

**Position Paper Defending Religious Liberty and Free Exercise of Conscience by All
Citizens, In Response to Resolution 2016-18**

Presented at the Eastern PA Conference Bishop's Dialog on Religious Freedom Resolution

Our United Methodist Social Principles contains the following statement on Church-State Relations and religious freedom. “The United Methodist Church has for many years supported the separation of church and state. In some parts of the world this separation has guaranteed the diversity of religious expressions and the freedom to worship God according to each person’s conscience. ... The state should not use its authority to promote particular religious beliefs (including atheism).” (*BOD 2016: The Social Principles*, ¶164 *V.C: The Political Community, Church and State Relations*).

Notice four important principles in our position on Church-State relations. We emphasize: 1) the importance of freedom of religion, 2) honoring freedom of conscience, 3) the importance of protecting diverse religious expressions, and 4) admonishing the State to remain within its limits so that it does not use its power to enforce particular religious beliefs, including atheism.

All four of these principles are in danger of being violated if the agenda of Resolution 2016-18 titled “Religious Freedom Resolution” were to go forward. The resolution, if passed, would encourage the State to violate both the religious freedom and the freedom of conscience of many citizens. Freedom of religion means not simply freedom to believe as a person wishes, but also freedom to practice according to the dictates of a person’s religious conscience; hence, the direct connection between the two freedoms.

The founders of the United States rightly recognized the importance of these freedoms in our nation’s founding principles, enshrined as the 1st Amendment in the Bill of Rights. Our Nation’s laws on *conscientious objection* in military service embody the principle. The law allows an individual to refuse to bear arms in wartime based on religious conscience. This appears at first glance to favor the rights of the individual over the rights and needs of others or of the community. The law recognizes the potential conflict of these needs and rights, yet still makes room for actions based on individual religious conviction. By protecting individual religious freedom – not merely to believe but to act on those beliefs – the State enables something unexpected to happen within the community.

The recent movie “Hacksaw Ridge” graphically illustrates what may happen when someone’s independent religious conviction is honored and protected, despite apparent conflict. The movie recounts the story of American Army Medic Desmond T. Doss, who served during the Battle of Okinawa in WWII. Doss refused to carry a gun or kill people. His individual religious conscience was at first terribly counter-intuitive to his fellow soldiers, who believed him to be a coward. His convictions ended up being the source of their salvation. Doss used his strength in the May 1945 US assault on Okinawa to rescue 75 wounded soldiers stranded under heavy enemy fire. He rescued them one at a time, praying all the while to rescue “just one more.” His heroic deeds became a source of inspiration for the entire infantry division, who then regrouped and were ultimately able to take the ridge. Doss became the first conscientious objector to receive the Medal of Honor.

In another more recent defense of religious conscience protections, the Supreme Court upheld in its 2014 *Burwell vs. Hobby Lobby Decision* the right of a closely-held business to run its health-care benefits program according to the dictates of the owners’ religious convictions. The owners believed for religious reasons that abortion was wrong, and did not want to provide a health care plan to their employees that might subsidize such services, as required by the

contraceptive mandate of the Affordable Care Act. The High Court upheld the owners' religious right to refuse to provide such services, against the State's claim that the law allowed them to enforce the subsidy of those services. The Court ruled the State was placing an undue burden on the owners of Hobby Lobby to provide such services, especially since there were less restrictive means of furthering the law's interest. These examples highlight the benefits of State protection of religious conscience.

Resolution 2016-18 wants to do away with that protection in the case of business owners who do not want to provide services to LGBT weddings or related events because of their religious convictions. The Resolution claims that denying such services amounts to wrongful discrimination against a protected class, should not be allowed, and is not even a legitimate religious conscience issue. It goes so far as to call such religious conviction "bigotry." Does a business owner's religious conviction not to provide services for same-sex wedding practices amount to unlawful discrimination and bigotry?

