

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1444

[Docket No. 1021-23]

IN RE: Petition for Declaratory Decision from the Council of Bishops on Questions Related to the Separation of an Annual Conference Within the United States from The United Methodist Church.

DIGEST

Under our constitutional polity of connectionalism, the question of annual conference separation from The United Methodist Church is a distinctly connectional matter. The General Conference is the only body that can regulate the process and set the conditions for an annual conference in the United States to leave the United Methodist connection. While an annual conference has the reserved right to vote on disaffiliation, the General Conference must first enact enabling legislation to establish the right to withdraw but has not done so for conferences in the United States. Decision 1366 cannot be construed as creating a self-executing right for an annual conference to separate because the Judicial Council has no legislative authority. There is no basis in Church law for any annual conference to adopt stopgap policies, pass resolutions, take a vote, or act unilaterally for the purpose of removing itself from The United Methodist Church. Absent General Conference legislation, any vote and actions taken by an annual conference to separate are unconstitutional, null and void, and of no legal force or effect. Since ¶ 572 applies only to annual conferences outside the United States, the process and requirements set forth therein cannot be viewed as minimum standards for any annual conference to separate from The United Methodist Church.

STATEMENT OF FACTS

At their meeting of March 4, 2022, the Council of Bishops [hereinafter Petitioner] voted to submit a Petition for Declaratory Decision with the following questions:

Question 1: May an annual conference of the United Methodist Church (“UMC”) within the United States separate from the UMC under the Discipline?

Question 2: Since ¶ 572 of the Discipline already provides a process for annual conferences outside the United States to separate from the UMC “to become an autonomous Methodist, affiliated autonomous Methodist, or affiliated united church,” should the process and requirements of ¶ 572 be viewed as minimum standards devised by the General Conference for any annual conference to separate from the UMC under the holding in Decision 1366?

Question 3: Pursuant to Judicial Council Decision 1366, must the General Conference first act to establish the procedure and requirements for separation of an annual conference within the United States before a vote can be taken by the annual conference to separate from the UMC?

Question 4: If an annual conference within the United States takes a vote to separate from the UMC but the General Conference has not established the procedure and requirements for separation of an annual conference, what is the effect of the vote and what authority, if any, does the annual conference have to act on the vote and legally effect a separation?

Question 5: If an annual conference within the United States may separate from the UMC, what are the requirements under the Discipline for a separation, including, but not limited to:

(a) the bodies (such as jurisdictional conferences and other annual conferences in addition to the separating annual conference) that must vote to approve the separation and the required vote(s);

(b) matters of church law related to use of the name United Methodist, or any part thereof, use of the UMC Cross & Flame or other intellectual property, including the United Methodist Hymnal;

(c) maintenance of retirement benefits and compliance with civil law and the requirements of WESPATH concerning the same;

(d) compliance with any applicable state law requirements, including such requirements related to foundations, credit unions, title to real property, and the annual conference’s articles of incorporation; and

(e) disposition of property held in trust for the denomination pursuant to the UMC’s trust clause, such as endowments, designated funds (including funds for specific ministries of the UMC), cemetery associations, camps, historical records and archives, and any other property held in the name of the separating annual conference?

Question 6: Must any separation of an annual conference from the UMC provide dissenting members, local churches, districts, clergy, and affiliated entities such as camps, Wesley Foundations, and health facilities an option to remain a part of the UMC and join another annual conference?

The record shows that, to date, two annual conferences in the United States (South Georgia and Northwest Texas) are preparing disaffiliation resolutions to be passed at their next session, thus rendering this matter a case in controversy. *See* Petitioner’s Reply Brief, Exhibits 1 and 2. In other words, the issues presented by Petitioner are real and actual, *not* hypothetical, speculative, or imaginary.

Forty-eight interested parties and *amici curiae* filed separate and joint briefs with the Judicial Council for this case.

Jurisdiction

The Judicial Council has jurisdiction pursuant to ¶ 2610.1 of *The Book of Discipline 2016* [hereinafter the *Discipline*].

Analysis and Rationale

Question 1

Connectionalism permeates the life, mission, and ministry of The United Methodist Church and has long been recognized as “a distinctive attribute of Methodism,” signifying “that our system of polity is the opposite of congregationalism.” JCD 139. *The Discipline* describes connectionalism as “multi-leveled, global in scope, and local in thrust” and “a vital web of interactive relationships.” ¶ 132. Not only is connectionalism ‘a distinctive attribute of Methodism’ but also a bedrock principle of United Methodist constitutional polity: “The Constitution clearly provides that the principle of connectionalism should be always primary in any organizational structure of The United Methodist Church.” JCD 411. “The system of government, with which The United Methodist Church constitutes itself,” said the Judicial Council in JCD 1312, “is based on an interconnected set of authorities.” More than simply a word in the shared vocabulary of United Methodist Christians around the world, connectionalism is the universal thread out of which the temporal and spiritual fabric of the Church is providentially woven, creating the relational ligaments that wonderfully link and sustain the

diverse parts of “the community of all true believers under the Lordship of Christ.” Const., Preamble.

