

# Bishop's Report To The Judicial Council Of The United Methodist Church

1. This is the form which the Judicial Council is required to provide for the reporting of decisions of law made by bishops in response to questions of law submitted to them in writing during the regular business of a conference session. The reporting of such decisions is mandatory, whether or not they are appealed. (See ¶¶ 56, and 2609 of 2008 *The Book of Discipline*, and Judicial Council *Decision* 153, ¶ 3 under "jurisdiction.")

2. This form may also be used to report decisions on questions of law when such decisions are appealed by one-fifth of the members of the conference. (See ¶¶ 56 and 2609 of 2008 *The Book of Discipline*, and Judicial Council *Decision* 153, ¶ 2 under "jurisdiction.")

Please check whether this report is under 1  or 2

Report of an episcopal decision made by Bishop Robert T. Hoshibata

during the session of the Desert Southwest Conference, meeting at  
Glendale, Arizona on June 30, 2013.

Subject: Marriage Equality Resolution

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Please attach the following relevant documents and information:

If under No. 1 - The text of the written request for decision; the decision, and, optionally, the reasoning behind it; notation of appeal, if taken; pertinent background information, etc.

If under No. 2 - The parliamentary situation; the decision, and, optionally, the reasoning behind it; transcript of the appeal taken; pertinent background information, etc.

Signed   
**Bishop of The United Methodist Church** 

Date mailed to the Secretary of the Judicial Council July 29, 2013

**Required copies to:**

**Secretary of the Judicial Council (13 Copies)**

**Bishop (1 Copy)**

## BISHOP'S DECISION OF LAW

### *In Re: the Marriage Equality Resolution of the 2013 Desert Southwest Annual Conference*

#### STATEMENT OF FACTS

The 2013 Desert Southwest Annual Conference Minutes for Plenary Session IV, held on Sunday, June 30, 2013, reflect that the Desert Southwest Annual Conference, following discussion and vote, adopted a Resolution entitled "Marriage Equality Resolution." It reads:

WHEREAS, the recent SCOTUS ruling makes Marriage Equality legal in California, and WHEREAS, Our Annual Conference consists of part of California, and WHEREAS, the continuing denial of full access to all the rights and privileges in the [sic] United Methodist Church is causing deep spiritual harm to our LGBT brothers and sisters and is a threat to us all; and WHEREAS, our membership vows call us "to resist evil, in justice and oppression in whatever forms they present themselves"; and WHEREAS, we are called to be obedient to the whole of church law which calls the church to be in ministry with all people, including lesbian, gay, bisexual, transgender, and queer (LGBTQ) persons. WHEREAS, the opening section of *The Book of Discipline*, which reminds us of serious flaws and shortcomings manifest in the larger history of Methodism. Shortcomings specifically listed include our previous accommodation of racial segregation by establishing a race-based Central Jurisdiction, and our extended denial of ordination rights and prominent leadership roles for women, and WHEREAS, the "Social Principles" of The United Methodist Church (Part IV) strongly endorses the *Universal Declaration of Human Rights* with emphasis on respect for the inherent dignity of all persons. Explicitly cited are the full rights of racial, ethnic, and religious minorities; and the rights of children, young people, the aging, women, men, immigrants and persons with disabilities. The list concludes by declaring the full human rights of all persons without regard to their sexual orientations, a reference that suggests rational and experiential grounds for endorsing the rights of same-sex couples to marry, and WHEREAS, it is the context of these traditions that we must address current shortcomings in United Methodist polity, in particular, forty-one years of prejudicial language portraying the life practices of gay and lesbian persons as "incompatible with Christian teaching," a standard that has excluded them from ordination, from marriage, and in some cases even from church membership (Judicial Council Ruling 1032). These exclusionary principles are prominent components of the "chargeable offenses" assigned to the "Judicial Administration" (chapter 7, ¶ 2702). Such unjust rules, combined with the prosecution of clergy who refuse to uphold them, are themselves incompatible with United Methodist visions of inclusiveness, which call of [sic] "Open Hearts, Open Minds, and Open Doors." WHEREAS, The Desert Southwest Annual Conference is part of the Larger Western

