



# INTIMATE CONVICTION

EXAMINING THE CHURCH AND ANTI-SODOMY LAWS  
ACROSS THE COMMONWEALTH

CANADIAN HIV/AIDS LEGAL NETWORK



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### **About the Canadian HIV/AIDS Legal Network**

The Canadian HIV/AIDS Legal Network ([www.aidslaw.ca](http://www.aidslaw.ca)) promotes the human rights of people living with, at risk of or affected by HIV or AIDS, in Canada and internationally, through research and analysis, litigation and other advocacy, public education and community mobilization.

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## Introduction

In October 2017, the Canadian HIV/AIDS Legal Network and Anglicans for Decriminalization collaborated with local and international partners to host a two-day summit called “Intimate Conviction.” This summit was the first-ever discussion of the role (past, present, and future) of the church in the decriminalization of sodomy. It was held because, although there have been rapid advances for LGBT rights in some countries, there are still more than 70 that criminalize private consensual same-sex activity—and more than half of those are in the Commonwealth of Nations and nine in the Caribbean.

The anti-sodomy laws were mostly imposed during the period of British colonial rule and despite decades of independence the statutes have been difficult to dislodge. The British anti-sodomy law reflected Victorian morality, which was based on narrow Church of England (Anglican) theology. While the Church of England played a significant role in decriminalization in the U.K., a similar process has not occurred in the Commonwealth.

During the conference, more than 30 Christian leaders, including many senior clergy and academics, from former British colonies met in Jamaica. The event was organized as a dialogue with presentations on such topics as the distinction between global north and global south churches regarding decriminalization, the role of criminalization on the church’s response to HIV, and the impact of criminalization on women, followed by moderated question and answer periods. The sessions were all open to the public and although some local conservative church pastors called for a boycott, there were many significant interventions by Christians opposed to decriminalization. Significant media coverage ensured that the dialogue extended well beyond the conference hall and into the living rooms of ordinary Jamaicans.

This edited volume of some of the conference presentations aims to continue the dialogue with Christians across the Commonwealth on this very sensitive topic. We hope that readers will find inspiration and information here to help continue the fight for decriminalization and equality in all contexts.

In solidarity,

Maurice Tomlinson,

Senior Policy Analyst with the Canadian HIV/AIDS Legal Network

Very Rev. Fr. Sean Major-Campbell

*Conference co-hosts*

# **Keynote Address: Examining the Church and Anti-Sodomy Laws across the Commonwealth**

*Most Rev. Dr. John Holder,  
Bishop of Barbados, Archbishop of the West Indies*

For better or for worse, human sexuality is a topic that never moves from centre stage in our lives. We may want to ignore its presence, but it is there and envelops our lives in several ways. A good supportive marriage and family life that take us to the very core of the human sexuality issue can create for us positive feelings towards sexuality.

We are confronted by it in a negative way in the practices of prostitution, child sexual abuse, rape, pornography, etc. Traditionally, another expression of sexuality is often cast among the negative ones. This is homosexuality.

Homosexuality is as ancient as it is transnational, transracial, and transcultural. Numerous studies have been done on this expression of human sexuality throughout history. These studies indicate that it was present in ancient Africa, as it was in Europe, Asia, and the Americas. It is in ancient Egypt that scholars have detected what appears to be a same-sex male couple, probably living together living around 2400 BCE.

These were Khnumhotep and Niankhkhnum. They were Ancient Egyptian royal servants. They shared the title of Overseer of the Manicurists in the Palace of King Nyuserre Ini, sixth pharaoh of the Fifth Dynasty, and they were buried together at Saqqara and are listed as “royal confidants” in their joint tomb. (Wikipedia)

The pair is portrayed in a painting in a “nose-kissing position” that has been described as the “most intimate pose in Egyptian art.” Despite the evidence of its presence in antiquity, and its prevalence, homosexuality ends up in the negative category of sexual expressions for a number of reasons.

Given the fact that historically procreation has been the primary focus of the sexual act—and is the expression of sexuality that religion links to the divine intention—a sexual practice like homosexuality that biologically precludes procreation hasn’t been easily accepted by many people and institutions throughout history.

These acceptance difficulties are manifested not only in religion and in a broad band of social mores, but also in law. Seventy-six countries are known to still have anti-sodomy laws that make homosexual practice a crime punishable by imprisonment.

Ten countries in the Caribbean with varying penalties for homosexual practice are among the 76. These are: Antigua and Barbuda (15 years); Dominica

(25 years); Grenada (10 years); Guyana (20 years to life); Jamaica (10 years); St. Kitts and Nevis (10 years); Saint Lucia (10 years); St. Vincent and the Grenadines (10 years); Trinidad and Tobago (25 years); and Barbados (life).

The titles and wording of the laws make interesting reading. In Jamaica, article 76 of the *Offences against the Person Act*, entitled the “Unnatural Crime,” says,

*Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned & kept to hard labour for a term not exceeding ten years.*

Article 77 states:

*Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanor and being convicted thereof, shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour:*

In Trinidad, the *Offences against the Person Act*, article 13(1), reads:

*A person who commits the offence of buggery is liable on conviction to imprisonment for twenty-five years.*

And article 13(2) defines “buggery” thusly:

*In this section “buggery” means sexual intercourse per anum by a male person with a male person or by a male.*

Let me read the Barbados law against the background of section 23(1) and (2) of the Constitution of Barbados:

*23. (1) Subject to the provisions of this section—*

*(a) no law shall make any provision that is discriminatory either of itself or in its effect; and*

*(b) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.*

*(2) In this section the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour or creed, whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not afforded to persons of another such description.*

Note: No mention here of the difference of sexual orientation.

And then there is section 9 of the *Sexual Offences Act 1992*, which reads:

*Any person who commits buggery is guilty of an offence and is liable on conviction on indictment to imprisonment for life.*

It has been argued that these laws are based on the 1861 British law. We would, however, be fully aware that England set about in the 1950s to examine criminalization of homosexuality and produced the Wolfenden report. The report recommended that “homosexual behaviour between consenting adults in private should no longer be a criminal offence.”

As has been discussed elsewhere, the recommendations in the report eventually led to the *Sexual Offences Act 1967*. This act applied only to England and Wales, but it replaced the previous *Offences Against the Persons Act 1861* and the *1885 Labouchere Amendment*. Under these laws, every homosexual act short of sodomy was illegal.

We may note the typically cautious English approach in the ten-year trek from 1957—the publication of the Wolfenden report—to 1967 and the passage of the *Sexual Offences Act*.

We may well ask why it is then that the ten Caribbean countries, all former colonies of England, have persisted with the law. There can be several answers to this question. I think that one answer must be linked to the religious culture that has dominated this region.

Religion has shaped the lives of the people of this region in many ways. It has legitimized oppressive systems as it has been a source of comfort and hope, which have allowed us to survive these systems and struggle for our liberation.

It has helped us to create some sharp divides between right and wrong as it has also functioned to confuse the same divide. But whatever position is taken, religion brings an abundance of passion to any discussion. No other topic generates this passion as much as human sexuality.

In the discussion of human sexuality in general and sodomy laws—the prohibition against the act of homosexuality—in particular, these many sides of religion surface. In this context, religion often becomes an instrument of division rather than one of healing and enlightenment as it ought to be.

In the discussion in Christianity, there is often a mad rush to the Bible, seeking support for the many varied and conflicting perspectives. In the Caribbean, among a vast majority of our people, whether they attend church or not, the Bible is the yardstick by which all human issues are to be measured, especially moral issues. It is seen as containing solutions to varied human challenges, with sexuality among them.

It seems, therefore, that given the centrality of the Bible in the life of the church and in the life of Caribbean people, and given the fact that I am probably more competent in biblical exegesis than in the interpretation of law, I see my primary task here as one of creating a sensible, functional biblical framework for

a discussion of the sodomy/homosexual issue. There can hardly be a Christian discussion of any issue without a reference to the Bible.

I will attempt to demonstrate that the Bible can function as a sensible, important reference point in a discussion of human sexuality, with special reference to sodomy laws. I will attempt to address some of the stories and texts that can so easily be hijacked by opposing sides, each with a claim to exclusive support. We will try to stay clear of the type of exegesis and interpretation that creates far too many intellectual and common sense gaps in biblical interpretation.

Let us then embark upon this journey to see how religion in general and the Bible in particular address this highly emotive issue. My hope is that, after this journey, we will have seen some new perspectives on how, in our discussion, religion in general and the Bible in particular can be sources of light and guidance rather than tools of condemnation and rejection.

The Bible is a product of religion. It emerged within a context of numerous religious traditions and experiences and was influenced by many of them. It may be sensible therefore to take a brief look at the approach to human sexuality in this wider context before we venture into the Bible.

If, as pointed out by Freud, the two vital drives in humanity are the drive for self-preservation and the drive towards procreation—the preservation of the species—then we would expect to see the numerous issues and concerns emanating from these vital human drives significantly affecting human history, and reflected in the literature of the world.

Tom Horner, in a discussion of the sexuality of the Ancient Near East, argues that “the sexual mores of the Bible must have been influenced—tremendously influenced—by the sexual mores of the peoples and nations in whose midst the same Bible was produced.” (Gerig: Horner—Jonathan loved David)

He goes on to argue that “among peoples (like the) Babylonians, Egyptians, Assyrians, Canaanites and other peoples, in whose midst the Bible was produced, [...]homosexuality existed alongside heterosexuality to a greater or lesser degree.” (Gerig: Horner—Jonathan loved David)

It is therefore useful to explore the presence of the human sexuality theme within this Ancient Near Eastern context before we venture into the biblical tradition, and from it all hopefully gather some insights that should guide us in our approach to human sexuality and the sodomy law. We do so ever mindful of Freud’s identification of sexuality as one of humanity’s two vital drives.

