

**RULING OF LAW  
NORTHEASTERN JURISDICTIONAL CONFERENCE**

**Mark J. Webb, Bishop  
August 4, 2016**

**STATEMENT OF FACTS**

On Thursday, July 14, 2016, in regular session of the 2016 Northeastern Jurisdictional Conference, while Bishop Thomas J. Bickerton was presiding, the conference addressed the resolution entitled: "Stop The Church Trials: A Moratorium by Bishops Within the Northeastern Jurisdiction" (**see Exhibit A**).

Bishop Bickerton stated that while the College of Bishops believed the NEJ Conference is the setting to have healthy conversations around these types of challenges as presented by the resolution, their review of the petition also offered some challenges. Their statement was that unless the resolution is amended it is out of order as presented. Bishop Bickerton stated his willingness to receive any amendments or substitutions to make the petition in order.

Amendments were made to the resolution (**see Exhibit B**) and body approved the amended resolution by a vote of 108 to 58.

Bishop Bickerton then announced that that College did not want to hinder the important conversation that had taken place. They completely recognized and acknowledged the pain, various positions, and opinions as the church tries to find ways to be unified. Bishop Bickerton said that he regrettably declared the petition out of order.

Fred Brewington (NY, Lay) stated that at the time Bishop Bickerton made a statement that the matter was improperly before the delegates, it was an unamended, untested, unregulated, and undocumented petition. The petition had changed in its character from the first time than it was now. Fred said that he did not see any conferral or recognize that there was any further research done on whether or not the petition was or was not out of order. As such, given the paragraphs that was cited including paragraphs 27 of the constitution, it mandates that the NEJ care for the evangelistic component of its responsibility as a jurisdiction. He asked as a point of order that the Bishops would consider that before ruling out of order and before the delegates challenge the Chair's decision so that they have that before them.

The College of Bishops met and discussed the matter then Bishop Bickerton reported that the College conducted a thorough review of the resolution, Stop the Church Trials, as amended. He reported that the College discerned that the title is not compatible with the content of the petition. A motion was made and seconded to strike the title. A vote was taken on the amended resolution with the title stricken (**Exhibit C**) and the body supported it by a vote of 111 to 53. The plenary then recessed for dinner.

## **REQUEST FOR A DECISION ON CHURCH LAW**

After the plenary reconvened on the evening of Thursday, July 14, with Bishop Mark J. Webb presiding, the Rev. Dr. Jeffrey Raffauf a clergy delegate of the Jurisdictional Conference from the Eastern Pennsylvania Conference submitted the following request for a Ruling of Law.

I request a Decision of Law regarding the Untitled Resolution and whether it is in order considering Paragraph 20, 523 and 525 of our Book of Discipline as well as Judicial Council Decision 96 and 886 among others.”

By Paragraph 2609.6, I have thirty (30) days to render this decision.

### **JURISDICTION**

The Judicial Council has jurisdiction under paragraphs 51 and 56.3 of the Constitution of The United Methodist Church and paragraph 2609 of the 2012 Book of Discipline as modified by Judicial Council Decision 1244.

### **ANALYSIS AND RATIONAL**

The proposed untitled Resolution concerns the annual conferences’ administration of investigations and trials involving certain aspects of human sexuality. Specifically and in relevant part, it “requests of all CFA’s of the Annual Conferences of the jurisdiction to state that there are no funds available for initiating of investigations and trials based upon the sexual orientation or marital status of faithful United Methodists or involving clergy for conducting same-sex weddings.”

The Judicial Council has had many occasions to address matters involving human sexuality over recent years, setting forth very clear guidelines for permissible action in relation to existing Church Law. Under these guidelines, the Judicial Council has been clear that “[a]n annual conference may adopt a resolution on human sexuality that is aspirational in nature; however, an annual conference may not negate, ignore or violate the Discipline, even when the disagreements are based upon conscientious objections to those provisions.” Decision 1120; see also Decision 1111 (“Annual conferences may not negate, ignore or violate provisions of the Discipline with which they disagree, even when the disagreements are based on conscientious objections to the provisions.”). In addition to not being allowed to directly negate, ignore or violate the Discipline, the Judicial Council has held that annual conferences may not encourage other entities to violate Church law, or discourage the enforcement of Church law. Decisions 1262 and 1292. As a matter of comity and polity, these guidelines apply equally to jurisdictional conferences.

