that declares the positions to be equally valid and indifferent.

By the decision of the 11th General Pastors' Convention, a committee on the "Ordination of Women to the Ministry of the Church" presented a paper to the 12th General Pastors' Convention (2011). In this paper, conceptual and factual clarifications were made to help make category distinctions between facts and avoid confusion between different factual levels when dealing with the controversial question.

The proposed "differentiation between 'confessional basis' (Holy Scripture and the Book of Concord of 1580), 'doctrinal decisions' and 'doctrinal opinions'" was expressly welcomed. It was "*undisputed* among us" that "the question of the permissibility or impermissibility of the ordination of women to the ministry of the church is a *doctrinal question*." Once again, this General Pastors' Convention reaffirmed "that Article 7(2) of the SELK Constitution is valid law in the SELK" and that the "existence of the two positions on this question . . . is not at this time considered to be church-dividing."⁵⁸

The 13th Church Synod in Hermannsburg (2015) followed this decision by "accept[ing] it without reservation" and sharing with the General Pastors' Convention the trust "in God's promise that he will guide us into all truth in our commitment

⁵⁶ For the full text of the motion, see "Dokumentation," 32–33.

⁵⁷ "Dokumentation," 33.

⁵⁸ "Dokumentation," 34; emphasis added.

to the Holy Scriptures.”⁵⁹ Against this background, the 13th Church Synod pleaded for a continuation of the debate on the controversial issue.

The 13th General Pastors’ Convention in Rehe (2017) reaffirmed the resolution of the 12th General Pastors’ Convention. The aim must be to “promote and, if possible, achieve unanimity on this doctrinal issue against the background of conflicting doctrinal opinions.”⁶⁰

Thus, there is an understanding of the factual and conceptual distinction between the confessional basis, the current doctrine of the church, decisions of the church on its doctrine, subjective convictions in the interpretation of Holy Scripture (“doctrinal *opinions*”), and the doctrine in force in the Independent Evangelical Lutheran Church, as well as the resulting ecclesiastical law, which determines the question of the right or wrong of ordaining women to the ministry of the church as a doctrinal question.

These distinctions mean that the *confessional basis*—that is, the foundation for what is valid in the church—is unchangeably identified as the Holy Scriptures and the confession of the Lutheran church in the form of the Book of Concord of 1580/1584. This also means that decisions that contradict the confessional basis are, by that fact alone, invalid.⁶¹ It was also established that the question of the ordination of women is indeed a *doctrinal question*, and it was stated expressly, “The current doctrine of the Church, according to which the ordination of women to the ministry of the Church is excluded by the biblical evidence, has not yet been changed and therefore continues to bind the Church. For a change in doctrine, there is already a lack of a final doctrinal decision by the General Pastors’ Convention, which could become a new doctrinal decision binding on the Church through the approval of the Church Synod.”⁶²

A distinction is made between the former and “(personal) theological doctrinal *opinions*.”⁶³ The latter are those “which refer to Holy Scripture in their rationale and come to contradictory conclusions.”⁶⁴ They are by no means equal to the currently valid doctrine and the previous doctrinal *decisions* of the church that confirm the valid doctrine, especially if those doctrinal opinions stand in contradiction to the valid doctrine and the doctrinal decisions that confirm it.

⁵⁹ “Dokumentation,” 34.

⁶⁰ “Dokumentation,” 35.

⁶¹ See note 16 above.

⁶² “Dokumentation,” 37.

⁶³ “Dokumentation,” 37; emphasis added.

⁶⁴ “Dokumentation,” 37.

Nevertheless, the 13th General Pastors' Convention of the SELK expressed the hope that the church would be given the necessary and desirable "unanimity" "in listening together to the Holy Scriptures" under the guidance of the Holy Spirit.⁶⁵

The committee, which was appointed to continue the work, was expressly instructed to "take into account the structural imbalance between the binding doctrinal decision in the Church and the divergent doctrinal opinions."⁶⁶

With this in mind, it can come only as a surprise that the *Atlas Frauenordination* places doctrinal opinions that include an endorsement of the ordination of women to the ministry of the church on an equal footing with those that reflect the valid doctrine of the SELK.