Separation has serious ramifications not only for the departing annual conference but also entities and persons outside its boundaries because it is a dramatic departure from connectionalism—the ‘vital web of interactive relationships’ among the people of The United Methodist Church. At stake here is the unity of the Church. The question of annual conference withdrawal from The United Methodist Church is a connectional matter and requires a churchwide legislative solution primarily because General Conference has “full legislative power over all matters distinctively connectional.” Const. ¶ 16.

In JCD 215, the Judicial Council ruled that “the General Conference of The Methodist Church is the only body of The Methodist Church that has the power to grant autonomy to an overseas Annual Conference...that has been historically an integral part of The Methodist Church.” This statement alone is remarkable for its relevancy to the issue at hand. But the Judicial Council went further, stating that

such autonomy can be granted only through enabling legislation enacted by the General Conference of The Methodist Church setting forth such terms and conditions as the General Conference deems to be appropriate, so long as such legislation is in harmony with the constitutional power vested in the General Conference. JCD 215 [emphasis added].

Autonomy—that is *separation*—of an annual conference outside the United States can be granted and effectuated only through enabling legislation passed by the General Conference. What is constitutionally true for ‘an overseas annual conference’ regarding disaffiliation is also true for an annual conference in the United States because “the principle of connectionalism should be always primary in any organizational structure of The United Methodist Church.” JCD 411. The historic importance underlying the question of annual conference disaffiliation calls for connectional legislation enacted by the General Conference to create a pathway for an orderly departure of annual conferences. However, as shown in the record, General Conference did not pass Petition 90041 (Traditional Plan, ¶ 2801.9) or *any* legislation permitting the disaffiliation of U.S. annual conferences. Consequently, there is no basis or process in Church law—understood as the entire body of constitutional, disciplinary, and decisional laws in effect at the time of this ruling—for an annual conference in the United States to withdraw or separate from The United Methodist Church.

Answer to Question 1: **NO**.

Question 2

The language and placement of ¶ 572 in *The Discipline* (Chapter Four, Section V) leave no doubt that General Conference’s intent was to create a process for “conferences outside the United States...to become an autonomous Methodist, affiliated autonomous Methodist, or affiliated united church.” ¶ 572 [emphasis added]. The few cases in which the Judicial Council was asked to interpret this provision, dealt exclusively with central conference matters. *See* JCD 548, 1062. Clearly, the process outlined in ¶ 572 applies only to conferences outside the United States. There is no parallel provision or process for U.S. annual conferences. Whether or not this was intended, the judiciary must take care to not encroach on the constitutional prerogatives of the legislature. Therefore, we hold that the process and requirements of ¶ 572 cannot be viewed as minimum standards for any annual conference to separate from The United Methodist Church.

Answer to Question 2: **NO**

Question 3

Contrary to the assertions in some *amici* briefs, the often-quoted language from JCD 1366 on pp. 43-44 does **not** grant annual conferences a unilateral right to disaffiliate **without, apart from, or prior to** enabling legislation passed by the General Conference. All that statement did was provide an analytical framework for determining the constitutionality of a proposed legislation (Traditional Plan, Petition 90041, ¶ 2801.9), which—had it been enacted by the General Conference in 2019—would have “regulate[d] the process and set the conditions for an annual conference to leave The United Methodist Church.” JCD 1366 at 43. The frequently misconstrued passage in JCD 1366 at 43-44:

An annual conference has the right to vote to withdraw from The United Methodist Church. ... the annual conference, having “reserved to it...such other rights as have not been delegated to the General Conference under the Constitution,” exercises autonomous control over the agenda, business, discussion, and vote on the question of withdrawal. [emphases added]

means exactly what it says: an annual conference has *the right to vote*. However, the right to vote is constitutionally distinct from *the right to withdraw*—the former being a ‘reserved right’ under ¶ 33 and the latter a right granted and regulated exclusively by the General Conference through

exercise of its ‘full legislative powers’ under ¶ 16.3. Although ‘voting on disaffiliation’ is not enumerated under the power headings of ¶ 16 or elsewhere in the Constitution and is, therefore, a reserved right, the right to vote is subject to and conditioned on the right to withdraw, which needs General Conference action to be implemented. As stated in JCD 1366 at 43 [emphasis added], “This reserved right...is not absolute but must be counterbalanced by the General Conference’s power to ‘define and fix the powers and duties of annual conferences’ in ¶ 16.3” not the least because the Constitution *qualifies* this reserved right with the concluding sentence: “[The annual conference] shall discharge such duties and exercise such powers as the General Conference under the Constitution may determine.” Const. ¶ 33.