Here, the untitled proposed Resolution is not framed in permissible aspirational terms but, instead, expressly requests annual conferences, through their CFAs, to impose financial controls or, quite possibly, eliminate funding altogether for fair process proceedings involving specific prohibited aspects of human sexuality. The Discipline does not authorize annual conferences to impose financial controls or eliminate funding for fair process proceedings based on the nature of the charges. Rather the Discipline requires annual conferences to expend funds to ensure that all complaint proceedings, including those involving human sexuality, are fair and orderly.

For example, in every Church trial the “presiding officer may have legal counsel, who shall not be the conference chancellor, at the expense of the annual conference holding the trial.” Discipline ¶ 2708[1]. Likewise, the annual conference must produce a “verbatim record of all proceedings ... by stenograph or other appropriate means,” which is a mandated expense and necessary for appellate process. Discipline ¶ 2710[8]. If venue is changed, “the cost of prosecution shall be borne by the conference where the case originated.” Discipline ¶ 2708[4]. And, on appeal, the “expense for counsel for the Church shall be paid by the annual conference.” Discipline ¶ 2716[4]. All of these are expenses that, under the Discipline, are mandatory and must be paid regardless of the charges brought. Neither the CFAs nor the annual conferences have the discretion to impose financial controls or limit the funding for them.

Accordingly, I find that by requesting that the CFAs confirm that the annual conferences have eliminated funding for certain fair process proceedings that cannot be eliminated under the Discipline, the untitled proposed Resolution requests the CFAs and the annual conferences to violate Church law or, alternatively, discourages the enforcement of Church law. Either way, the Resolution would be null, void and of no effect.

I also find that the untitled Resolution is Unconstitutional. Under the Constitution of the United Methodist Church, only the General Conference has the authority to change trial process, including assigning a body within the Church with financial oversight over fair process proceedings. Indeed, the General Conference alone is charged with “provid[ing] a judicial system and a method of judicial procedure for the Church, except as herein provided.” Constitution ¶ 16[7]. Given this broad expression of legislative authority, jurisdictional and annual conferences are preempted from enacting resolutions that would infringe upon the Discipline’s fair and orderly judicial procedures. (Decision 736 [holding that annual conferences “may not adopt provisions in their sexual harassment policies and procedures which ... violate or conflict with fair process”]). Restrictions on fair process funding would also substantially interfere with the constitutionally protected “privileges of our clergy of right to trial by a committee and of appeal,” which cannot be abolished. Constitution ¶ 20. The proposed untitled Resolution would also negate, ignore and violate these provisions in the Constitution.

### **RULING OF LAW**

For these reasons, it is my ruling of law that the untitled Resolution adopted by the Northeastern Jurisdictional Conference on July 14, 2016 is out of order because it requests the CFAs and annual conferences to violate Church law, and negates, ignores and violates the Discipline and Constitution. I also rule that it is Unconstitutional.

## **EXHIBIT A**

### **Stop the Church Trials: A Moratorium by Bishops Within the Northeastern Jurisdiction Petition to the 2016 Northeastern Jurisdictional Conference**

Presented by: Dorothee Benz, New York Annual Conference Carolyn Hardin Engelhardt, New York Annual Conference Vicki Flippin, New York Annual Conference Dorlimar Lebron Malave, New York Annual Conference

Financial Implications: None

WHEREAS, the jurisdictional conference is charged “[t]o promote the evangelistic, educational, missionary, and benevolent interests of the Church...;”

WHEREAS, the jurisdictional conference is charged “[t]o make rules and regulations for the administration of the work of the Church within the jurisdiction...;”

WHEREAS, punitive complaints and prosecutions of persons who are either LGBTQI clergy or have performed same sex weddings have harmed “the evangelistic, educational, and benevolent interests of the Church...” within the Northeastern Jurisdiction;

WHEREAS the Northeastern Jurisdiction should be a place where LGBTQI persons can find safe space, an arena for the expression of and celebration of their individual gifts in service and ministry, enjoy the blessings of family and marriage, and participate fully, openly, and equally in the full life of the church; and

WHEREAS the Northeastern Jurisdiction declares itself to be in solidarity with and in support of LGBTQI lay persons, clergy, candidates for ministry, and their families, and further declared as its sacred duty the protection of the full and equal participation of LGBTQI lay persons, clergy, candidates for ministry, and their families in the life of the church; and