Regarding the theology of the ecclesiastical serving office, for example, this includes the assumption that the "pastoral office [*Pfarramt*] . . . cannot be directly traced back to the apostolic office" and that "the term" apostle "is not sufficient for a direct derivation of the pastoral office."⁶⁷ Nevertheless, "fundamental unity" can rightly be said of today's ecclesiastical serving office as the "office of proclaiming the word and administering the sacraments," despite the different divisions within the one ministry.⁶⁸ This is contradicted by the assertion that there is "not just the 'one' office."⁶⁹ However, this office is "neither to be confused with the persons who hold it, nor to be separated from them."⁷⁰ In this respect, the ecclesiastical serving office can be correctly described as an "apostolic shepherd office."⁷¹

This and the theme booklet *Amt, Ämter und Dienste in der SELK* (Ministry, offices, and services in the SELK) are contradicted by the assertion that it is "not a matter of passing on an office personally."⁷² This is because "'office' cannot . . . simply be reduced to the task of proclaiming the gospel."⁷³

Furthermore, one of the reiterated assertions, which has already been rejected by doctrinal decisions of the church, is that ordination is an "adiaphoron,"⁷⁴ although the Apology of the Augsburg Confession considers it, and also the laying on of hands, to be a sacramental act (Ap XIII 11–12).⁷⁵ Ordination cannot be an

⁶⁵ "Dokumentation," 37.

⁶⁶ "Dokumentation," 25.

⁶⁷ *Atlas Frauenordination*, 10–11.

⁶⁸ Selbständige Evangelisch-Lutherische Kirche Kirchenleitung, *Amt, Ämter und Dienste in der SELK*, Lutherische Orientierung 8 (Hannover: SELK, 2007), 5.

⁶⁹ *Atlas Frauenordination*, 12.

⁷⁰ Selbständige Evangelisch-Lutherische Kirche Kirchenleitung, *Amt, Ämter und Dienste*, 11.

⁷¹ *Atlas Frauenordination*, 10.

⁷² *Atlas Frauenordination*, 16.

⁷³ Selbständige Evangelisch-Lutherische Kirche Kirchenleitung, *Amt, Ämter und Dienste*, 13.

⁷⁴ *Atlas Frauenordination*, 19.

⁷⁵ "But if ordination is understood with reference to the ministry of the Word, we have no objection to calling ordination a sacrament. . . . If ordination is understood in this way, we will not object to calling the laying on of hands a sacrament." In Kolb-Wengert 220 (= BSELK 515).

adiaphoron, since according to the Augsburg Confession, “it is taught that no one should publicly teach, preach, or administer the sacraments without a proper [public] call” (AC XIV),⁷⁶ and this “call” historically undoubtedly refers to the (episcopal) ordination carried out in accordance with the canon law in force at the time;⁷⁷ and moreover this “preaching office” or “ecclesiastical serving office”⁷⁸ is a divine institution that is ordered to serve by proclaiming the word of God and administering the sacraments; and the Wittenberg reformers repeatedly emphasized that “it is our greatest desire to retain the order of the church and the various ranks in the church—even though they were established by human authority” (Ap XIV 1).⁷⁹

The question of church fellowship is also one of the areas of doctrine and worship for which, according to the ordinances of the SELK, the General Pastors’ Convention has the primary decision-making authority. The assertion that “the existence of church fellowship should not be the decisive reason for the SELK to make well-founded decisions” must be rejected.⁸⁰ Although the question of church fellowship is certainly not *the* decisive reason for SELK decisions, it is part of a complex of criteria that must guide ecclesiastically and ecumenically responsible decision-making. Otherwise, we would fall into a Germanocentric provincialism that is only or predominantly oriented towards trends and tendencies in the society around us and the subsequent positioning of Protestant church denominations. It is unmistakably clear that the introduction of the ordination of women in the SELK would immediately and directly result in its exclusion from the International Lutheran Council.⁸¹

[Editor’s note: In the documents under discussion by the author, the argument is made that since ordination is an adiaphoron, ordaining women is an adiaphoron. In the LCMS, our historic teaching documents have emphasized that ordination was not instituted by the Lord Jesus; yet the Office of the Holy Ministry is a divine institution, and the church simply must put qualified men, and only qualified men, into this office, and she does so by the ecclesiastical rite of ordination. “Because the ministry of the Word and the Sacraments is divinely commanded, a proper call and orderly appointment to that office is required. Ordination is the universal ecclesiastical ordinance by which that call and appointment is enacted and accomplished. Therefore, as noted above, ordination is *required* in our church for a man to hold the office of the public ministry.” Joel D. Lehenbauer and Larry M. Vogel, “Appendix 2: A Clarification of the LCMS Understanding of Ordination,” *Lutheran Theological Review* 33 (2021): 45.]

⁷⁶ In Kolb-Wengert 46 (= BSELK 108–109).

⁷⁷ Gunther Wenz, *Theologie der Bekenntnisschriften der evangelisch-lutherischen Kirche*, vol. 2 (Berlin: de Gruyter, 1998), 315–326, esp. 324.

⁷⁸ This is a proper translation of “ordo ecclesiasticus” in AC XIV, in BSELK 109, line 11.