### **Human Sexuality in the Religion of the Ancient Near East**

In much of the pre-Bible literature that constitutes the Ancient Near Eastern (ANE) background to the biblical tradition, sexuality is an experience of both the gods and the mortals. Indeed, the gods of the Ancient Near East were depicted as

highly active sexual beings and were often identified as divine couples.

Ishtar and Tammuz were the divine couple in Mesopotamia, Isis and Osiris in Egypt, Cybele and her young lover were the divine couple in Asia Minor, and in the Ugaritic myth, Anath can sometimes appear as the consort of Baal.

Sexuality is often explored in the religious literature of the ANE through the theme of fertility and consequently, in relation to heterosexual behaviour. One of the places where it is found is in the Akkadian myth of the descent of Ishtar, the goddess of fertility, to the netherworld—the underground world of the dead.

Ishtar's descent throws the process of fertility into chaos. It is put on hold. Fertility of man and beast is under the absolute control of the gods. Sexuality is therefore not alien to the gods. It is a gift that ensures procreation and survival.

The netherworld is not, however, a place free of sexual activity. Even here there can be sexual engagement among the gods. This is reflected in the Akkadian myth of Nergal and Ereshkigal.

In this myth, the refusal of the god Nergal to bow to the god Namtar is counted as an insult and he is obligated to go to the netherworld to apologize to the goddess Ereshkigal, who is the queen of mankind.

Within a somewhat fragmentary text, there is the story of a sexual encounter between Nergal and Ereshkigal. They remained in bed for seven days, a number that seems to suggest the completion of a cycle (cf. Creation story). Nergal's involvement in the sexual act seems to be understood not only as recompense for what he has done wrong, but as a way to reclaim his status as a god.

There is however the question of whether we should read Nergal's sexual encounter with Ereshkigal as punishment. If we do, then the sex act can be interpreted as a negative. It becomes a punishment for those, even the gods, who do not follow the accepted way (cf. Genesis 3 [the temptation of Eve] and Genesis 6 [Noah's Ark]).

The link between the gods and sexuality is also explored in one of the best known pieces of ANE literature, the *Epic of Gilgamesh*, a poem from ancient Babylon (c.2000–1700 BCE). One of the chief characters of the epic is Enkidu, the son of the goddess Aruru. Enkidu seems half beast, half human. He, however, encounters a woman, the “harlot-lass,” who has been directed to his favourite water-place to initiate the encounter. After some flaunting by the girl, there is a sexual encounter between the girl and the half-beast.

This seven-day sexual encounter is, however, dramatically transforming. We can again note the seven-day cycle of completion. The transformation is such that Enkidu is rejected by the other beasts with whom he shared company before this. His sexual experience creates a condition that separates him from his fellows (cf. Genesis 3 and Genesis 4 [Cain and Abel]).

This rift provides the opportunity for the harlot-lass to assert a measure of

control over Enkidu.

The power of the harlot-lass is her sexual prowess that enables her to conquer. Hers is the power of sex. There is the suggestion here that Enkidu's sexual encounter has not only created a divide between himself and the wild animals but has also catapulted him into the realm of the gods (cf. Genesis 3:22). But sexuality has also done something critical to the man–woman power relationship: it seemed to have given the woman greater power. (cf. Genesis 3:6)

The sexual experience is here presented as a gateway to the world of the gods. One cannot but compare Genesis 3:22, where new knowledge holds open the possibility of the man and the woman becoming gods. In this section of the Gilgamesh epic, the sexual experience is seen as one that leads to the recovery of and indeed the qualification for divine status.

The sexuality theme in the literature of the ANE is not restricted to myths, epics, and narratives. It is also present in the legal tradition. The primary function of these laws is to set the boundaries within which sexual activity is permitted, and to identify the penalties when these boundaries are violated. It was a question of imposing a measure of control upon one of humanity's primary drives as identified by Freud.

The laws of Eshnunna (c.2000 BCE) and the Code of Hammurabi (1728–1686 BCE) represent two of the surviving legal collections of the ancient world. We also have access to one of the earliest collections—the laws of Ur-Nammu that date from the reign of the Mesopotamian king Ur Nammu, who ruled from 2111–2095 BCE—and a collection of Sumerian laws that date from around 1800 BCE. In these collections, there are laws that seek to regulate human sexual behaviour.

Many of these laws address human sexuality issues. Behind these laws there is the assumption that human sexuality cannot be a free-for-all endeavour. There is the need for laws to control what can be a volatile and disruptive human experience. The young and vulnerable women of the community must therefore be protected from this primary human drive.

The ANE literature we have identified deals primarily with heterosexual behavior. But some of the legal traditions do address homosexuality. There is a Hittite law from c.1700 BCE that states “[i]f a man [...] violates his son, it is a capital crime” (section 189c). The same law applies to father/daughter or mother/son incest. (Gerig)

But as Harry Hoffner, who has done a lot of good work in Hittite studies, points out, the man who engages in a homosexual act with his son is guilty of *urkel* (illegal intercourse) because the partner is his son, not because they are of the same sex. The crime is incest, not homosexuality. There is a similar approach in Assyrian law where homosexuality only becomes a crime when it is rape.

## Conclusion

There are numerous laws in the literature of the ANE that address the problems that arise because of sexual relationships. They all seem to be built on the assumption that there is the need for abundant space, great constraint, and an overabundance of respect if the many turbulent issues that sexuality can generate are to be managed and prevented from tearing the community apart.

There is the acceptance that homosexuality is an expression of human sexuality. There seems to be no outright condemnation of homosexuality (cf. Gerig).

## Human Sexuality in the Biblical Tradition

It is against this religious background and within this literary and religious context with its dominant sexuality themes that we can approach the Old Testament discussion on sexuality. We begin with Genesis 2:18–25, the first creation story. Here there is a reflection on the man–woman relationship. It is depicted as a mysterious relationship. It seems as if man and woman can be so close that the woman is like a rib—that is, part of the man.

This mysterious relationship is the creation of Yahweh (Genesis 2:21). The man had no say in it at all—he was fast asleep when it originated. Out of *ish* (man) comes *ishshah* (woman). This connection results in such a power attraction to each other that the man readily leaves (deserts) his primary household to start a new one with the woman: “Therefore a man leaves his father and his mother and clings to his woman, and they become one flesh” (Genesis 2:24).

The Hebrew word for flesh—*basar*—can also be used as a euphemism for the male sexual organ. If so, then sexuality is introduced into the discussion in this verse. The “clinging” can also be read as a euphemism for sexual activity. As such, therefore, human sexuality is not a curse as we may later read into Genesis 3:16, but rather an integral part of Yahweh’s great act of creation.

It is all Yahweh. It is Yahweh who arranges things so that the man can have the woman as his companion. It all comes with a deep sense of innocence: “And the man and his wife were both naked, and were not ashamed” (Genesis 2:25).

The nakedness that can be the precursor to sexual activity is nothing to be ashamed of. It is part of the world created by Yahweh. This reflects a powerful positive understanding of human sexuality. Sexuality is a magnet that draws the man and the woman to each other. The power of the passion keeps them together.

There seems to be more emphasis on companionship and support than on procreation. (This understanding of human sexuality as a “non-procreational” activity is a base for the argument for contraception, and can even lend support to some gay and lesbian relationships.)

When we examine the second creation story, that of the Priestly writer (Genesis 1:1–2:4a), there is not the emphasis on companionship but on increasing

the population. There is the command: “Be fruitful and multiply...”

The command of verse 28, *pheru urebu umile'u et ha'ares* (“be fruitful and multiply and fill the earth”), consists of three imperatives. It is an unconditional command in the Hebrew. Here, sexuality is a gift of Yahweh, a gift to be put to work. It is functional. It is given for one express purpose and this is procreation.

This link between sexuality and procreation means that procreation is Yahweh’s gift to humanity that allows us to be partners in creation. With sexuality comes power. But it is not, as in the case of Enkidu in the Gilgamesh epic, the power to enter into the realm of the divine.

The creation story in Genesis 2 depicts the ideal. It sets up the stage where everything is going to plan, Yahweh’s plan. We are soon taken off this stage and in chapter three led into the world of harsh (sexual) reality. In 3:1–7, we have an account of the loss of the innocence of Adam and Eve. In 2:25, we see their previous innocence, and in 3:8–23 we are given the consequences of this new development. Both are connected to sexual activity.

Gen. 1–3 contains several understandings of sexuality:

1. It is not a divine attribute—that is, Yahweh (God) does not engage in sexual activity.
2. It is a gift of God to humankind linked to God’s act of creation
3. One of its purposes is procreation (Genesis 1:27–28); another is companionship (Genesis 2).
4. It creates a mysterious pull and control on a man that motivates him to leave his primary household and start a new one with a woman (Genesis 2:24).
5. It is a gift of God, yet it can be manipulated by the serpent (evil) with disastrous consequences (Genesis 3:1–7).
6. It is the divine intention that sexuality should not disrupt or destroy humankind’s primary pristine state of innocence.
7. Disruption of the state of innocence transforms sexuality into a source of agony and domination.
8. Its primary purpose of procreation now becomes associated with pain.

In all this, there is a measure of ambiguity about sexuality. This ambiguity is evident in our next story in Genesis 16:1–6, the story of Abraham, Sarah, and Hagar. There is also in the Abraham story, the conviction that the power of Yahweh can utilize human sexuality for his specific purpose and take it beyond its functional barrier as established by nature. This is reflected in Genesis 18:11—“Now Abraham and Sarah were old, advanced in age; it had ceased to be with Sarah after the manner of women.”

