

JUDICIAL COUNCIL  
UNITED METHODIST CHURCH

REVIEW OF BISHOP'S  
REPLY TO QUESTION OF LAW IN  
NEW ENGLAND ANNUAL  
CONFERENCE JUNE 13, 2014

Docket No. \_\_\_\_\_

BISHOP'S REPLY TO QUESTION OF LAW

I. BASIS OF JURISDICTION

This is a reply by Bishop Sudarshana Devadhar to a question of law raised on Friday, June 13, 2014. The Judicial Council has jurisdiction (§2609.6 of the 2012 Book of Discipline).

II. QUESTION OF LAW PRESENTED

Resolution 204 was voted by the 2014 New England Annual Conference on Friday, June 13, 2014. A copy of Resolution 204 is attached as Exhibit A. Following the passage of Resolution 204 the following request for ruling of law was read, and submitted in writing to the conference secretary:

“Does RS 204 conform to Article XXII of the Methodist Articles of Religion (paragraph 104), strongly urging clergy and congregations to perform ceremonies specifically prohibited by the General Conference?”

Article XXII of the Rites and Ceremonies of Churches, the second sentence seems to be violated by “strongly urging” clergy or congregations to violate church law. The sentence that appears most relevant to me reads:

‘Whosoever, through his private judgment, willingly and purposely doth openly break the rites and ceremonies of the church to which he belongs, which are not repugnant to the Word of God, and are ordained and approved by common authority, ought to be rebuked openly, that others may fear to do the like, as one that offended against the common order of the church, and wounded the consciences of weak brethren.’”

### III. BISHOP'S RULING OF LAW

Resolution 204 – by which the 2014 New England Annual Conference voted to: (1) prayerfully support clergy brought to trial for solemnizing same gender marriage vows; (2) strongly urge the Board of Ordained Ministry, the Cabinet and Bishop to do all within their power to make the Conference “a place of welcome and refuge for those convicted by church trial courts for presiding over same gender Christian weddings or faithfully responding to the call to ordained ministry”; (3) strongly urge that the next General Conference remove certain prohibitive language from the Book of Discipline or to allow Annual Conferences a “local option” to discern their own criteria in these matters; and (4) strongly urge the New England Annual Conference congregations and clergy to open their hearts, minds and doors to all couples regardless of gender seeking to sanctify their union in holy matrimony – is a resolution that is thoroughly aspirational in nature. None of the actions being urged in any way break the mandates of the church rites and ceremonies noted in Article XXII. If the wording of Resolution 204 is read as I read it, nothing contained within the four corners of Resolution 204 would serve to mandate, negate, ignore, or violate The Book of Discipline, nor is any of it in any way unlawfully prescriptive in nature, and I rule that it is upheld as lawful in its entirety.

### IV. REASONS SUPPORTING BISHOP DEVADHAR'S RULING OF LAW

Resolution 204 calls for four things. First, it calls for the New England Annual Conference to “prayerfully support those clergy who have been brought to trial for solemnizing marriage vows for all properly prepared couples.” Secondly, it “strongly urges” the Board of Ordained Ministry, the Cabinet, and the Bishop to do “all within their power to make New England Annual Conference a place of welcome and refuge” for those convicted by church trial

courts for presiding over same gender weddings. Third, Resolution 204 “strongly urges” the next General Conference to remove certain language that prohibits the ordination and marriage and persons based on gender or to allow Annual Conference a “local option” to discern their own criteria in these matters. Finally, it “strongly urges” New England Annual Conference congregations and clergy to open their “hearts, minds and doors” to all couples regardless of gender orientation, seeking to sanctify their unions in holy matrimony. All four of those components of Resolution 204, as expressly and intentionally worded by its makers, are aspirational, without prescriptive force, and do not serve to negate, ignore or violate a provision of the Discipline, or an act of the General Conference. The aspirational nature of the chosen language can be seen by reference to governing Judicial Council Decisions, as noted below.

Words of aspiration, as identified by Judicial Council Decisions, are usually easy to identify. First, they are non-mandatory. Secondly, they are typically expressions of human hopes, dreams, goals or commitments, all directed towards affirming, supporting or seeking to change certain social policies, institutions or attitudes. For example, a resolution “affirming the sacred worth,” committing to continue to build inclusive communities, and inviting churches and individuals to adopt a statement, was upheld as aspirational. Calls to affirm, commit or invite are lawful according to the Judicial Council. Decision No. 1220 (2012). Similarly, a resolution “reaffirming a historic commitment,” declaring a passionate opposition to continued gender-oriented distinctions, acknowledging a grave pastoral crisis facing the church, stating that while Bishops, boards, agencies and clergy “are bound by the Book of Discipline”, they are also “bound to exercise their consciences and are bound by Jesus’ call to stand with the marginalized and the oppressed”, and finally urging the annual conference to recognize that the individuals conducting certain actions do so “contrary to the historic expression of the annual conference at

the risk of causing great harm to LGBT persons” was also all upheld as aspirational. Language declaring a passionate opposition, stating a belief, and urging recognition, has no prescriptive force and is lawful. Decision 1218 (2012). Similarly, an annual conference resolution calling for a “commendation” for those who have provided nurture to same sex couples, was upheld as “a historical recounting of actions by others, and is aspirational.” Decision 1255 (2013).