⁷⁹ In Kolb-Wengert 222 (= BSELK 519).

⁸⁰ *Atlas Frauenordination*, 21.

⁸¹ According to the implementing regulations of the International Lutheran Council, the following applies to membership, especially for the ministry of the church: “Doctrinal Basis. Church bodies wishing to be full, regular, voting members in the Corporation must subscribe to the following: . . . Office of the Ministry. Though all Christians—men and women—are redeemed and able to serve the Church in many ways, Holy Scripture requires that only men who are spiritually qualified in life and doctrine are to be called and ordained as pastors to preach the gospel and

The SELK would fall into an ecclesiastical no-man's-land unless its successor organization joined the United Evangelical Lutheran Church of Germany and thus the Evangelical Church in Germany (i.e., the Protestant mainstream in this country). However, such a step would contradict the entire history of the SELK's predecessor churches and their foundational ecclesiastical decisions.⁸²

“Scenarios”

The creation of “scenarios” under the heading “Possible approaches to continuing the question of women’s ordination in the SELK” is, for its part, a highly daring interpretation of the task of “developing opportunities for congregations and pastors to deal with the topic.”⁸³

The “scenarios” listed in the *Atlas Frauenordination*, which the 15th Church Synod asked congregations and pastors to discuss,⁸⁴ serve only to a very limited extent, and only at best, the task formulated by the 13th General Pastors’ Convention for the new working committee “to promote and, if possible, achieve unanimity against the background of conflicting doctrinal opinions on this doctrinal issue.”⁸⁵

Scenarios 1 and 2 from the “Possible approaches to continuing the question of women’s ordination in the SELK”⁸⁶ would most likely lead to majority decisions—one way or the other—which would probably not have the effect of amending the constitution, since the General Pastors’ Convention would have to decide on this before the Church Synod could take a position on such findings. Scenario 3 would be in line with the consultation processes that have now lasted for almost three decades but would probably fail either due to general fatigue or forced pressure to make

administer the sacraments.” Bylaws of the International Lutheran Council, Inc., art. II, § 1, <https://ilcouncil.org/wp-content/uploads/2018/04/ILC-Bylaws-Final.11-7-17.pdf>.

⁸² Cf. Werner Klän, *Die Gründungsgeschichte der SELK 1945–1972: Auf dem Weg zu verbindlicher Gemeinschaft konkordienlutherischer Kirchen in Deutschland* (Göttingen: Ruprecht, 2022), esp. 26–28, 92–96, 173–180.

⁸³ *Atlas Frauenordination*, 24.

⁸⁴ The 15th Church Synod asked “the congregations for broad consultation on the *Atlas Frauenordination*, taking into account the new approach of mutual understanding and tolerance, as well as for communication of experiences and votes—preferably from the congregational assemblies. These should be addressed to the Synodal ‘Scenarios’ Commission so that they can be incorporated into its work.” Synodalkommission “Szenarien OF,” “Mitteilung und Bitte zur Beschlussfassung der 15. Kirchensynode zum Thema ‘Ordination von Frauen’ (OF),” September 27, 2023, 4, https://www.selk.de/download/Synko-Szenarien-OF_Brief-27-09-2023.pdf.

⁸⁵ “Dokumentation,” 35.

⁸⁶ “1. Church Synod and Pastors’ Convention make a fundamental decision with confirmation of the currently valid order and end the official debate. 2. Church Synod and Pastors’ Convention introduce the ordination of women within the SELK fundamentally and end the official debate.” *Atlas Frauenordination*, 24.

decisions due to impatience.⁸⁷ Scenarios 4, 5, and 6 all lead to a split or dissolution of the SELK.⁸⁸ Church fellowship in the sense of pulpit and communion, combined with intercommunion and intercelebration between parishes that believe they are allowed to appoint female pastors and those that strictly reject this, is likely to be illusory.

The same applies to the organizational separation “within one church body” envisaged in scenario 5. In the Evangelical Church of the Old Prussian Union, this was called *itio in partes* (“dividing into parties”), a model for the denominationally diverse Evangelical Higher Church Council in Berlin, which was always rejected as untenable by the mothers and fathers of the SELK’s predecessor churches. After all, this structure would not have the dignity of being a whole church, which is expressed not least in the recognition of ministries.

Scenario 6 is nothing other than the execution of the church split, even “with the maintenance of the General Church Fund.”⁸⁹ It is not really conceivable that congregations that (as a majority, together with their pastor) reject the ordination of women to the ministry of the church would pay contributions into a common fund from which female pastors would receive their salary, just as, conversely, hardly any congregations that (as a majority, together with their pastor) support the ordination of women to the ministry of the church would think of paying contributions to those who strictly refuse this practice.