Jurisdiction, which adopted the “Statement of Gospel Obedience” that states the denomination is in error in its stance on the practice of homosexuality and urged United Methodists to operate as if that position does not exist. WHEREAS, at last year’s Annual Conference we resolved that the Desert Southwest Conference reaffirm its commitment to and work for the full civil and ecclesiastical rights and privileges of all persons including LGBT persons and that the Desert Southwest Conference of the [sic] United Methodist Church work together to build a fully inclusive church. We commit to be in ministry with all people, regardless of their economic status, race, age, ethnicity, gender, sexuality, disability, or immigration status, therefore let it be RESOLVED that the Desert Southwest Annual Conference and the United Methodist Churches of the Desert Southwest Annual Conference make a public statement supporting and upholding Marriage Equality. Let it further be RESOLVED that the Desert Southwest Annual Conference and the United Methodist Churches of the Desert Southwest Annual Conference will support our clergy who take the bold and faithful stand to minister to all equally and include all in the life of the church, which includes but is not limited to, conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies where it is civically [sic] legal to do so. Let it further be RESOLVED, that the Desert Southwest Annual Conference and the United Methodist Churches of the Desert Southwest Annual Conference, will support (spiritually, emotionally, and prayerfully) clergy who are brought up on charges for conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies.

That resolution will be referred to as the “Resolution” in this Decision.

A clergy member of the Desert Southwest Annual Conference, an elder in full connection, presented the following question of law:

I rise to seek a decision or ruling of law on the Marriage Equality Resolution. My question is does this resolution comply with the requirements of our covenant, the *Book of Discipline* and the decision of our Judicial Council? The basis of my question is Decision 1220 made on October 27, 2012 by our Judicial Council.

The clergyperson orally asked the question of law and thereafter submitted it in writing in accordance with the rules of the 2012 Book of *Discipline*.

The motion “to seek a decision or ruling of law” was duly seconded and a standing vote was taken for tally. The results of the vote on the ruling were: 26% - in favor, 63% - against, 10% - abstaining.

## ANALYSIS AND RATIONALE

The question of law evinces a concern that the Resolution is in conflict with the “requirements of our covenant, the *Book of Discipline* and the decision of our Judicial Council” based on Judicial Council Decision 1220 (“In Re: Review of a Bishop’s Decision of Law in the California-Pacific Annual Conference Regarding the ‘Resolution in Response to General Conference 2012’”). Stated differently, does the Resolution renounce, contradict, or in any way attempt to negate the provisions of a covenantal relationship that exists among Christians in ministry, or the provisions of the 2012 *Book of Discipline*, or the ruling of the Judicial Council in Decision 1220, in matters related to the topic of marriage equality?

In addressing the question of law posed by the elder of the Desert Southwest Annual Conference, there are three questions that must be examined.

First, does the Resolution comply with the requirements of our covenant?

Second, does the Resolution comply with the *Book of Discipline*? and

Third, does the Resolution comply with Judicial Council Decision 1220?

In the first question, in regards to whether the Resolution complies “with the requirements of our covenant.” Webster’s dictionary defines “covenant” as “a usually formal, solemn, and binding agreement.” This first question is ambiguous since lay and clergy United Methodists are bound together and held in connection with one another and with God in covenantal relationship in a variety of ways. However, as we meet together in holy conferencing as an annual conference, the primary covenant that holds us all (lay and clergy alike) together is the covenant of our membership vows, since members with voice and vote at an annual conference session are professing members of The United Methodist Church. These are sacred covenants to God and to one another that we make in order to continue to be in relationship with God and with each other as we pledge ourselves as disciples of Jesus Christ through The United Methodist Church.

The Book of Worship of The United Methodist Church expresses the covenant we make when we profess membership in the Church with these words:

As members of Christ’s universal church, will you be loyal to Christ through The United Methodist Church, and do all in your power to strengthen its ministries?  
(I will.)