Yahweh here is putting human sexuality to work for its primary purpose of procreation when all the signals from the body indicate that this is not possible.

Sexuality can be used by Yahweh as the basic material for miracle (cf. birth of Samuel, Samson; cf. birth of Jesus). He has the power to override the laws of nature.

We must note and retain for discussion this very profound and important point that Yahweh's use of sexuality is not restricted by traditional boundaries, even by those imposed by biology and nature. Christians celebrate this on Christmas Day, in the tradition of the Virgin Birth.

This point, which can be central to the Christian approach to sodomy laws, is reflected in two other relationships. One is that of Moses's marriage to a black woman, a Cushite, which is modern-day Sudan or Ethiopia (Numbers 12). This is done to the consternation of his brother and sister. Then and now, we can understand marriage as sexual engagement.

That Aaron and Miriam do not accept their new sister-in-law could be interpreted as a rejection of a nontraditional sexual relationship. For them, there should be no sexual crossing over into another race or religion. If so, then sexuality, as understood by them, should function along strictly ethnic and racial lines. The great gift of God is in danger of being hijacked to support a narrow racist position.

The writer of the story goes all out to demonstrate that Aaron's and Miriam's rejection of the African wife of Moses is totally against the will of Yahweh. He can deal with differences in relation to human sexuality. The important point is made: God's great gift of sexuality should not be subject to or distorted by race or other human barriers.

There is another story that tells of an unusual interracial sexual relationship that makes the same point, and an even more important point. This is the story of Ruth and Boaz. On the instigation of her mother-in-law, Naomi, young Ruth sets out to seduce the older Boaz: "When Boaz had eaten and drunk, and he was in a contented mood, he went to lie down at the end of the heap of grain. Then she came stealthily and uncovered his feet and lay down" (Ruth 3:7).

Ruth uses her sexuality to gain a measure of control over the older, rich—probably intoxicated—Boaz and so attain a level of economic security for herself and her mother-in-law. The unusual, nontraditional, and devious are all drawn into the sexual act here and the writer does not add any condemnation. If he does not, why should we? It is presented as of the will of Yahweh. Yahweh can deal with the nonconventional activities of human sexuality.

### **The Story of Sodom and Gomorrah**

It is the conviction in the power of God to override the sexual limitations imposed by nature and the acceptance of nontraditional sexual behavior that lead us to the story that has been used to support the rejection of another nontraditional sexual relationship—homosexuality. Let us take a look at this story.

As soon as the word homosexuality is mentioned in biblical studies, we may want to make a beeline for the story of Sodom and Gomorrah. Here is one of the favourite hunting grounds for those who want to use the Bible to condemn homosexual behavior, and find support for the retention of sodomy laws.

This use of this story is fraught with the danger of imposing our convictions and our bigotry about this practice onto the story. This misuse of the story is built on awful exegesis. Indeed, the word “sodomy” as a designation for homosexuality rejects a sensible understanding of the story based on sound scholarship. The story is found in Genesis 13:5–13 and 18:16–19:29 and is being used to make *theological* points, not historical or biological ones. It is not making points about sexual orientation.

The ancient ruins of a city might have been the basis for the story about the destruction of Sodom and Gomorrah. Sodom, in particular, is accorded a dreadful reputation. In Genesis 13:13, we are told that the men of the city were “wicked, great sinners against the LORD.” The story in Genesis 18:16–19:29 identifies what for the writer are several strands of evil in Sodom. In the Old Testament, this city functions as the epitome of evil.

The evil of the city is identified at several levels. The primary level is the refusal of the people of the city to be hospitable to Lot’s guests, who are strangers. The fact that both Abraham and Lot are also strangers in a new land, searching for a place to rest, compounds the guilt of the men (people) of the city. The men of Sodom reject one of the basic elements of human decency, the compassion that should be extended to the stranger (cf. Exodus 23:9; Leviticus 19:33; Deuteronomy 24:19–21).

Genesis 19:4 identifies another level of evil in the list of accusations against the city. It describes the ambush of Lot’s house by the men of the city. This can be read as a violation of an Old Testament law that seeks to ensure that the space of one’s home is not entered into and destroyed for what may seem to be seen by the intruder as a legitimate cause (cf. Deuteronomy 24:10–11; cf. the need for a search warrant).

The story depicts a state of panic by the men of the city. The panic is generated by the entry of strangers into the city towards the end of the day. The issue here seems to be one of security. We may note the place where Lot first meets the strangers. This is in the *sha’ar* (gate). There is imagery here of a secure city surrounded by a wall and with a gate to monitor and control the entry of strangers.

But *sha’ar* has another meaning in the Old Testament. It is the judicial court, the seat of justice in the city. It represents the assurance of the dispensation of justice for those who live in the city. But it is also the assurance for the most vulnerable, the strangers, the fatherless and the widows (cf. Amos 5:12, 15).

That Lot meets these strangers at the gate and allows them entry into the city

suggest that they have been duly processed, cleared, and pose no threat. There is however the question of authority. Does Lot hold the authority to admit people to the city?

The reaction of the men of the city in Genesis 19:5 suggests that this is not the case. If so, their request of “Where are the men who came to you tonight? Bring them out to us, so that we may know them,” may simply be a case of ensuring that the strangers are no real threat to the city.

We may note, however, the use of the time of day. What is *ba’erev* (evening) in 19:1 becomes *halay’lah* (night) in 19:5. This can undoubtedly heighten the idea of a security risk. Who knows what threats can enter the city under the cover of darkness?

This reading of the story would avoid the overloading of the word *yada* (to know) to ensure that there is a sexual interpretation. The word is used in the Old Testament to mean simply acquaintance or as a euphemism for sexual intercourse. The latter meaning is often conveyed in the past tense (English). In the story of Lot and the strangers the verb is in the *qal* imperfect, translated as future tense. This right away rules out reading *yada* here as sexual intercourse.

Of the dozens of times this verb is used in the Old Testament, only on six occasions is it used as a euphemism for sexual intercourse (Genesis 4:1, 4:17, 4:25, 38:26; 2Samuel 11:16; Jeremiah 2:8). There is no solid reason why Genesis 19:5 should automatically be added to make the seventh.

Neither is there any automatic support for the homosexual interpretation since Lot offers his daughters to the men as a substitute for handing over the strangers. This is a very clever ploy given the fact that Lot is in serious trouble, being seen by the crowd as having violated the security of the city. There is surely a connection between the fact that the crowd consisted (whether only or primarily) of men (19:4) and the offer of two young girls.

Men then were like men now. An attractive woman can be the greatest and most effective distraction even in the case of a grave security matter. Real life and fiction are filled with such stories.

There is yet another dimension to the story that is not often addressed. This is a clash of the two realms, the divine and the human. Genesis 19:1 describes the two strangers as *hamalachim*, which should be translated as messengers (of Yahweh) and not anachronistically as angels.

They are from the divine realm, have been legally cleared at the gate by Lot, and their status should provide automatic clearance of all the security demands. The men of the city, unaware of the strangers’ divine status, are bent on subjecting them to the same level of scrutiny and investigation as they would any human stranger entering their town.

The above reading of the story of Sodom and Gomorrah would free it of

any significant input into the sexuality debate, or the debate of this conference. It ceases to be ammunition for those who support the retention of sodomy laws.

We are therefore inclined to accept the argument of D. S. Bailey who informs us that “[t]he homosexual conception of this sin (of Sodom and Gomorrah) first appeared in the second century BC among Palestinian rigorists and patriots and seems to have been inspired by hatred of the Greek way of life.”

### **The Holiness Code**

It is in Leviticus 18:22 and 20:13 that we find a condemnation of homosexual behaviour in the Old Testament. Indeed, it is the only condemnation of the practice. Whereas the practice is condemned in 18:22, it is accorded the death penalty in 20:13. One is led to ask the question: Why the condemnation and harsh punishment?

It is surely no coincidence that of the three legal codes in the Old Testament—that is, the Covenant Code (Exodus 21–23), the Code of Deuteronomy (Deuteronomy 12–26), and the Priestly Code (Leviticus 17–26)—the latter is the only one to mention homosexuality and pronounce the death penalty on those who engage in this form of sexual activity. There are a number of reasons for this.

The first reason relates to the context of the final shaping of the priestly material in the Pentateuch. This occurred in Babylon, the very heart of an alien and probably hostile culture. The Jewish community in Babylon was an exiled community, having been plucked away from its roots in Palestine and set down against its will in a foreign land.

Babylon was the symbol of judgement and disgrace. In the midst of these conditions, however, the exiled priests became the rallying point for survival and continuity. These concerns are reflected in the priestly material in several ways. They are reflected through the divine command to the community in the creation story in Genesis 1:1–2:4a. In Genesis 1:27–28a, we read:

*So God created man in his own image, in the image of God created he him; male and female created he them. And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth, and subdue it[...].*

It is in relation to this text that we can read the strong prohibitions against homosexuality in Leviticus 18:22 and 20:13. This type of sexual relationship could be interpreted as a threat to the very survival of the Jewish community in Babylon. There was therefore no place for homosexual activity in an exiled community that was heavily conditioned by a possibility of annihilation.

This community now obsessed with a sense of survival had to reproduce itself and keep on doing so. Homosexuality in this context was nothing short of self-destruction. It is no coincidence, therefore, that the prohibition against homo-

sexuality now becomes part of the divine law delivered to Moses by Yahweh at Sinai, and the penalty of violation is death.

In order to legitimize and indeed strengthen a prohibition that was seen as crucial for the survival of the Jewish community in Babylon, the Priestly writers, as in the case of the Sabbath law, resort to the well-established Sinai and legal traditions. They draw Moses into the picture as Yahweh's agent and as a pillar of support that the community dare not question. The law against homosexuality is pronounced and the community can only follow.