Scenario 6 ultimately presents the dissolution of the SELK. Questions of legal succession, corporate rights, membership in the Arbeitsgemeinschaft christlicher Kirchen (Working group of Christian churches) in Germany, to name but a few, do not seem to have been considered at all.

A division of the SELK would, of course, also contradict the resolution of the 13th General Pastors’ Convention, according to which “unanimity in this doctrinal issue should be promoted and achieved as far as possible.”⁹⁰ This is the basis on which the working committee on the ordination of women was set up.

The question remains as to whether the working committee has even worked in accordance with its mandate with the “approaches” presented. If the SELK is the ecclesial home of all those who are currently unable to reach unanimity on this issue,

⁸⁷ “3. Synod and Pastors’ Convention agree to further work until unanimity on this question is found.” *Atlas Frauenordination*, 24.

⁸⁸ “4. Synod and Pastors’ Convention decide that female pastors may be called by those parishes [*Pfarrbezirke*] that decide in favor of this with a necessary majority. . . . 5. Congregations that are in favor and those that reject divide themselves organizationally within one church body. . . . 6. The SELK divides ‘peacefully’ into two church bodies, ideally while maintaining the General Church Fund. The two new churches each seek unity with other Lutheran churches (for example, the ELKiB [Evangelical Lutheran Church in Baden]).” *Atlas Frauenordination*, 24.

⁸⁹ *Atlas Frauenordination*, 24.

⁹⁰ *Atlas Frauenordination*, 35.

its goal must be all the more to preserve this unity and gain (or regain) the unanimity that is still lacking.

A Challenge

In conclusion, it should be noted that both of the high constitutional bodies of the SELK—the General Pastors’ Convention and the Church Synod—have from 1972 to 2022 consistently stated and confirmed, in the assignment given them by the constitution, that the question of the ordination of women to the ministry of the church, as regulated by article 7(2) of the SELK constitution is (1) a doctrinal question; (2) an (implicit) doctrinal decision of the predecessor churches of the SELK through their respective constitutionally competent bodies, as well as of the first General Pastors’ Convention of the SELK and the first Church Synod of the SELK; and (3) still valid law in the SELK. The admission of the ordination of women to the ministry of the church and the appointment to this ministry—even if only in individual congregations—first requires the doctrinal decision of the church that the biblical findings do not oppose the ordination of women to the ministry of the church but, on the contrary, make it possible or even demand it.

Such a doctrinal decision would have to prove that the implicit doctrinal decision that led to article 7(2) of the constitution is erroneous and therefore, because contrary to Scripture, must be annulled. At the same time, the entire doctrine and practice of the SELK, its predecessor, sister, and partner churches—apart from the doctrinal position and practice of the Orthodox Churches of the East and the Roman Catholic Church—would be branded as contradictory to Holy Scripture and therefore heretical.

Today in the SELK there are people, especially in church leadership positions, albeit at different levels (synod delegates, superintendents, provosts, professors, pastors, vicars, pastoral workers, deacons, vicars, but also congregational leaders or regional councillors), who not only offensively demand the introduction of the ordination of women to the ministry of the church but also force it.⁹¹ These people must allow themselves to be asked whether they perjured themselves when they took

⁹¹ At the inauguration of a pastor last year (2023), I witnessed how in his “sermon” he interpreted Jesus’ sending out speech from Matt 10, including verse 16: “Behold, I am sending you out as sheep among wolves. Therefore be wise as serpents and innocent as doves.” I am reporting from memory, but there is at least one other witness to this: when asked by himself who the “wolves” were today, the answer from the newly appointed pastor was “Those who oppose change in the church.” The responsible superintendent, who had carried out the installation, and the provost of that church region were present but said nothing and probably did not take any action against this admission later. However, it should be cause for the initiation of a service-complaint procedure. The superintendent and provost had apparently not even taken offense at the preacher’s statements.

office, when they promised to “serve the unity of the church” and vowed to “fulfill their duties in accordance with the regulations in force in the Independent Evangelical Lutheran Church,”⁹² or whether they have provided their promises—which would be no less reprehensible—with a mental reservation, or whether they now want to break the vow they made before God and the church.

Rather, what counts is *Pacta sunt servanda*!

⁹² Appointment to church leadership offices, in Selbständige Evangelisch-Lutherische Kirche Kirchenleitung, *Amt, Ämter, Dienste*, 107; to the office of a church councillor (107); to the office of a theological instructor (109); induction of a pastor in the case of a temporary pastoral ministry (112); induction of an honorary pastor (114); induction of a parish vicar (116); induction of a parish deacon, a vicar (118); induction of a pastoral assistant, a deacon, a church musician (121).