

RESOLUTION ON VIRGINIA PRIVACY LAWS

[Adopted by the Eighteenth General Synod, United Church of Christ, Norfolk, Virginia, June 27-
July 2, 1991.]

Theological and Biblical Basis

The theological and biblical understandings of our United Church of Christ provide us with ample evidence that God calls us to personal freedom with responsibility. In no area of life is this principle more significant than in the area of affectional and sexual preference [orientation]. Premier United Church of Christ ethicist, Professor James B. Nelson, and others have contributed important biblically-based insights in support of personal affectional and sexual freedom with responsibility (c. *Embodiment: An Approach to Sexuality and Christian Theology*, James B. Nelson, Augsburg Publishing House, 1987). Numerous scripture passages guide our thinking in this crucial area (cf. Galatians 5:2; Corinthians 3:17; Matthew 5:7; Exodus 20:3, to name a few).

The United Church of Christ is composed of people who have sought freedom from oppressive government interference in religious and personal life. Our ancestors in faith helped develop the U.S. Constitution and Bill of Rights, both of which seek to guarantee freedom from oppression for religious or personal beliefs and practices which do not injure or otherwise limit the same freedom for others. As inheritors of this faith and this tradition, we cannot allow oppressive state laws to go unchallenged.

Rationale for Why Synod Should Act

The Commonwealth of Virginia still has on its books laws which criminalize private and non-commercial sexual activity between consenting adults, whereas many states have removed such laws from their books. In addition, the Sixteenth General Synod called for United Church of Christ bodies meeting in states with so-called sodomy laws to make public witness to the church's commitment to defend the right to privacy.

Previous General Synod Policy

The Tenth General Synod called for “enactment of legislation at the federal, state, and local levels of government that would guarantee the liberties of all persons without discrimination related to affectional or sexual preference.” The Eleventh General Synod urged the church “to work for the decriminalization of private sexual acts between consenting adults. The Sixteenth General Synod affirmed “the right to privacy, free from government intrusion, for all adults in their private, consensual, sexual relationships...”

Background

The Virginia “Crimes Against Nature Law” and similar old laws in 25 states and the District of Columbia criminalize private, non-commercial sexual activity between consenting adults. Such laws criminalize oral or anal sex, even in the context of marriage, and are used exclusively against the gay and lesbian community to criminalize a lifestyle. The State of Virginia, the site of the Eighteenth General Synod, serves as an example of the unjust ways in which sodomy laws are used: A policeman was fired for being gay; a mother was denied custody of her child in a divorce case because she was a lesbian and, therefore, an unconvicted felon; two lesbians were ejected from a bar for dancing together, to name a few cases.

Policy Statement

Whereas, while many in the United Church of Christ consider homosexual acts sinful, many do not, or our church remains divided theologically on this point, most agree that private sexual activity between consenting adults should not be a criminal offense;

Whereas, the church needs to confess that it has, in the past, encouraged the use of government and criminal laws to enforce standards of personal morality more appropriately left to the individual, the family or the church;

Whereas, equal justice and equal protection under the law for all citizens are fundamental to a democratic society and so-called sodomy laws result in the violation of this basic principle, legally stigmatizing and denying a whole series of rights to a significant percentage of the population;

Whereas, old laws, such as the Virginia Crimes Against Nature law are still on the books in 25 states and the District of Columbia which criminalize private, non-commercial sexual activity between consenting adults;

Whereas, the Tenth General Synod Pronouncement in 1975 called for “enactment of legislation at the federal, state and local levels of government that would guarantee the liberties of all persons without discrimination related to affectional or sexual preference;”

Whereas, the Eleventh General Synod urged the church “to work for the decriminalization of private sexual acts between consenting adults;”

Whereas, the Sixteenth General Synod affirmed “the right to privacy, free from government intrusion, for all adults in their private, consensual, sexual relationships,” calling on the whole church to work for legislation to protect this right and calling for United Church of Christ bodies meeting in states with so-called sodomy laws to make public witness to the church’s commitment to defend the right to privacy;

Whereas, while many states have sodomy laws, laws which criminalize oral or anal sex, even in the context of marriage, these laws are used exclusively against the gay and lesbian community to criminalize a lifestyle;

Whereas, the State of Virginia, where the Eighteenth General Synod is meeting in June of 1991, serves as an example of the unjust ways in which sodomy laws are used;

Whereas, The Virginia Crimes Against Nature Law and other provisions are being used in ways which violate our fundamental understanding of justice, especially prohibitions against lack of due process, laws of evidence, opportunity to confront witnesses, and the judgement of a jury of our peers;

Whereas, in Virginia in 1990 a policeman was fired for being gay, because, under the Virginia Crimes Against Nature law, he was an unconvicted felon, a basic denial of his right to fair employment;

Whereas, in Virginia in 1990 a mother was denied custody of her child in a divorce proceedings because she was a lesbian and therefore an unconvicted felon, a good example of how sodomy laws are used unfairly in divorce proceedings nationwide;

Whereas, in Virginia in 1990 two lesbians were thrown out of a country-western bar for dancing together, violating the State Alcohol Beverage Control Act which, based on the Crimes Against Nature Law, forbids bars from becoming meeting places for homosexuals and other “habitual law violators;”

Whereas, these illustrations of how sodomy laws are used nationwide, not to control sexual activity, but to deny fundamental civil rights in the area of employment, family law and public accommodation to an entire class of people; and

Whereas, the government has no business denying such civil rights and no business regulating the private, consensual, non-commercial sexual activity of adults, but should respect the fundamental right to privacy guaranteed by the U.S. Constitution.

Be It Therefore Resolved, the Eighteenth General Synod of the United Church of Christ reaffirms the right to privacy for all private, consensual, non-commercial sexual activity between adults, and calls for the repeal of all state sodomy laws which attempt to criminalize this activity and deny basic civil and human rights.

Calls upon the Virginia legislature to repeal the Virginia sodomy laws and other laws directed against persons specifically because of their sexual orientation, including that portion of Virginia Statutes Section 18.2-361 which applies to consensual acts between adults; Virginia Statutes Section 4-98.10 (u): and Virginia; and Virginia Statutes Section 4-114 (a) (2) (c), which laws are being applied in violation of the spirit of justice, evidence and court procedure, and our country’s history and Constitution.

Calls upon the President of the United Church of Christ to communicate this action to the members of the Virginia legislature.

Commends the Southern and Central Atlantic Conferences and the churches of Virginia for beginning to address this issue, helping people untangle the powerful emotions which are involved, and making a Christian witness in favor of fundamental human rights.

Subject to the availability of funds.