There are two flawed premises in the Resolution which help us answer that question. First, that equal protection of every person requires equal protection of every practice; and second, that religious objection to LGBT practices is not a legitimate religious objection. Let's start by looking at the confusion of persons and practices in the Resolution's treatment of discrimination. The Resolution asks the Conference and the State to treat conscientious objection to LGBT practices as unlawful discrimination against a protected class, and not to treat it as a matter of religious freedom. Our United Methodist Church teaches that basic human and civil rights should be available to all persons, regardless of age, gender, marital status, or sexual orientation.¹ The Church also affirms the sacred personhood of every human being, including persons who self-identify as LGBT.² At the same time, the Church teaches we do not condone the *practice* of homosexuality and consider this *practice* to be incompatible with Christian teaching.³

Notice the extremely important distinction between persons and practices. We affirm basic rights for *all persons*, but we *do not affirm the unilateral right of persons to practice all behaviors*. We oppose discrimination against persons *as* persons, regardless of how they are identified; we uphold the right to discriminate against certain practices and behaviors. This distinction between persons and practices is at the heart of this matter. Recognizing and protecting the basic rights of all persons before the law does not require acceptance of every practice or behavior by those persons.

Think about it! We discriminate against behaviors and practices all the time, and to the good of ourselves and our people. Our Safe-Sanctuaries policy requires us to discriminate based on practices that disqualify a person from serving with our children, youth and vulnerable adults. Businesses discriminate all the time against practices they find objectionable, as in "No shoes, No shirt, No service." There are many religious business practices which demonstrate the same principle. We grant religious freedom to Jewish Kosher and Muslim Halal butchers. They operate their businesses by the bounds of their religious conscience. We do not expect Kosher butchers to bend their rules to accommodate Gentile wedding practices. The Muslim Halal caterer may decline to serve at a Hindu Religious Ceremony based on their religious conscience. They do not have to support a practice with which they disagree. The Christian Custom T-Shirt company has the right to refuse to provide content which it deems objectionable, such as a request to print blasphemy on a T-shirt.

¹ ¶161.II.G: *The Nurturing Community – Human Sexuality*

² ¶162.III.J: *The Social Community – Equal Rights Regardless of Sexual Orientation*

³ ¶161.II.G: *The Nurturing Community – Human Sexuality*

Should any of these businesses not have the privilege of excluding practices based on their religious convictions? In all these cases, there is legitimate discrimination against practices, while the rights of persons *as persons* are not infringed. The protection of religious conscience in business dealings is therefore not unusual or without precedent. It is in the State's interest to defend such religious freedom in business, so that we are all able to live together in mutual respect despite the diversity of our religious beliefs.

Let's apply the reasoning to an example closer to the point. Our Church teaches that marriage is for one man and one woman. Consider what would happen if polygamy were legalized and turned into a civil right by the State? What if a man came and asked your pastor to oversee his marriage to a second wife, while still married to his first wife? Many clergy would refuse to officiate at a such a polygamous marriage ceremony, even if legal, because they would continue to believe the *practice* of polygamy is wrong. Their religious judgment might be deeply informed by careful study, prayer, and compassionate deliberation about the things that lead to polygamy. Their conscientious refusal to officiate need not be arbitrarily prejudiced, bigoted, or directed at persons, per se, but at practices, even though the man who wants two wives might feel otherwise. The point is that *it is legitimate to discriminate against practices* for religious reasons.

Let's consider this polygamy example further. The clergy believes certain types of wedding practices are contrary to God's will. If a clergy can hold such a legitimate conscientious objection and refuse services for those practices, why not a lay business owner? A clergy who performs weddings is arguably doing a business regulated by the State. Marriage itself is regulated by the State, and clergy have State licensing and filing requirements for weddings. His wedding services might be his main business. If we would grant a clergy person exemption from being forced to perform a wedding ceremony which would violate their conscience, why would we ask the State to force other business owners to participate in practices they object to on similar grounds?

Many religious people of good faith agree with the United Methodist Church's teachings about human sexuality, including its position on homosexual practice, even while they sincerely desire to protect the basic human rights of all persons, however they define themselves. These people of good faith are convicted by their religion that they ought not to participate (through business or otherwise) in those practices or related activities, because they believe participation would make them complicit in condoning such practice. We could argue about whether providing such business services truly makes a person "complicit" in the practice, but that is beside the point. The point is the protection of religious conscience, not the nuances of its content.