As members of this congregation will you faithfully participate in its ministries by your prayers, your presence, your gifts, your service and your witness? (I will.)

The primary expression of our covenant is loyalty to Christ through The United Methodist Church, and participation and strengthening of the ministries of The United

Methodist Church. Specific venues for that participation and strengthening of the Church include prayers, presence, gifts, service and witness.

The Resolution asks the annual conference to (1) make a public statement supporting and upholding marriage equality, (2) support clergy who take a stand on the issues related to marriage equality that are contrary to the *Book of Discipline*, and (3) support clergy who face the church complaint process because they engage in actions that are contrary to the *Book of Discipline*. The Resolution invites the members of the annual conference, who are in covenant with each other as members of The United Methodist Church, to engage in holy conferencing about the topic of marriage equality, to discern God's will for the work and ministry of the Church, and to participate in the ministry of the annual conference to live into that decision. The Resolution asks us to engage in actions wholly consistent with our covenant as members of the body of Christ called United Methodist.

In the second question asked: Does the Resolution comply with the *Book of Discipline*? This question is vague in that it does not specifically mention which parts or paragraphs of the *Book of Discipline* it is in reference to. However, Judicial Council Decision 886 (in Re: Declaratory Decision Regarding Authority of an Annual Conference to Take Actions That Are Unconstitutional or Violate Provisions of the *Discipline*) addressed a similar concern. In that Decision, the Judicial Council ruled:

The *Discipline* is the law of the Church which regulates every phase of the life and work of the Church. As such, annual conferences may not legally negate, ignore, or violate provisions of the *Discipline* with which they disagree, even when the disagreements are based upon conscientious objections to those provisions.

Although the Resolution addresses a matter of social justice that is controversial, the covenants that keep us in relationship with God and with each other do not prohibit faithful United Methodists from engaging in actions such as addressing matters of social justice as long as these matters do not "legally negate, ignore, or violate provisions of the *Discipline*." Further, the actions of the Resolution do not require anyone to abdicate her or his right to voice an opinion or vote either in agreement with or contrary to a measure that addresses a controversial topic such as marriage equality when appropriately placed before an annual conference session.

In regard to the provisions of the *Book of Discipline*, ¶161 B reads:

We affirm the sanctity of the marriage covenant that is expressed in love, mutual support, personal commitment, and shared fidelity between a man and a woman. We believe that God's blessing rests upon such marriage, whether or not there are children of the union. We reject social norms that assume different standards for women than for men in marriage. We support laws in civil society that define marriage as the union of one man and one woman.

While it is true that the *Book of Discipline* affirms “the sanctity of the marriage covenant that is expressed in love, mutual support, personal commitment, and shared fidelity between a man and a woman,” and calls us to “support laws in civil society that define marriage as the union of one man and one woman,” it does not specifically call us to condemn or disparage, nor does it invite us to disobey laws that define marriage in different terms. At a time when the civil laws of some of our communities and states are changing to allow, affirm, and support marriage equality, this paragraph does not adequately address the question of how faithful United Methodists will deal with same-gender marriages that are legal. In saying “we support laws in civil society that define marriage as the union of one man and one woman,” the *Book of Discipline* is unclear about how we shall deal with laws in civil society that define marriage in terms other than “one man and one woman.” Absent that prohibition against supporting laws in civil society that define marriage in different terms, it cannot be said that the Resolution violates the *Book of Discipline* in the matter of marriage equality.

The third question posed in the question of law is: “Does the Resolution comply with Judicial Council Decision 1220?” In Judicial Council Decision 1220, the California-Pacific Annual Conference Resolution, four statements were resolved. The first of those statements was “Therefore be it resolved: we renounce the statement that homosexuality is incompatible with Christian teaching, and declare that it is itself incompatible with the life and teachings of Jesus Christ.”

In Judicial Council Decision 1220, the Judicial Council ruled that an annual conference cannot renounce such a statement in *the Book of Discipline*, because the annual conference has no legal authority to do so.