By contrast, annual conference resolutions that cross the boundary of lawfulness tend to be far more forceful, prescriptive and commanding. A resolution to “renounce” a legislative act of General Conference was not legal, as it was plainly and openly disobedient to the Discipline (“We renounce the statement that homosexuality is incompatible with Christian teaching...”) Decision 1220 (2012). A resolution informing annual conference of the names of clergy willing to perform same gender unions in violation of the Book of Discipline was also unlawful, again as attempting to negate, ignore, or violate the provisions of the Book of Discipline. Decision 1111 (2009). A resolution which proclaimed that its own stated principles were “a more authentic and truthful representation of the United Methodist Church” implied that it believed the present language of the Book of Discipline was less authentic, less truthful and presumably, therefore, less lawful than its own resolution; and that was considered by the Judicial Council to go beyond a permissible expression of a mere disagreement. Decision 1120 (2009). Another variety of an impermissible resolution is found in Decision 1250. In that Decision, the annual conference attempted to impose a suggested alternative penalty to a church trial court sanction in a manner that violated the trial court’s prerogatives under the Book of Discipline. Obviously, this resolution was by its nature a usurpation of powers not granted to annual conference, and therefore unlawful and unenforceable. Decision 1250 (2013).

Turning now to each item in Resolution 204:

Item #1 of Resolution 204 says that the Conference will keep clergy brought to trial in prayer. Absolutely nothing in Article XXII is violated by praying for someone. This is aspirational in nature. See, Decision 1255 (Commendation for those who have taken a stand for justice).

Item #2 of Resolution 204 calls for the New England Conference to be a welcoming conference and a refuge for those whom the church has convicted. Absolutely nothing in Article XXII is violated by a conference being a welcoming refuge – to ANYONE, and it should be to ALL. This, too, is aspirational in nature. See, Decision 1255.

Item #3 of Resolution 204 urges that actions be taken by General Conference 2016. This is totally appropriate and is part of the process by which General Conference discerns issues. It is anticipated that many petitions concerning this topic will be submitted. Absolutely nothing in Article XXII is violated by urging General Conference to adopt new laws. See, Decision 1255 (Commending) and 1218 (Reaffirming and Recognizing).

Item #4 of Resolution 204 – and probably the main item being asked for a ruling of law, although not specifically stated as such, urges local United Methodist Churches to open their “hearts, minds and doors”. To open one’s heart is to care for people; to open one’s mind is to gather information, learn and discern; to open one’s doors is to let someone in to worship. Not one of these acts, actually announced as United Methodist ways of behaving, is a violation of Article XXII. Additionally, Item # 4 does not prevent nor override the provisions of Par.340.2(3)a of the Book of Discipline of the United Methodist Church, 2012, which gives the

pastor the authority to determine whether or not to perform a marriage ceremony after due counsel of the parties involved and in accordance with the laws of the state and the rules of the United Methodist Church. This applies to all couples seeking to be married in the church and/or by the pastor. Additionally, the encouragement to welcome all couples...is keeping with par.161F which affirms our commitment to be in ministry with and for all persons.

Finally, Item #4 does not urge the sanctification of same gender marriages that would negate, ignore or violate the Book of Discipline. See, Decision 1111 (Offering names of retired clergy who would perform same gender marriages did serve to negate, ignore, or violate Discipline). Rather, Item #4 as worded, merely urges clergy and congregations to open their hearts, minds, and doors to all couples “seeking to sanctify their unions in holy matrimony.” This is aspirational, and does not have the effect of negating, ignoring or violating the Discipline.

However, the Judicial Council may view Item #4 of Resolution 204, like the person who requested the ruling of law, that the words really are urging local congregations to have same-gender marriages in United Methodist churches and that the services be conducted by United Methodist clergy. If this is the interpretation to be given, then Item #4 is a violation of the Discipline as discussed above and should therefore be removed from Resolution 204 as null and void.

## V. CONCLUSION

Resolution 204 - by which the 2014 New England Annual Conference voted to: (1) prayerfully support clergy brought to trial for solemnizing same gender marriage vows; (2) strongly urge the Board of Ordained Ministry, the Cabinet and Bishop to do all within their power to make the Conference “a place of welcome and refuge for those convicted by the church trial courts for presiding over same gender weddings”; (3) strongly urge that the next General

Conference remove certain prohibitive language from the Book of Discipline; and (4) strongly urge the New England Annual Conference congregations and clergy to open their hearts, minds and doors to all couples regardless of gender orientation - is a resolution that is thoroughly aspirational in nature. None of the actions being urged in any way break the mandates of the church rites and ceremonies noted in Article XXII. Nothing contained within the four corners of Resolution 204 mandates negating, ignoring or violating the Book of Discipline, nor is any of it in any way unlawfully prescriptive in nature. Resolution 204 of the 2014 New England Annual Conference is upheld as lawful in its entirety.

Respectfully Submitted,

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Sudarshana Devadhar, Bishop  
New England Annual Conference

Date: \_\_\_\_\_