Let's make this concrete. Why should we as a Church ask the State to force flower shop owners, be they Muslim, Christian, or Orthodox Jew, to provide services for wedding practices which violate their religious conscience? What is gained? The owners do not want to discriminate against persons, and are willing to provide flowers to every person regardless of their age, gender, ethnicity, marital status, or sexual orientation. But they believe some weddings are contrary to God's will, and do not want to provide flowers for those events. The *event* is not a person who can be wrongly discriminated against; the event is an *event*: a *practice*. As in the *Hobby Lobby* case, should we not cheer for the State to protect owners who want to run their businesses by the dictates of their religious conscience? Otherwise, if the State takes unto itself the power to force business owners to violate their religious conscience, what is to prevent the State from doing the same thing in future to clergy?

These arguments take us directly to the 3rd and 4th principles of Church-State relations outlined in the opening statement: Protecting diverse religious expression, and holding the State

accountable to its limits so that it does not use its power to enforce any religious agenda, including atheism.

Our United Methodist Church is currently deeply divided on the question of homosexuality. Our answer to this question is shaped by our thinking about the meaning and authority of Scripture and the Lordship of Jesus Christ, and our relation to the Church and to the culture. This is a religious question, with varying religiously informed answers. These range across the spectrum from Traditional to Revisionist. We are in a denomination rent by its religious diversity, particularly on these subjects.

Resolution 2016-18, if passed, asks the State to take sides in the matter and to enforce one religious conscience position, namely the *Revisionist* position that wants special protected status not just to LGBT persons, but to all LGBT practices. It asks the State to force all its citizenry to bow the knee to the single religious and ideological perspective of the Revisionists. Such a request tramples on the diversity of religious expression which it is in the citizenry's best interests to uphold. Such a trampling of religious freedom would have the effect of establishing one religious position as the official position of the State in violation of the establishment clause: namely the Revisionist religious position. Not only would this trample on our religious rights and protections, but it would trample on a large part of the conscience of the Church. Why should we ask our secular State legislatures to pass laws that punish anyone who tries to uphold our Church's teaching in their businesses?

Using the power of the State to club businesses into submission to the Revisionist religious position will also hamper the prophetic witness of the Church, shining through its lay and clergy members and business owners. A business owner who serves persons who identify as LGBT, but refuses to provide services for every LGBT practice, is serving as a prophetic witness, pointing to a different way of living. Such a witness may not at first feel like it is directed to that person's good, or to the LGBT community's good, as some thought to be the case with pacifist conscientious objectors like Army Medic Desmond Doss. But in the end, the witness of such a business owner may be just the light of religious conscience someone else needs.

In conclusion, the Church ought to reject Resolution 2016-18 as hostile to religious freedom and freedom of conscience. It would be detrimental to religious diversity, and encourage the creation of a coercive State government which is meddling in religious affairs. We ought to petition the State to recognize and protect the right of individuals and business owners to conduct their lives and businesses according to the dictates of their religious conscience, including protecting their right to refuse services for *practices* which they believe to be incompatible with their religion. This is especially important because of the type of involuntary association which is required of citizens who live in any nation. The crafters of the US Constitution recognized this when they wrote the First Amendment on Religious Freedom, seeking to avoid the errors of previous oppressive National governments. Many of us would grant that courtesy to Muslims, Hindus, and Orthodox Jews, who want to run their businesses by the dictates of their own religious teachings and conscience. Why would we not want the same protection and courtesy extended to all citizens, including Traditional Christians? By granting such freedom, we are not advocating for Shariah Law, Kosher Law or the current United Methodist Discipline to govern the whole land. We are not insisting that business owners who have no objection to LGBT practices must stop serving the practices of that community. We are asking the State to protect religious diversity in the public sphere and to respect freedom of religious conscience for all citizens, including in the way they conduct their businesses.