The subsequent three statements that were resolved were:

We affirm the sacred worth of all persons including members of the LGBTQ community; we commit to continuing to build inclusive Christian communities in our churches where LGBTQ lay people and clergy are loved and welcomed as they are; and we invite churches and individuals to adopt this statement and join us in living out its principles.

In Judicial Council Decision 1220, the Judicial Council ruled that in the latter three statements that are resolved by the action of the annual conference, “the resolution draws upon existing language in the *Discipline* and aspires to see that language implemented in particular ways.” The Judicial Council also ruled that in the case of the third of the above statements, it was deemed legal only to the extent that it is applied to those items in the resolution that are legal.

In the Resolution brought to the Desert Southwest Annual Conference, the first of the statements resolved by the body asks that a public statement be made that supports and upholds marriage equality. The request to do so would result in the making of a public statement of social conscience about the issue of marriage equality, specifically

the right of all persons, regardless of sexual orientation, to claim the status of “marriage.”

This issue is germane to the Desert Southwest Annual Conference. In the second “whereas” clause of the Resolution, reference is made to the fact that within the bounds of the Desert Southwest Conference are churches located in California, where same gender marriage is now legal. This second statement of the Resolution asks that the annual conference and its churches “support” [to sustain (a person, the mind, spirits, courage, etc.) under trial or affliction] the clergy of the annual conference who choose because of conscience to engage in actions contrary to the *Discipline*. In effect, this underscored the right for all of us to speak boldly when confronted by what we believe to be inequality or injustice and is affirmed by Judicial Council Decision 1220 which states:

A body can “announce” its support of, or opposition to, a proposition or idea and thereby publicly declare a point of view. A body can “denounce” a proposition or idea and thereby express a critique of that point of view.

However, Decision 1220 also states that a body cannot take action to “renounce” a proposition of the *Book of Discipline*. The Resolution of the Desert Southwest Annual Conference does not renounce any proposition of Church Law, but rather states a point of view through the issuing of a public statement that supports (to sustain under trial or affliction) and “upholds” (to support or defend, as against opposition or criticism) the concept of marriage equality.

In the Resolution, the second of the statements resolved is a commitment made to “‘support’ our clergy who take the bold and faithful stand to minister to all equally and include all in the life of the church, which includes but is not limited to, conducting ceremonies which celebrate homosexual unions; or performing same sex wedding ceremonies where it is civically [sic] legal to do so.” The parameters of such support are more clearly defined in the following statement of resolution, namely “spiritually, emotionally, and prayerfully.” The Resolution does not encourage persons to willfully neglect the provisions of the *Book of Discipline*. In fact, the Resolution simply states that it is our duty and obligation and commitment to pray with and for those who have made the decision to conduct their life and ministry in ways that they believe Christ is calling them to do. There is no clear mandate in the *Book of Discipline* that we Christians, in covenant with one another, withhold our prayerful, spiritual and emotional support for those of our sisters and brothers who choose an act of conscience that may be contrary to the provisions of the *Discipline*.

In the third statement of the Resolution, the same “support” is offered to those clergy who are charged with the offense for conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies. This statement, as in the case of the previous statement, does not mandate or encourage or incite a clergyperson to conduct ceremonies which celebrate homosexual unions or to perform same-gender weddings. Instead, the resolution calls upon each person in covenant

with one another to offer support through spiritual care, emotional nurture, and prayer, as that person undergoes the process of facing formal complaints or charges in the church's response to formal complaints for such actions.

## DECISION

The Resolution invites the members of the annual conference to participate in the ministry of the annual conference, and makes a case that this participation will strengthen the ministry of the annual conference. The Resolution upholds the right of an annual conference to make public statements that announce its support of, or opposition to, a proposition or idea and thereby publicly declare a point of view; and the Resolution calls upon each person in covenant with one another as disciples of Jesus Christ, to offer support through spiritual care, emotional nurture, and prayer, as that person undergoes the process of facing formal complaints or charges in the church's response to formal complaints for such actions. The Resolution does not legally negate, ignore, or violate the *Discipline* and is in concert with the provisions of Judicial Council Decision 1220. The Resolution is not out of order.