There is little room for any different approach. Undoubtedly, there must have been many examples of this sexual expression within Babylon, and even within the Jewish community. There would hardly be a law against homosexuality unless this type of sexual relationship was present within the community.

There would hardly be laws about driving on a particular side of the road unless there were vehicles to drive. The law, according to the priestly tradition, laid down the rules. There was to be no variation. This would be met by death.

Homosexuality is deemed to be contrary to traditional sexual behaviour and would therefore be diametrically opposed to the Priestly traditional approach to life. Given the Priestly understanding of life and the world, this type of sexual activity could not be accommodated or tolerated. The strict right/ wrong, clean/unclean approach of Priestly thinking left no room for this. This Priestly factor when applied to human behaviour in general and homosexuality in particular leaves no room for deviation in thought or practice.

## **Summary**

In the Old Testament, we have found only two prohibitions against homosexuality. These are in Leviticus 18: 22 and 20:13, with the latter having death as the penalty for breaking this law. These address a specific set of conditions and so cannot be extracted from the context of the Priestly writer and transformed into a universal edict like the laws of the Medes and Persians. They cannot be transformed into a base for the retention of sodomy laws.

They must be held alongside the understanding of Yahweh as a God who can deal with untraditional sexual relationships, as in the cases of Moses and Ruth, and can even adjust nature and the body clock to do so, as in the case of Abraham and Sarah.

We go into our discussion of the New Testament response to homosexuality with the reminder that emerges out of our discussion of human sexuality within the Old Testament.

## **New Testament**

When we move into the New Testament, the references to homosexuality

are few. There are no references in the Gospel tradition. In the teachings of Jesus, Sodom and Gomorrah stand as symbols of evil. In Matthew 11:23–24, there is a reference to Sodom that reflects the traditional view of an evil city. To emphasize how far from God the city of Capernaum is, Sodom is cited as having a better chance of being saved than Capernaum. These references cannot be treated as rejection of homosexual activity and as support for sodomy laws.

A lack of any references to homosexuality in the teachings of Jesus leaves somewhat of a blank in determining how Jesus would have treated such persons. There is little room for conjecture. The nearest we can get is looking at how he relates to persons who were engaged in nontraditional sexual behavior.

One such person is mentioned in Luke 7:37–38:

*And behold, a woman of the city, who was a sinner; when she learned that he was at table in the Pharisee's house, brought an alabaster flask of ointment, and standing behind him at his feet, weeping, she began to wet his feet with her tears, and wiped them with the hair of her head, and kissed his feet, and anointed them with the ointment.*

That the woman is described as “a woman of the city, who was a sinner” suggests that she was probably a prostitute. The story reflects St. Luke’s presentation of Jesus as one who welcomes the sinful and the outcasts into the kingdom. Here Jesus accepts the woman in spite of her nontraditional/unaccepted sexual behaviour. His pronouncement of the forgiveness of her sins is the culmination, not the start, of the acceptance process.

There is a story in John 4 that tells of Jesus’s dealing with someone involved in nontraditional sexual behaviour. It is a story about Jesus’s encounter with a woman from Samaria at a well. She is described as having had a number of marriages—and is now simply “shacking up” with someone’s husband. The evidence is clear; she should have been condemned strongly by Jesus. But she is not. St. John refrains from adding a line of condemnation, in keeping with his understanding of Jesus.

Here, as in Luke 7, Jesus is presented as dealing with nontraditional sexual behaviour without condemning the person involved to hellfire. A lack of condemnation does not, of course, translate into condoning the behaviour. Of course, it can be argued that in these stories we are dealing with deviant heterosexual behaviour and not homosexuality. But it seems to me that there is surely a pattern of response from Jesus that does not lead him down a road of bitter condemnation.

The same cannot be said of St. Paul in his dealing with homosexuality. One, however, must take seriously the context within which Paul’s pronouncements on the issue are made. The context is a Greek culture that had become notorious for lax sexual behaviour. Romans and I & II Corinthians can be read as a response

to this context in which the Christian understanding of human sexuality was a minority opinion.

St. Paul in these writings clearly identifies the popular way that is diametrically opposed to the new Christian way. In Rom. 1:18–32, there is an extensive list recounting the behaviour of those who follow the other way. Paul mentions:

1. Suppression of the truth (verse 18)
2. The worship of images (verse 23)
3. The dishonouring of their bodies among themselves (verse 24)
4. The exchanging of the truth about God for a lie (verse 25)

And then the accusation in verses 26 and 27:

*For this reason God gave them up to dishonorable passions. Their women exchanged natural relations for unnatural, and the men likewise gave up natural relations with women and were consumed with passion for one another; men committing shameless acts with men and receiving in their own persons the due penalty for their error.*

How should we read these verses? Should these be read as simply another element of unacceptable conditions being cited by St. Paul, or are they to be singled out as the worst of the elements?

There is surely no evidence to support the latter position. The whole unit, verses 18–27, constitutes a statement about the threats to the new Christian way. One can compare here the position of St. Paul, in the context of a struggling group of Christians in Rome, with that of the Priestly writer struggling within the Jewish community in Babylon for identity and survival.

There is an issue of survival at work in this section of Romans. The Church can only survive if there is a total rejection of the way of the non-Christian. The survival motif is reflected in references to “the wrath of God” (verse 18) and in the phrase “God gave them up” (verses 24 and 26), which is a euphemism for self-destruction.

St. Paul argues that the behaviour of the non-Christians, which includes homosexuality, contributes to the wrath of God and self-destruction. In other words, the behaviour of non-Christians, like that of the Babylonians, must be rejected if the Church at Corinth, like the Jewish community in Babylon, is to survive. If the concern here is primarily one of survival, then it may be difficult to isolate one element of the threat to survival and treat it as St. Paul’s primary concern.

There is yet another dimension to the denouncing of homosexuality in Romans that cannot be overlooked. As early as 226 BCE, there was a Roman law, *Lex Scantinia*, that made homosexuality a punishable offence. Although it has been argued that this law was not applied with any rigidity, its existence indicates the legal position of the Roman authority towards homosexuality. We have not

ascertained how rigidly the law was applied in the days of Paul, but the presence of the law could have led Paul to denounce homosexuality, given his advice in Romans 13 to the Christians in Rome, asking them to be good and obedient Roman citizens.

When we turn to 1 Corinthians 6:9–10, after stating that the unrighteous will not inherit the kingdom of God, St. Paul goes on to identify them:

*Do you not know that wrongdoers will not inherit the kingdom of God? Do not be deceived! Fornicators, idolaters, adulterers, male prostitutes, sodomites, thieves, the greedy, drunkards, revilers, robbers—none of these will inherit the kingdom of God.*

The word of interest here is the Greek word *arsenokoites*, which is rendered “male prostitutes” in the Revised Standard Version. This word means someone who engages in homosexual activity. This translation (New Revised Standard Version) links it to prostitution.

That this type of behaviour is one mentioned among many that are to be avoided by Christians again seems to suggest that the homosexual is not identified as being either worse or better than the others. It, however, remains a practice that is to be rejected by the Christians at Corinth.

In I Timothy 1:8–10, there is a discussion on the purpose of law. It exists, according to the writer, not for the just, but for the lawless and disobedient, for the ungodly and sinners, for the unholy and profane, for murderers of fathers and murderers of mothers, for manslayers, immoral persons, sodomites [*arsenokoites*], kidnappers, liars, perjurers, and whatever else is contrary to sound doctrine.

The list is long, if not impressive, and is structured around the Ten Commandments. It cites what distinguishes the non-Christian from the Christian. Homosexuality is mentioned using the popular understanding of Sodom. But it is one among many. It is not identified as the worst among a batch of practices that should be rejected by Christians.

## Summary

This survey of the biblical references to homosexuality indicates that such references are sparse. When they do occur, they do so within a context where the primary concern seems to be the survival of the group that is under attack. As such, the practice becomes one of threats to that survival.

What our survey of the biblical literature demonstrates is the limited number of times homosexuality is addressed in the Bible. In the five times this is done, the context is the driving force in the interpretation. That there are cases of nontraditional sexual encounters that are not condemned surely indicates a conviction of the writers of the Bible that there is space in God’s relationship for the nontraditional.

Our journey through the Bible does not provide us with any overwhelming rejection of homosexuality. Given the varied contexts within which the practice is rejected, it is difficult to treat these as providing any universal condemnation.

Context is the key to helping us to understand the rejection of homosexual behaviour that we find in Leviticus, Romans and I Corinthians, and to a lesser extent, I Timothy. It seems to me that to let go of the context is to convert these references into the type of weapon against homosexuals that they were not intended to be.

We can therefore conclude:

1. The writers of the Bible understood human sexuality as a gift of God.
2. Like most societies, ancient and modern, they acknowledged the need for laws and traditions to control, monitor, and direct the power generated by human sexuality.
3. Heterosexual behaviour is treated as the norm as ordained by God.
4. There is no reference to homosexuality in the Gospels.
5. Homosexuality and its sexual expression are addressed only on two occasions in the Old Testament (Leviticus), and three in the New (Romans, I Corinthians, I Timothy).
6. There are Old and New Testament nontraditional sexual relationships that are not condemned (Moses's marriage to a black woman, Ruth's seduction of Boaz, Jesus's acceptance of the affection of a prostitute, and his making the woman with the many husbands into an evangelist).

### **The Caribbean Context**

All this would suggest that what many people see in the Bible as providing unequivocal support for the retention of sodomy laws does not do so. When placed in their appropriate context, the texts do not provide this support.

If we accept that context determines interpretation and response, as I have argued, then we cannot ignore the context as we seek a better understanding that will guide our response to the issue. Just as we take this on board in our interpretation of the Bible, and in many other areas, we must do so as we discuss the sodomy laws in the Caribbean.