WHEREAS LGBTQI people are finding welcoming communities in the United Methodist Church and in the Northeastern Jurisdiction they are finding clergy, laity and congregations embracing them joyfully as members of the body of Christ, as United Methodists in good standing, and as gifted children of God entitled equally to all the ministries, ceremonies and sacraments of the church; and

WHEREAS our welcoming spirit is harmed by punitive prosecutions that cause younger generations, including LGBTQI individuals, to question their place in a church that practices discrimination while proclaiming its doors to be open; and

WHEREAS despite forty-four years of negative UMC teachings and punitive policies regarding LGBTQI persons and those who minister with and for them, resistance to the denomination’s harsh and discriminatory policies is increasing and taking on new forms, and large numbers of LGBTQI clergy have publicly declared themselves; and

WHEREAS the 2016 General Conference not only failed to overcome this impasse; it was itself brought to crisis by the collision of forces seeking to strengthen the system of discrimination and punishments with forces demanding that the discrimination and the punishments cease; and

WHEREAS in response to that crisis and at the insistence of the General Conference, on Wednesday, May 13 2016, the Council of Bishops responded by presenting to the General Conference a proposal entitled An Offering of a Way Forward From the Council of Bishops; and

WHEREAS An Offering of a Way Forward From the Council of Bishops contains the following statements:

1. We understand that part of our role as bishops is to lead the church toward new behaviors, a new way of being and new forms and structures which allow a unity of our mission of “making disciples of Jesus Christ for the transformation of the world” while allowing for differing expressions as a global church.
2. We recommend that the General Conference defer all votes on human sexuality and refer this entire subject to a special Commission, named by the Council of Bishops, to develop a complete examination and possible revision of every paragraph in our Book of Discipline regarding human sexuality. We continue to hear from many people on the debate over sexuality that our current Discipline contains language which is contradictory, unnecessarily hurtful, and inadequate for the variety of local, regional and global contexts. We will name such a Commission to include persons from every region of our UMC, and will include representation from differing perspectives on the debate. We commit to maintain an on-going dialogue with this Commission as they do their work, including clear objectives and outcomes. Should they complete their work in time for a called General Conference, then we will call a two- to three-day gathering before the 2020 General Conference.
3. We will continue to explore options to help the church live in grace with one another – including ways to avoid further complaints, trials and harm while we uphold the Discipline. We will continue our conversation on this matter and report our progress to you and to the whole church.

and;

WHEREAS the 2016 General Conference adopted the proposal of the Bishops, and the process outlined therein is unfolding; and WHEREAS the initiation of or continuation of punitive actions against LGBTQI persons seeking to live as equal members of the United Methodist Church or the initiation of or continuation of punitive actions against clergy who minister with LGBTQI persons serves to inflict further harm, as has been acknowledged by the Council of Bishops in An Offering of a Way Forward, and to poison the atmosphere for the dialogue that has been initiated;

WHEREAS, The Book of Discipline of The United Methodist Church (2012) prescribes that “Bishops elected by or administering in a jurisdictional conference shall be amenable for their conduct to their jurisdictional conference.” ¶ 523, Discipline;

THEREFORE BE IT RESOLVED: the Northeastern Jurisdiction hereby imposes a moratorium upon Bishops within the Northeastern Jurisdiction on initiating and processing of complaints and initiating of investigations and trials based upon the sexual orientation or marital status of faithful United Methodists or involving clergy for conducting same-sex weddings.

## EXHIBIT B

### Stop the Church Trials: A Moratorium by Bishops Within the Northeastern Jurisdiction

Presented by: Dorothee Benz, New York Annual Conference Carolyn Hardin Engelhardt, New York Annual Conference Vicki Flippin, New York Annual Conference Dorlimar Lebron Malave, New York Annual Conference

Financial Implications: None

WHEREAS, the jurisdictional conference is charged “[t]o promote the evangelistic, educational, missionary, and benevolent interests of the church....;”

WHEREAS, the jurisdictional conference is charged “[t]o make rules and regulations for the administration of the work of the Church within the jurisdiction...;”

WHEREAS, punitive complaints and prosecutions of persons who are LGBTQI clergy or have performed same sex weddings have harmed “the evangelistic, educational, and benevolent interests of the Church...” within the Northeastern Jurisdiction;

WHEREAS the Northeastern Jurisdiction should be a place where LGBTQI persons can find safe space, an arena for the expression of and celebration of their individual gifts in service and ministry, enjoy the blessings of family and marriage, and participate fully, openly and equally in the full life of the church; and