Ours is a system of divided powers, checks and balances, as the Judicial Council underscored in JCD 1312:

The system of government, with which The United Methodist Church constitutes itself, is based on an interconnected set of authorities. The system balances and constrains the power exercised by each of the authorities individually and by all connectionally. ... In The United Methodist Church, no single entity has authority for all ecclesial matters. Each authority center is balanced or constrained by other authorities. [emphases added]

This was echoed later in JCD 1424 within the context of disaffiliation of local churches under ¶ 2553, in which the Judicial Council held, “The Constitution established a sound balance of powers between the General Conference and annual conferences, ensuring that no single body has absolute authority in matters of disaffiliation.” JCD 1424, *aff’d*, JCD 1425 [emphasis added]. This is the correct and *only* solution permitted in our system of government under which constitutional bodies and ecclesial authorities work *interdependently*, not independently. Precisely, this harmonizing and balancing view of ¶¶ 16.3 and 33 demands that the General Conference exercise its constitutional powers to establish and regulate the right to withdraw **before** annual conferences can exercise their reserved right to vote on disaffiliation.

Answer to Question 3: **YES.**

QUESTION 4

The annual conference, though undoubtedly “the basic body in the Church,” Const. ¶ 33, is not a separate entity existing by and for itself but a vital part of the global connection and, thus, subject to the principle of connectionalism, as stated by the Judicial Council: “We interpret

the Annual Conference as a unit in our connectionalism.” JCD 196. Being part of the United Methodist connection entails specifically that “in exercising its rights, an Annual Conference cannot take an action which negates General Conference legislation,” JCD 823, that “annual conferences may not legally negate, ignore, or violate provisions of the *Discipline* with which they disagree,” JCD 886, and that “no Annual Conference may adopt any rule or policy that is in conflict with the *Discipline*.” JCD 1105. This connectional obligation has also been described in terms of “the principle of legality,” which “means that all individuals and entities are equally bound by Church law” and that “[a]ll decisions and actions by official bodies and their representatives must be based on and limited by the Constitution and *The Discipline*,” a constitutional tenet that also applies to annual conferences. JCD 1366.

Absent General Conference enabling legislation, an annual conference may not adopt stopgap policies, pass resolutions, take a vote, or act unilaterally for the purpose of removing itself from the United Methodist connection. There is no basis in Church law for *any* such annual conference action. If an annual conference takes a vote to disaffiliate before the General Conference enacts legislation “setting forth such terms and conditions as the General Conference deems to be appropriate,” JCD 215, the annual conference acts without authority and contrary to the principles of connectionalism and legality by encroaching upon General Conference’s full legislative powers under the Constitution.

Answer to Question 4: **The vote and any actions taken by the annual conference are unconstitutional, null and void, and of no legal force or effect.**

QUESTION 5

This question contains a conditional clause (“If an annual conference within the United States may separate from the UMC...”) that was at issue in Question 1 above.

The answer to that question was **NO**. Therefore, Question 5 is moot.

QUESTION 6

Any separation undertaken without, apart from, or prior to enabling legislation passed by the General Conference is contrary to Church law. *See* Questions 3 and 4.

Answer to Question 6: **Any such separation is unconstitutional, null and void, and of no legal force or effect.**

Decision

Under our constitutional polity of connectionalism, the question of annual conference separation from The United Methodist Church is a distinctly connectional matter. The General Conference is the only body that can regulate the process and set the conditions for an annual conference in the United States to leave the United Methodist connection. While an annual conference has the reserved right to vote on disaffiliation, the General Conference must first enact enabling legislation to establish the right to withdraw but has not done so for conferences in the United States. Decision 1366 cannot be construed as creating a self-executing right for an annual conference to separate because the Judicial Council has no legislative authority. There is no basis in Church law for any annual conference to adopt stopgap policies, pass resolutions, take a vote, or act unilaterally for the purpose of removing itself from The United Methodist Church. Absent General Conference legislation, any vote and actions taken by an annual conference to separate are unconstitutional, null and void, and of no legal force or effect. Since ¶ 572 applies only to annual conferences outside the United States, the process and requirements set forth therein cannot be viewed as minimum standards for any annual conference to separate from The United Methodist Church.

May 10, 2022

SEPARATE OPINION

I write separately because although I concur with the ultimate holding I approach the issue differently. First and foremost, there is not now – nor has there ever been – a "reserved right" to "disaffiliation" by any conference or regional body. Whether an annual conference is located in a Central Conference or in the United States there has never been a right, nor "reserved right", to "disaffiliate". It is contrary to our polity and history.