The Caribbean context, with its varied and complex cultural layers, is as important for any discussion on the region's approach to sodomy laws, as the biblical context is for understanding and interpreting the biblical text.

At the start of this presentation, we asked why the former English colonies all maintain sodomy laws on their statute books. We put forward the argument that the religious culture of the region may be responsible. We went on to examine one of the pillars of this religious culture, and discovered that the Bible is not as strong a support for these laws as is popularly believed and popularly claimed.

So we must venture beyond the Bible and beyond religion. When we do so, we are left with several strands of Caribbean culture that do not lend support to the removal of the laws. There still remains, therefore, a strong resistance to the removal of the sodomy laws, not with any argument from the legal tradition but from several more emotive elements of Caribbean culture. Not the least of which is its sexual culture.

It is still the wish of almost every Caribbean man and woman to be a parent and, eventually, a grandparent. We all know the teasing we got from our parents, telling us it is time we give them a grandchild. We do the same to our children. Having children is central to Caribbean life. As in the work of the Priestly writer, the one act in the minds of many Caribbean parents that stand as a barrier to having grandchildren is homosexuality. This is our second reason for the reluctance to oppose the sodomy laws in the Caribbean.

I think that the reluctance of the former English colonies of the Caribbean to abolish the sodomy laws may more be a cultural one rather than a strictly legal, or even a moral or religious one. Even the discussion of the laws should not be extracted from context.

The cultures of the world, which provide for their members a particular understanding of the world, all travel at their own pace. The pace of one cannot be transformed into a universal law to which all others must comply. This can be difficult positions to accept.

This conference is a continuation of the discussion of the sodomy laws in this region. We must accept that participants are not at the same spot. However, when we do not engage in discussion, we resort to words and actions that speak of rejection and discrimination—even annihilation and destruction—and justify these actions.

We speak in religious language of hellfire and damnation. We become stuck in the mud of intolerance where no one can make progress. We forget that the two virtues so soundly established in the Old Testament and proclaimed by Jesus in the New are love and compassion.

I strongly believe that we should continue the discussion. We need to move beyond intolerance and only discussion can help us to do so. We should not close the doors to any side, to any opinion. This region is going to take some time to work through the issue. We must take this time and protect our freedom to travel at our pace. But we cannot close the door to discussion.

As a student of the Bible, I am intrigued that the writers of the Exodus story claim forty years of travel from Egypt to the land of promise. This has more to do with an understanding that it takes time—and a lot of it—to make a transition from one condition, one understanding, to one that is the complete opposite, than with physical distance.

Here is a model for us as we grapple with the issue of the sodomy laws here in the Caribbean. Let us not see the pace of the journey as a waste of time or as a failure. It surely is not. No change in thinking is easy. But change is always possible.

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## Special Address

*Justin Pettit, Commonwealth Secretariat*

I would first like to thank Maurice, Father Sean, and the other organizers for inviting the Commonwealth Secretariat to make an intervention at this important and timely conference. I am grateful for the opportunity.

Discrimination undermines the dignity, equality, and rights of individuals and groups wherever it occurs. It can make them doubt that they are fully part of the human family. History is replete with examples of discriminatory treatment and its consequences. In short, unequal treatment results in political, economic, and social exclusion, disproportionately burdening the poor and marginalized. It is also a driver of violence, unrest, and conflict.

In many parts of the world, recent years have seen a growing culture of respect for LGBTI persons, and their ability to fully participate in society is protected by law. In other parts of the world, there is rising antagonism towards the LGBTI community, who continue to suffer from discrimination by multiple actors in various forms and fora.

It is broadly accepted that the effects of ongoing discrimination and exclusion are deleterious to both individuals and society, with victims often facing harassment, ill treatment and violence, and rights violations in accessing healthcare, education, employment, and housing, while nationally they lead to decreased productivity, loss of economic output, and increased health and police costs.

The Commonwealth has a mandate to address equality and non-discrimination as they are enshrined amongst our core values and principles in the Commonwealth Charter. The Commonwealth is committed to equality and respect for the protection and promotion of civil, political, economic, social, and cultural rights, including the right to development, for all without discrimination on any grounds as the foundations of peaceful, just, and stable societies.

The Secretariat's approach to addressing sexual orientation and gender identity has been one which seeks to build the capacities of national institutions, including parliaments and national human rights institutions, and to assist in creating national spaces for dialogue. This continues to be the most sustainable and durable approach for the Secretariat. It is for this reason that we responded positively to attending this conference since this dialogue with faith leaders presents a part of the discourse which is evolving.

I want to briefly speak about the experience in Seychelles as dialogue was at the centre of the process and because it is the most germane example to the discussion we will have over the next two days. Seychelles is a small country of 115 islands in the Indian Ocean. In 1955, British authorities introduced a law

criminalizing homosexuality, making it punishable by up to 14 years in prison. This law remained on the books until June 2016.

During its Universal Periodic Review before the UN Human Rights Council in 2011, the Government of Seychelles accepted recommendations to review provisions of the penal code criminalizing homosexuality. After no action towards this end, the government again received recommendations to review the penal code at its January 2016 Universal Periodic Review. One month later at his State of the Nation address, President James Michel announced that the government had decided to repeal the law, describing it as an “aberration” in Seychelles’ “tolerant” society and noting that although the law was not enforced, it was in conflict with the constitutional protections of equality and non-discrimination.

The decision was not without opposition, and the objections were familiar. It was precisely because of this that the government did not want the decriminalization process to be closed and unilateral with a predetermined conclusion. The Attorney General submitted an amendment to the penal code to the National Assembly so it could begin the legislative process. Upon receipt of the amendment’s text, the National Assembly undertook an inclusive and participatory approach, with its members seeking the views of their constituents.

The National Assembly also initiated dialogue with faith leaders and religious communities. Specifically, the National Assembly reached out to the Interfaith Council, which was formed by the leaders of all religious denominations in Seychelles to promote interfaith harmony and to promote a society where each citizen is valued and can contribute to improve society. The Interfaith Council is based on the premise that mutual understanding and inter-religious dialogue constitute important dimensions of a culture of peace.

National consultations on the two most populous islands were organized by the National Assembly for direct engagement with the Interfaith Council, the LGBTI community, senior government officials and civil society to discuss the religious arguments surrounding amendment of the penal code. The dialogue was open, frank, and honest. Participants shared their attitudes, hopes, and concerns on the proposed penal code amendment. Discussions covered many issues, but generally focused on the legislation, touching on morality, the appropriate distinction between crime and sin, and the interaction and dividing line between law and belief. This consultation and the emphasis on dialogue were the most crucial aspects of the decriminalization process in Seychelles.

After the consultation, the Bishop of the Diocese of Port Victoria called on members of the National Assembly to “vote according to their informed conscience, free from all irrelevant external interference” and only taking into account “the impact [the] vote will have on the future of [Seychelles] society.” Parliament then passed the amendment to the penal code in May. The president

assented shortly after.

Decriminalization of consensual same-sex relations between adults is only one step of a broader and long-term approach to ensuring equality and non-discrimination for all in Seychelles. The dialogue initiated on faith and law now serves as a guide for continued promotion of greater understanding amongst diverse communities and for addressing misperceptions and misconceptions about freedom of religion or belief and discrimination based on immutable characteristics.

Endeavours such as this conference strike me as a reasonable starting point for finding mutual understanding and upholding human dignity and equality for all, where diversity is not just tolerated but fully respected and celebrated. This requires long-term investment, and more importantly, dialogue, which is why I am especially heartened by the efforts of Maurice and Father Sean through this conference to give all the space to voice their opinions.

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## Address by Lord Anthony Gifford, Q.C.

Archbishop Dr. John Holder,  
Father Sean Major-Campbell,  
Mr. Justin Pettit,  
Conference delegates, brothers and sisters,

I warmly congratulate the organizers of this conference. You have shown courage and vision in seeking to draw in our churches into the important debate on whether certain laws, which penalize certain adult and consensual sexual activities, should be repealed. Rather than hold up placards on opposite side of the road (which I have done), you are seeking a dialogue. You have understood that there is a breeze of change in our hot Jamaican atmosphere on this topic. Bishop Howard Gregory of Jamaica and the Cayman Islands has recently added a powerful puff of wind, and I commend him on his statement that the private sexual activities of adults should not be the concern of the law.

I thank you for including me in this dialogue. I am not a member of any church, but I passionately believe in the need for good to triumph over evil, and for love to prevail over hate. I believe that each of us can, through our activities, change the balance in favour of goodness and love. A pastor who I met as a teenager encouraged me to put an extra O in the word *God* if I wanted to understand the simple message of spiritual teachers. I have found that simple message illustrated time and again in the actions of so many Jamaicans in this country, which has been my home for nearly 30 years, though I am also constantly disappointed by the manifestations of violence and hate.

What I bring to this debate is my experience in working for the rule of law as an attorney-at-law in different countries. I will try to explain what I mean by the rule of law. It is not the same as being governed by laws. Laws can be repressive and immoral. Apartheid in South Africa was supported by a complex regime of laws. The persecution of Jews in Nazi Germany was regulated by laws passed by an elected government. But since World War Two, we have seen the emergence of a new kind of law, the law of human rights and fundamental freedoms, which is now enshrined in international covenants and in constitutions all around the world. This kind of law recognizes the dignity of every single human being, and protects that dignity in clauses that guarantee freedom of speech, freedom of association, the right to liberty and security, and so on. This kind of law has effect to protect freedom even when the democratic majority does not want it protected, and even when the freedom in question is offensive to some or even most people's religious beliefs.