WHEREAS the Northeastern Jurisdiction declares itself to be in solidarity with and in support of LGBTQI lay persons, clergy, candidates for ministry, and their families, and further declared as its sacred duty the protection of the full and equal participation of the LGBTQI lay persons, clergy candidates for ministry, and their families in the life of the church; and

WHEREAS LGBTQI people are finding welcoming communities in the United Methodist Church and in the Northeastern Jurisdiction they are finding clergy, laity and congregations embracing them joyfully as members of the body of Christ, as United Methodists in good standing and as gifted children of God entitled equally to all the ministries, ceremonies and sacraments of the church; and

WHEREAS our welcoming spirit is harmed by punitive prosecutions that cause younger generations, including LGBTQI individuals to question their place in a church that practices discrimination while proclaiming its doors to be open; and

WHEREAS despite forty-four years of negative UMC teachings and punitive policies regarding LGBTQI persons and those who minister with and for them, resistance to the denomination’s harsh and discriminatory policies is increasing and taking on new forms, and large numbers of LGBTQI clergy have publicly declared themselves; and

WHEREAS the 2016 General Conference not only failed to overcome this impasse; it was itself brought to crisis by the collision of forces seeking to strengthen the system of discrimination and punishments with forces demanding that the discrimination and the punishments cease; and

WHEREAS in response to that crisis and at the insistence of the General Conference, on Wednesday, May 18, 2016, the Council of Bishops responded by presenting to the General Conference a proposal entitled *An Offering of a Way Forward From the Council of Bishops*; and

WHEREAS *A Offering for a Way Forward From the Council of Bishops* contains the following statements:

1. We understand that part of our role as bishops is to lead the church toward new behaviors, a new way of being and new forms of structures which allow a unity of our mission of “making disciples of Jesus Christ for the transformation of the world” while allowing for differing expressions as a global church.
2. We recommend that the General Conference defer all votes on human sexuality and refer this entire subject to a special Commission, named by the Council of Bishops, to develop a complete examination and possible revision of every paragraph in our Book of Discipline regarding human sexuality. We continue to hear from many people on the debate over sexuality that our current Discipline contains language which is contradictory, unnecessarily hurtful, and inadequate for the variety of local, regional and global contexts. We will name such a Commission to include persons from every region of our UMC, and will include representation from differing perspectives on the debate. We commit to maintain an on-going dialogue with this Commission as they do their work, including clear objectives and outcomes. Should they complete their work in time for a called General Conference, then we will call a two-to three-day gathering before the 2020 General Conference.
3. We will continue to explore options to help the church live in grace with one another—including ways to avoid further complaints, trials and harm while we uphold the Discipline. We will continue our conversations on this matter and report our progress to you and the whole church.

And,

WHEREAS the 2016 General Conference adopted the proposal of the Bishops, and the process outline therein is unfolding; and

WHEREAS the initiation of or continuation of punitive actions against LGBTQI persons seeking to live as equal members of the United Methodist Church or the initiation of or continuation of punitive actions against clergy who ministers with LGBTQI persons serves to inflict further harm, as has been acknowledged by the Council of Bishops in *An Offering of a Way Forward*, and to poison the atmosphere for the dialogue that has been initiated;

WHEREAS, *The Book of Discipline of The United Methodist Church (2012)* prescribes that “Bishops elected by our administering in a jurisdictional conference shall be amenable for their conduct to their jurisdictional conference.” Par. 523, *Discipline*; and paragraph 525 prescribes that the Jurisdictional Conference shall have powers and duties as described in the Constitution, and paragraph 27, Article V of the Constitution mandates that the jurisdictional conferences shall have the following powers and duties and such others as may be conferred by the General Conference: 1. To promote the evangelistic, educational, missionary and benevolent interests of the church and 5: To make rules and regulations for the administration of the work of the church within the jurisdiction subject to such powers as have been or shall be vested in the General Conference. (Fleck amendment. Yes – 109; No – 54)

THEREFORE BE IT RESOLVED: ~~the Northeastern Jurisdiction hereby imposes a moratorium upon Bishops within the Northeastern Jurisdiction on initiating and processing of complaints and~~ **The Northeastern Jurisdiction hereby requests of all CFA’s of the Annual Conferences of the jurisdiction to state that there are no funds available for (Reist amendment. Yes – 96; No – 64. ) initiating of investigations and trials based upon the sexual orientation or marital status of faithful United Methodists or involving clergy for conducting same-sex weddings and will promote the evangelistic, educational, missionary and benevolent interests of the church. (Fleck amendment. Yes – 109; No – 54)**