I fear that constituents may be further confused, and reliance misplaced, by phrase in the majority opinion, "**What is constitutionally true** for 'an overseas annual conference' **regarding disaffiliation** is also true for an annual conference in the United States because..." There is no "disaffiliation" for "an overseas conference. Unfortunately, 1366 predicated a portion of its analysis on a misunderstanding or a misapplication of ¶572 in that a Central Conference becoming "autonomous" under ¶ 572 was akin to an annual conference becoming "disaffiliated" within the meaning of the legislation pending at the 2019 Special Session of General Conference.

The actual process that the Council was predicating its rationale upon was that of becoming autonomous. The *nature* of that process is not at all similar to the process for a local church's disaffiliation. Hence, we should avoid any attempt to analogize a Central Conference becoming autonomous under ¶572 from that of a local church's disaffiliation.

Also, the majority opinion is framed in such a way that it may signal that disaffiliation of an annual conference *is* permissible under our Constitution and polity. I fear that some will form the belief that with the correct enabling legislation the General Conference can legislate a process of annual conference "disaffiliation" without any constitutional amendments. I submit that such a belief would be misplaced.

The United Methodist Church in the United States, and its predecessor bodies, has a long history of building institutions and churches in many regions of the world. Our apportionment dollars and special giving enabled these efforts through the Board of Global Ministries. The Discipline also evidences the recognition that once a regional body has grown strong and self-sufficient, it may desire to exist under its own authority rather than perceiving itself as being controlled by a denomination which is administered by agencies located in the United States. When that occurs, the Discipline sets forth an explicit process that permits the regional church to become autonomous. The process for becoming autonomous is a process of engagement. It also entails procedures to make certain that sufficient resources and structures are in place so as to ensure the on-going Methodist mission and ministry of the former United Methodist region once it become autonomous.

Becoming an autonomous Methodist Church requires a process of dedicated engagement wherein all stakeholders must be in support of the regional church assuming full governing authority. The process of becoming autonomous is *not* "disaffiliation" wherein a regional body simply leaves the denomination and takes the assets that were provided through apportionment dollars and special giving and moves into the future without any conditions or accountability. Nor is it akin to the process that was made available to local church by the 2019 Special Session of General Conference. It is significantly different in virtually all aspects.

Every *Discipline*, since the predecessor denominations' merger in 1968, has contained a section that specifies the steps and process for regional United Methodist Conferences outside of the United States to become autonomous. Given the continued recitation of the dictum in 1366, I believe that it is important to understand the nature of "becoming autonomous" so as to distinguish it from "disaffiliation."

Our current *Discipline* provides:

Becoming An Autonomous Methodist,
Affiliated Autonomous Methodist,
or Affiliated United Church from Central Conferences

¶ 572. When conferences outside the United States that are parts of The United Methodist Church desire to become an autonomous Methodist, affiliated autonomous Methodist, or affiliated united church, approval shall first be secured from the central conference involved and this decision be ratified by the annual conferences within the central conference by two-thirds majority of the aggregate votes cast by the annual conferences.

1. The conference shall prepare a historical record with reasons why affiliation and/or autonomy is requested and shall consult with the Standing Committee on Central Conference Matters (¶ 2201) on proceedings for affiliation and/or autonomy.

2. The Standing Committee on Central Conference Matters and the conferences involved shall mutually agree on the confession of faith and the constitution of the new church. These shall be prepared with care and shall be approved by the conferences.

3. Preparation of its Discipline is the responsibility of the conference(s) desiring affiliation and/or autonomy.

4. Upon recommendation of the Standing Committee on Central Conference Matters, when all disciplinary requirements for affiliated and/or autonomous relationship have been met, the General Conference through an enabling act shall approve of and grant permission for the conference(s) involved to become an autonomous Methodist, affiliated autonomous Methodist, or affiliated united church.

5. Then the central conference involved shall meet, declare the present relationship between The United Methodist Church and the conference(s) involved dissolved, and reorganize as an autonomous Methodist, affiliated autonomous Methodist, or affiliated united church in accordance with the enabling act granted by the General Conference. The Standing Committee on Central Conference Matters shall assist in this process and, when the plans are consummated, report to the Council of Bishops. The proclamation of affiliated and/or autonomous status shall then be signed by the president of the Council of Bishops and the secretary of the General Conference.

6. A plan of cooperation shall be developed in accordance with ¶ 571.4.

We need to remain cognizant of the difference between a Central Conference becoming "autonomous" and a local church becoming "disaffiliated".

Beth Capen
May 10, 2022