Look at the case of *Loving v. Virginia* in 1967. The laws of Virginia and many other states forbade interracial marriages. It was a felony punishable by five

years' imprisonment. Richard Loving was married to Mildred Jeter in another state and wanted to move to Virginia. They were arrested and convicted. The judge justified the law by saying,

*Almighty God created the races white, black, yellow, and red, and He placed them on separate continents. And, but for the interference with His arrangement, there would be no cause for such marriage. The fact that He separated the races shows that He did not intend for the races to mix.*

Delegates here can guide me as to the scriptural basis for that statement. The point is that the judge believed it, and it supported the prejudice of many in Virginia. The Supreme Court struck down the Virginia law, and has more recently made this comment about the *Loving* case: “[t]he nature of injustice is that we may not always see it in our own times.” Think about those words: will later generations wonder why we did not see the injustice in our own times?

I well remember the case of Jeff Dudgeon, which has been referred to. It was at the height of the sectarian violence that tore Northern Ireland apart and caused many deaths around the U.K. The Protestant chief spokesman was the Reverend Ian Paisley, who launched a campaign to “Save Ulster from Sodomy.” The minority population were Roman Catholics who agreed with the Protestants about this, if nothing else. There was no way that a referendum or a vote in the Northern Ireland Parliament would change the law, and I am firmly opposed to a referendum in Jamaica for the same reasons. It is not for the majority to determine the human rights of a minority.

The European Court of Human Rights said:

*In the personal circumstances of the applicant, the very existence of this legislation continuously and directly affects his private life, which includes his sexual life. Either he respects the law and refrains from engaging—even in private with consenting male partners—in prohibited sexual acts to which he is disposed by reason of his homosexual tendencies, or he commits such acts and thereby becomes liable to criminal prosecution.<sup>1</sup>*

The court recognized the strength of feeling on the issue, but said:

*Although members of the public who regard homosexuality as immoral, may be shocked, offended or disturbed by the commission by others of private homosexual acts, this cannot on its own warrant the application of penal sanctions when it is consenting adults alone who are involved.*

Many years later the Constitutional Court in the new South Africa reached the same conclusion that the anti-sodomy laws were unconstitutional. The judges made an observation about sexual privacy that I find compelling:

*Privacy recognises that we all have a right to a sphere of private intimacy and autonomy which allows us to establish and nurture human relationships without interference from the outside community. The way in which we give expression to our sexuality is at the core of this area of private intimacy. If, in expressing our sexuality, we act consensually and without harming one another, invasion of that precinct will be a breach of our privacy.*

The South African court has also made an important statement on the interplay between religious belief and the rule of law. In its judgment in a gay marriage case, *Minister of Home Affairs v. Fourie*, it said:

*It is one thing for the Court to acknowledge the important role that religion plays in our public life. It is quite another to use religious doctrine as a source for interpreting the Constitution. It would be out of order to employ the religious sentiments of some as a guide to the constitutional rights of others.*

*In the open and democratic society contemplated by the Constitution there must be mutually respectful co-existence between the secular and the sacred. The function of the Court is to recognise the sphere which each inhabits, not to force the one into the sphere of the other. Provided there is no prejudice to the fundamental rights of any person or group, the law will legitimately acknowledge a diversity of strongly-held opinions on matters of great public controversy. I stress the qualification that there must be no prejudice to basic rights. Majoritarian opinion can often be harsh to minorities that exist outside the mainstream. It is precisely the function of the Constitution and the law to step in and counteract rather than reinforce unfair discrimination against a minority. The test, whether majoritarian or minoritarian positions are involved, must always be whether the measure under scrutiny promotes or retards the achievement of human dignity, equality and freedom.*

The Jamaican Constitution guarantees “respect for and protection of private and family life and the privacy of the home.” The International Covenant on Civil and Political Rights, which Jamaica has ratified, guarantees that “nobody shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence.” The Inter-American Convention on Human Rights, which we have also ratified, follows the same formulation. All the constitutions around the Caribbean and elsewhere guarantee that private sphere that all of us would want for ourselves.

So, it was not surprising to me that in the first and only case on the anti-sodomy laws in the Caribbean, *Orozco v. Attorney General of Belize*, the Chief Justice struck out the law and upheld Mr. Orozco's rights to dignity, privacy, and equality. He said:

*It needs to be made pellucid that this Claim stands to be decided on the provisions of the Belize Constitution and in this regard, the Court stands aloof from adjudicating on any moral issue. The source of the Court's remit is firmly grounded in the Constitution itself which reflects the separation of powers.*

When you look at the reasoning of cases from around the world—Europe, Africa, the United States, and now the Caribbean—what emerges is the right to love. My experience in representing gay and lesbian clients in different countries is that their love for their partners is as deep and as real as the love that we would wish for ourselves. I recall a client who disappeared eight years ago in Montego Bay, presumed dead by the police because he was known to be gay, and I recall the agony that his partner in London continues to suffer. If we recognize that everyone has the right to love, and to express that love with sexual interaction, we will not only uphold the Constitution, but we will also, I believe, uphold the core principles of the faiths that are represented here.

I wish you a wonderful conference and ask you to recognize and uphold the right to love.

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*Called to the Bar of England and Wales in 1962, Lord Anthony Gifford, Q.C., is also a member of the Northern Ireland Bar and in 1990 joined the Jamaican Bar; where he regularly appeared before the Privy Council in cases of criminal law, tort, labour law, and defamation. Lord Gifford has been Counsel in the appeals of the Birmingham Six and the Guildford Four; Dudgeon v. UK (ECtHR) and in many other human rights cases.*

*His work in Jamaica is as Senior Partner in the firm of Gifford Thompson & Bright, attorneys-at-law. Lord Gifford continues an active practice in law in both Jamaica and Britain.*

<sup>1</sup> Paragraph 41

## Foreword

*The Hon. Michael Kirby AC CMG*

From faraway Australia, I send greetings of peace and friendship to the Commonwealth Caribbean. I welcome the conference in Jamaica called to discuss the role (past, present, and future) of faith communities across the region in ending the criminalization of citizens based on their sexual orientation and gender identity. This is an initiative to be welcomed on at least three levels:

- *Spiritual*: Because it is necessary to reflect the love and mutual respect for one another that lies at the heart of most of the world's religions, but particularly for Christians who follow the loving message of Jesus Christ;
- *Political*: Because the current persistence of colonial laws targeting sexual minorities and their sexual acts constitute a serious overreach of the proper function of the criminal law in a modern, diverse, and democratic society; and
- *Healthcare*: Because the retention of such laws impedes the messages essential to reducing infections with HIV, the virus that causes AIDS. Moreover, it impedes access by those infected to prompt treatment, which speeds the reduction in infections in the wider society.

I welcome the leadership of bishops of the Anglican tradition in supporting, and participating in, this conference. I myself was raised in the Anglican tradition. I am proud to be a member of this global community. Because of its history, the Anglican Church has always been a place of diversity and dialogue for those of the High Church and those of the Evangelical tradition.

This conference convenes on the 50th anniversary of the first steps taken in England and Wales to repeal the anti-gay sodomy laws that were exported throughout the British Empire. That repeal followed the Wolfenden report, which found that the attempt to enforce such laws against LGBT citizens constituted an overreach of the criminal law. Criminal law should be confined to serious wrongs involving public activity and a complaining victim. They should not snoop into private conduct in people's bedrooms where consenting adults are involved. To do this is a serious excess of governmental power. Gradually this principle has been accepted in countries that were once part of the old British Empire: the U.K., Ireland, the United States, Canada, Australia, New Zealand, South Africa. But a logjam has arisen in securing reform in the Caribbean.

In 2009, I participated in the Eminent Persons Group (EPG) on the Future of the Commonwealth of Nations. Our chair was Tun Abdullah Badawi, an Islamic scholar and former prime minister of Malaysia. Our rapporteur was Sir Ronald Sanders, a distinguished Caribbean diplomat. Unanimously, the EPG recommend

that heads of government of all Commonwealth countries “should take steps to encourage the repeal of discriminatory laws,” including those targeted at LGBT citizens. We proposed a *Charter of Commonwealth Values*, which has been adopted and signed into force by the Queen. It upholds the principle of equality without discrimination. The time has come for the Commonwealth Caribbean to act on that value.

I welcome the political opening for action proposed by the Government of Jamaica. However, calling for a referendum is the wrong path in a parliamentary democracy. If a referendum to abolish the “White Australia” policy had been held at the time when Australia’s parliament began to demolish discriminatory laws against people on the grounds of race and skin colour in 1966, it would not have been carried. Discrimination on grounds of race is unscientific. But it has, like slavery, some biblical supporters. In Australia, our parliament did the right thing. It did not introduce an obstacle of a referendum. Where unscientific prejudice exists, it should be removed from the law. That still leaves those in faith communities to hold to their beliefs. But it removes enforcing those beliefs on others who believe differently.

Finally, there are strong practical reasons for change. Strong UN data demonstrates that countries that criminalize LGBT people have higher levels of HIV infection. This is for the simple reason that criminalization drives people into the shadows. It impedes their access to advice, knowledge, and support. It restrains them for seeking out treatment and care. Yet that treatment reduces the spread of HIV throughout society. This is therefore a step that should be taken.

For 40 years in Australia, I have held high constitutional offices. During the whole of that time, I have been supported by my partner, Johan. Such support is good for health and for truth in society. We should turn away from prejudice that science does not sustain. We should return to the central message of our religion: love for one another. We should abandon the overreach of criminal law. We should contribute to reducing the spread of AIDS and the even greater epidemic of discrimination.