## EXHIBIT C

~~Stop the Church Trials: A Moratorium by Bishops Within the Northeastern Jurisdiction~~ (motion and seconded to strike title Yes -111; No -53)

Presented by: Dorothee Benz, New York Annual Conference Carolyn Hardin Engelhardt, New York Annual Conference Vicki Flippin, New York Annual Conference Dorlimar Lebron Malave, New York Annual Conference

Financial Implications: None

WHEREAS, the jurisdictional conference is charged “[t]o promote the evangelistic, educational, missionary, and benevolent interests of the church....;”

WHEREAS, the jurisdictional conference is charged “[t]o make rules and regulations for the administration of the work of the Church within the jurisdiction...;”

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WHEREAS LGBTQI people are finding welcoming communities in the United Methodist Church and in the Northeastern Jurisdiction they are finding clergy, laity and congregations embracing them joyfully as members of the body of Christ, as United Methodists in good standing and as gifted children of God entitled equally to all the ministries, ceremonies and sacraments of the church; and

WHEREAS our welcoming spirit is harmed by punitive prosecutions that cause younger generations, including LGBTQI individuals to question their place in a church that practices discrimination while proclaiming its doors to be open; and

WHEREAS despite forty-four years of negative UMC teachings and punitive policies regarding LGBTQI persons and those who minister with and for them, resistance to the denomination’s harsh and discriminatory policies is increasing and taking on new forms, and large numbers of LGBTQI clergy have publicly declared themselves; and

WHEREAS the 2016 General Conference not only failed to overcome this impasse; it was itself brought to crisis by the collision of forces seeking to strengthen the system of discrimination and punishments with forces demanding that the discrimination and the punishments cease; and

WHEREAS in response to that crisis and at the insistence of the General Conference, on Wednesday, May 18, 2016, the Council of Bishops responded by presenting to the General Conference a proposal entitled *An*



*Offering of a Way Forward From the Council of Bishops; and*

WHEREAS A *Offering of a Way Forward From the Council of Bishops* contains the following statements:

1. We understand that part of our role as bishops is to lead the church toward new behaviors, a new way of being and new forms of structures which allow a unity of our mission of “making disciples of Jesus Christ for the transformation of the world” while allowing for differing expressions as a global church.
2. We recommend that the General Conference defer all votes on human sexuality and refer this entire subject to a special Commission, named by the Council of Bishops, to develop a complete examination and possible revision of every paragraph in our Book of Discipline regarding human sexuality. We continue to hear from many people on the debate over sexuality that our current Discipline contains language which is contradictory, unnecessarily hurtful, and inadequate for the variety of local, regional and global contexts. We will name such a Commission to include persons from every region of our UMC, and will include representation from differing perspectives on the debate. We commit to maintain an on-going dialogue with this Commission as they do their work, including clear objectives and outcomes. Should they complete their work in time for a called General Conference, then we will call a two-to three-day gathering before the 2020 General Conference.
3. We will continue to explore options to help the church live in grace with one another—including ways to avoid further complaints, trials and harm while we uphold the Discipline. We will continue our conversations on this matter and report our progress to you and the whole church.

And,

WHEREAS the 2016 General Conference adopted the proposal of the Bishops, and the process outline therein is unfolding; and

WHEREAS the initiation of or continuation of punitive actions against LGBTQI persons seeking to live as equal members of the United Methodist Church or the initiation of or continuation of punitive actions against clergy who ministers with LGBTQI persons serves to inflict further harm, as has been acknowledged by the Council of Bishops in *An Offering of a Way Forward*, and to poison the atmosphere for the dialogue that has been initiated;

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THEREFORE BE IT RESOLVED: ~~the Northeastern Jurisdiction hereby imposes a moratorium upon Bishops within the Northeastern Jurisdiction on initiating and processing of complaints and~~ **The Northeastern Jurisdiction hereby requests of all CFA’s of the Annual Conferences of the jurisdiction to state that there are no funds available for (Reist amendment. Yes – 96; No – 64. ) initiating of investigations and trials based upon the sexual orientation or marital status of faithful United Methodists or involving clergy for conducting same-sex weddings and will promote the evangelistic, educational, missionary and benevolent interests of the church. (Fleck amendment. Yes – 109; No – 54)**