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*Michael Kirby is an international jurist, educator, and former judge, serving as a Justice of the High Court of Australia from 1996 to 2009. He has undertaken many international activities for the United Nations, the Commonwealth Secretariat, the OECD, and the Global Fund Against AIDS, Tuberculosis and Malaria. His recent international activities have included member of the Eminent Persons Group on the Future of the Commonwealth of Nations (2010–11); Commissioner of the UNDP Global Commission on HIV and the Law (2011–12); and Member of the UN Secretary-General’s High Level Panel on Access to Essential Healthcare (2015–16).*

# SECTION ONE

THE ANGLICAN CHURCH AND DECRIMINALIZATION



# **Decriminalization in the United States of America and LGBTQI equality in The Episcopal Church**

*Rev. Winnie Varghese*

## **Dates of Key Resolutions on the Recognition of Homosexual Rights in the Episcopal Church:**

- 1976** Recognize the Equal Claims of Homosexuals: The 65th General Convention recognizes that homosexual persons are children of God who have an equal claim upon the love, acceptance, and pastoral care of the Church.
- 1976** Support the Right of Homosexuals to Equal Protection of the Law: The 65th General Convention expresses its conviction that homosexual persons are entitled to equal protection of the laws with all other citizens.
- 1976** Recognize the Equal Claims of Homosexuals
- 1979** Express Gratitude to Groups Ministering to Homosexuals
- 1979** Recommend Guidelines on the Ordination of Homosexuals
- 1982** Reaffirm the Civil Rights of Homosexuals
- 1985** Urge Dioceses to Reach a Better Understanding of Homosexuality
- 1988** Support Exploration of Causes of Suicide Among Gay and Lesbian Youth
- 1988** Continue Work and Consultation on Questions of Human Sexuality
- 1988** Decry Violence Against Homosexuals
- 1988** Urge Local Discussion and Report on Human Sexuality
- 1988** Commend Those Who Have Cared for Persons With AIDS
- 1988** On the Topic of the Church of England's 1987 Resolution on Sexuality Request the Diocese of Sydney to Reconsider Its Action Relating to Homosexuals
- 1988** On the Topic of the Canon on General Provisions Respecting Ordination

- 1991** Dialogue, and Direct Bishops to Prepare a Pastoral Teaching
  - 1991** Amend Canon I.1.2 [Membership of the Joint Commission on AIDS]
  - 1991** Deploy Monogamous Homosexual Priests Within Limitations
  - 1994** Call on U.S. Government to Extend Benefits to Gay and Lesbian Couples
  - 1994** Reaffirm Resolution on Equal Protection Under Law for Homosexuals
  - 2000** Continue Dialogue on Human Sexuality
  - 2003** Consent to the Election of the Bishop Coadjutor-elect of New Hampshire
  - 2003** Consider Blessing Committed, Same-Gender Relationships
  - 2006** On the Topic of Human Rights of Homosexual Persons
  - 2006** Oppose Criminalization of Homosexuality
  - 2009** Reaffirm Participation in the Anglican Communion While Acknowledging Differences
  - 2012** Urge Repeal of Federal Laws Discriminating Against Same-Sex Marriage
  - 2012** Authorize Liturgical Resources for Blessing Same-Sex Relationships
  - 2015** Amend Canon I.18 (Of the Solemnization of Holy Matrimony)
  - 2015** Support LGBTI Advocacy in Africa
  - 2015** Authorize for Trial Use Marriage and Blessing Rites Contained in “Liturgical Resources I”
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The United States is not a member of the Commonwealth. We are the outliers at this conference, and yet, the influence of the United States in the world, both economically and culturally, and the Episcopal Church in the Anglican Communion cannot be overlooked. We, too, inherited anti-sodomy laws from British criminal law, and we, too, have only recently debated their efficacy and appropriateness. Until 1962, sodomy was a felony in the United States. Illinois was the first state to adopt the recommendation of the Model Penal Code to legalize consensual sodomy. It was only in 2003, 14 years ago, that anti-sodomy laws were taken off the books across the country by an act of the Supreme Court of the United States.

Sodomy is a horrible way to talk about the equal rights of LGBTQI people, but it was—and is—anti-sodomy laws that legally allow harassment and discrimination of LGBTQI people and in many instances imprisonment and prosecution. It is these same laws that create a culture of homophobia and hiding that keep us from completely seeing LGBTQI people and their lives in society.

By the time of the 2003 *Lawrence v. Texas* case, many jurisdictions in the United States either did not enforce or selectively enforced anti-sodomy laws, but the existence of these laws created a climate of fear and intimidation for all LGBTQI people in the United States.

I was a college chaplain for 10 years on two college campuses: UCLA and Columbia. In that time, I baptized and confirmed many students. It was a great privilege and learning opportunity for someone like me—a Christian from a Christian family, and a liberal Christian disinclined to seek out new disciples.

At Columbia, a young man who had attended a few services came to my office and said he wanted to be baptized. I had assumed he *was* baptized. I assume everyone who comes to church is baptized. I was wrong. I asked him about his background, and why he wanted to be baptized now and with us. He said, “I knew I wanted to be a Christian, and Catholic wasn’t it. So I wrote down all of the other kinds of Christians and I researched their beliefs, and I crossed them off when I hit something I just couldn’t agree with, and you all were left. You sucked the least.”

As I got to know him over the years, I learned that it was the broad-mindedness of our church that he valued, and I learned that he was not heterosexual. He never told me that, though. Very few students ever did unless they were going through a difficult experience with their family or had been put through some kind of conversion therapy and were still living with the physical and emotional scars.

Somehow our young adults, many raised in the church and many who had worked hard to build a strong and healthy sense of themselves, knew that the church should accept them as they are despite the law, despite the church’s own teachings.

It is important to note that the law did not change until 2003 in Texas, the state where I was born and raised. But in California and New York, where I worked as a young priest in the early 2000s, the law changed in the late 1970s. I, like so many other young LGBTQI people, moved to a part of the country where I was not subject to arrest. This created ghettos of cities and states in which LGBTQI people were safe, and places where sometimes people chose to live to avoid us. We called that “Family Values” in the 1980s and 1990s.

The Episcopal Church recognized in 1976 that “homosexual persons are children of God who have an equal claim upon the love, acceptance, and pastoral

care of the Church” and that “homosexual persons are entitled to equal protection of the laws with all other citizens” because in 1973 The American Psychiatric Association took homosexuality out of the *Manual of Mental Disorders*. These resolutions were passed because of the brave and diligent work of Episcopal activists. The Episcopal Church also first pledged to work for the civil rights of “homosexuals” in that year.

I note these two sets of dates because I think Anglicans think that the Episcopal Church surged forward on LGBTQI rights in response to a decadent and liberal American culture. It is important to note that the Episcopal Church was making claims that defied the law in the majority of states at that time. We were working for a change in United States law and standing, as a church, on the side of people ostracized by both the law and society.

The AIDS crisis in the 1980s and 90s was a point of crisis for the Episcopal Church. Many Episcopalians, lay and ordained, “came out” in that time as the political slogan “silence equals death” and the ethical imperative to live lives of “integrity” became the activist language. I came out in 1989 as a 17-year-old who could not have imagined that being closeted was an ethical or moral choice for a queer Christian. Like the students I would serve a decade later, I assumed that the prayerbook and gospels I read were true and applicable to me. It felt like a matter of my own salvation to be honest with myself about who I was and to work to accept all of myself as being in the image of God. For me that meant a break with family and with personal ambition, a radical shift in thinking about how to be safe and productive in a world in which I had assumed I would help others from a position of some privilege.

My path was much easier than many, but when I came out, I lived in a state in which I could be arrested in a raid on a gay coffee shop, bar, or club. If we were harrassed on the street or threatened by strangers, we could not turn to the police. Meeting as a campus LGBTQI group was protected and yet we knew that many could not attend for fear of their families, future employers, or fellow Christians finding out.

While anti-sodomy laws are now only a part of our history, it is important to remember that in the United States, we do not use a human rights framework in the way that Commonwealth countries do. Our rights are civil rights, individual freedoms. We have few protected classes in our law, and LGBTQI people are not a protected class. This means that although certain sex acts are no longer illegal, it is very difficult, almost impossible, to claim discrimination on the basis of LGBTQI status.

The *Religious Freedom Restoration Act of 1993* has been used in the past few years as a test or a final bulwark against LGBTQI equality. This has been playing out in marriage equality and has harrowing implications for LGTBQI people in

the United States. We have seen bakers, photographers, and city clerks refuse to provide services to same-sex couples based on their own religious beliefs. RFRA has also been tested by pharmacists and some health professionals who wish to withhold contraception and other tools of family planning. The civil rights movement in the United States fought for fairness in treatment in both the public and private sectors: restaurants, buses, stores, and schools. The collision of rights (in the U.S. framework) is between the business owner (or local government in the case of the school), employee, and the customer or citizen. Equality for LGBTQI people is being tested legally against RFRA today.

The Episcopal Church, whose voice—our voice—has been marginalized within the Anglican Communion for defying the tradition of the church, has, despite the regular disappointment of activists who believe we haven't gone far enough, proved to have been quite visionary, risk taking, and bold for insisting upon loving its own members and their families.

I could not be more proud to say that I am an Episcopalian. The church has taken risks for women, for queer people, and today for undocumented people and refugees. In the work of racial reconciliation, we have stood with our friends and siblings in Christ when other Christian churches have betrayed the same people. These decisions have cost us, but that cost is made up for by what we have gained. We are sloughing off what we thought was comfort but were actually shackles. We are free to stretch and learn and accept our own children. Imagine that. We are free to grow and lead as people who are not afraid of science, of progress, or of the contemporary world. And we find that people are drawn to us as they seek meaning in their own lives, and find us to be a church to which they can bring their full selves.

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*Rev. Winnie Varghese is the Priest and Director of Justice and Reconciliation at Trinity Church Wall Street. As an intern in the Episcopal Service Corps (1994–1996), she worked with the Mental Health Association of Los Angeles as an outreach worker to people who were homeless and living with severe mental illness. She is a blogger for The Huffington Post, author of Church Meets World, editor of What We Shall Become, and author of numerous articles and chapters on social justice in the church.*

## Mixed Forces for the 1969 Canadian Decriminalization of Homosexuality

*Bishop Terry M. Brown*

On December 19, 1968, the new Liberal government of Pierre Trudeau introduced into the House of Commons the *Criminal Law Amendment Act*, Bill C-150, in which section 149A exempted married couples and consenting adults (whatever their sexual orientation) acting in private from charges of buggery and gross indecency. Significantly, this was an omnibus bill that included other changes to the *Criminal Code* in areas of abortion, weapons, parole, and impaired driving. Trudeau, as Justice Minister in the previous Liberal government, had famously declared, “The state has no business in the bedrooms of the nation.” In committee discussion leading up to debate, the new Minister of Justice, John Turner, explained that the rationale of section 149A was to separate matters of personal morality from criminal law. The opposition attempted to split the omnibus bill so that they could vote separately against section 149A but the ploy failed. Bill C-150 passed its third reading in the House of Commons on May 14, 1969, by a vote of 149–55 after a long and sometimes acrimonious debate. It was then ratified by the Senate and on August 26, 1969, sex between two persons of the same sex over the age of 21 done in private in Canada was no longer a criminal act.

Two caveats should be noted. First, many of the arguments put forward in favour of decriminalization at the time would not be acceptable today. The medical model of homosexuality was still dominant and many argued that consenting gay adults needed to be removed from potential criminal prosecution so that they could undergo some form of psychiatric care or cure. That view was also widely prevalent in the churches although other views were beginning to emerge; the 1969 decriminalization made way for gay advocacy groups, publications, and organizations—for example, on university campuses—to develop without fear of criminal prosecution.

The second caveat is that the 1969 decriminalization legislation was just the beginning. In January 1971, the University of Toronto Homophile Association launched a campaign to change the *Immigration Act*, which prohibited the immigration of homosexual persons to Canada, in view of the 1969 changes to the *Criminal Code*.<sup>1</sup> Laws and practices around gays and the military, security, and other government employment still stood. There was also the issue of sexual activity in places that were not strictly private—out of doors, clubs, bathhouses, etc.—as well as the unequal age of consent (18 for heterosexual relations, 21 for homosexual ones). Nor did the revised legislation necessarily change the hearts and minds of opponents of gay sex, whether police, prosecutors, politicians,

(many) church leaders, and much of the general population. Fear, arrest, and ostracization continued in many contexts.

Kimmel and Robinson, in a 2001 article in the *Canadian Journal of Law and Society*, identify many factors which made the 1969 decriminalization possible. They note “liberalized social attitudes, gay activism, and practical law enforcement problems” as significant but highlight two other areas: ongoing *Criminal Code* reform from the 1940s and the “re-conceptualization of homosexuality from a legal-criminal paradigm to a medical-scientific one”.<sup>2</sup> However, today we would generally regard the latter as simply wrong, rejecting the notion of a “cure” for homosexual orientation or advocacy of “conversion therapy,” in favour of a positive view of gay sexuality as a grace-filled gift of God. Thanks in part to decriminalization and the freedom it provided, same-sex intimacy is now viewed as something to be affirmed rather than criminalized or pathologized.

However, Kimmel and Robinson’s first point—the inconsistency, ambiguity, and ultimate injustice of anti-sodomy, anti-buggery, and gross indecency laws inherited from Britain in the colonial era—is still very much to the point. Canadian *Criminal Code* reformers consistently struggled with the meaning of these terms as the laws were notoriously unclear; they could be applied to the smallest offence while ignoring the greatest. In this reform process, they were encouraged by the passage of the *Sexual Offences Act* by the British Parliament in July 1967, which generally followed the recommendations of the 1957 Wolfenden report. Canada’s *Globe and Mail* newspaper endorsed the new British legislation as “sensible and just, as well as overdue,” and urged more debate on the issue in Canada.<sup>3</sup> A liberal media presence was significant in moving the legislation along in Canada.

However not all of Canada’s repressive legislation had colonial roots. Canada made a further addition to the *Criminal Code* in 1948 due to Cold War concerns about “sexual psychopaths,” authorizing indefinite preventative detention (that is, potential life imprisonment) for those “who by a course of misconduct in sexual matters [have] evidenced a lack of power to control [their] sexual impulses and who as a result [are] likely to attack or otherwise inflict injury, loss, pain, or other evil on any person.”<sup>4</sup> In 1953, the federal government further widened its definition of “criminal sexual psychopaths” to include those engaging in buggery and gross indecency.<sup>5</sup>

Kimmel and Robinson point out that the case of Everett George Klippert, a mechanic in the Northwest Territories who in 1965 was designated a dangerous sexual offender and placed in indefinite detention, brought the injustice of this legislation to the public attention. Klippert had been sentenced to three years in prison after pleading guilty to four counts of gross indecency, having admitted to consensual sex with four men. This was his second conviction and he had previously served a three-year prison sentence for the same offence. Klippert appealed

his sentence of virtual life imprisonment all the way to the Supreme Court where he lost by a three to two decision. The dissents were eloquent in pointing out the injustice of a law that would potentially sentence any Canadian adult engaging in same-sex intimacy to life imprisonment. Klippert was released from prison in 1971 after the 1969 *Criminal Code* reforms.<sup>6</sup> He died in 1996 and the present Prime Minister of Canada, Justin Trudeau, Pierre Trudeau's son, has indicated his intention of giving Klippert a posthumous pardon.<sup>7</sup> The Klippert case made it clear to the public how unfair and arbitrary the *Criminal Code* was and why it needed to be revised; it contributed to popular support for the 1969 *Criminal Code* revision.

As one of the themes of this conference is the role of the churches in the decriminalization of homosexuality, it should be noted that there was some advocacy on this issue by Canadian Christians, but not a lot. The *Globe and Mail* of June 2, 1965, announced the formation of the Canadian Council on Religion and the Homosexual (CCRH) by a small group of Anglican Diocese of Ottawa clergy and laity. Their secretary, Garrfield D. Nichol, an Anglican civil servant, explained that the purpose of the group was to enhance communication between the homosexual community and the church and to enlighten the public about the problems of the former. Nichol noted that "one of the main beliefs of the council is that any sexual act committed in private by consenting adults is not the concern of the law." Membership was open to anyone over the age of 21 regardless of sexual orientation. The Ottawa location was significant and Nichol noted that the meetings drew some curious heterosexual members of Parliament but also that "he knows of six homosexual members of Parliament", who were presumably too frightened to attend.<sup>8</sup> The antiquated and objectifying language of the article is simply that of the times, when no other language was available and fear was still the norm.

The *Globe and Mail* article drew the interest of the Rev'd Canon M. P. Wilkinson, General Secretary of the Department of Christian Social Service in the national office of the Anglican Church of Canada in Toronto, who on August 16, 1965, wrote the Chair of CCHR, the Rev'd Philip Rowswell, assistant priest at St. Martin's, Ottawa, for more information. In his response two days later, Rowswell explained, "CCRH was organized in May after a series of meetings held during the winter between a few members of the Clergy (mostly Anglican) with a small group of the homophile community in Ottawa." He noted that there was no official liaison with the Diocese but that the bishop of Ottawa knew of CCRH's activities "and is pleased that contact has been established between the Church and this group in society." Rowswell noted that their membership stood at a little under 20 and included four Anglican priests, one Roman Catholic priest and one United Church minister. Rowswell also noted that there had been much

interest in the new organization and that they had received requests for more information from across the country.<sup>9</sup>

Wilkinson requested further information on CCRH for the Social Service Council's informal newsletter sent out to dioceses and parishes, *Over to You*. On December 1, 1965, Rowswell sent its editor, Norah Lea, a copy of the CCRH's constitution, bylaws, brief to the Ontario Select Committee on Youth, and the program outline for CCRH's "Gab'n Java" (Talk and Coffee) sessions, which were confidential conversations with the gay community in informal settings. He noted that CCRH now had 20 open members and 20 secret members, the latter too afraid to be publicly associated with the group.<sup>10</sup>

Lea produced a condensed account of CCRH in the January 1966 issue of *Over to You*. Quoting the CCRH documents Rowswell had provided to her, Lea noted that its objectives could be summarized as "to continue a developing dialogue between the Church and homosexuals, aimed at a deeper understanding of problems faced by this group in society; building a greater body of knowledge and understanding of human sexual relationships; to support educational projects on homosexuality; to act as a referral agency; to co-operate with professional people in mental health and counselling fields in relation to the subject of sexuality; to provide opportunity for self-understanding for homosexuals through coffee club discussion sessions."<sup>11</sup> It should be noted that at the time, CCRH seemed to be moving from a medical-pathological view of gay sexuality to one that is more positive and affirming. CCRH included gay Ottawa civil servants, advocated Wolfenden-like reforms and remained active until 1967.<sup>12</sup>

Indeed, it appears that the passage of the 1969 amendment to the Canadian *Criminal Code* decriminalizing homosexuality was not a terribly controversial issue among Canadian Anglicans. Canadian newspapers carried stories of the Archbishop of Canterbury, Michael Ramsey, voting in favour of decriminalization in the House of Lords. A survey of all eleven 1969 issues of the Anglican Church of Canada national newspaper, the *Canadian Churchman*, shows no discussion or even reporting of the matter. Only one column from Ottawa in the July–August issue indirectly addresses the matter, giving the Prime Minister a positive score for his first year in office.<sup>13</sup> The pressing concerns for Canadian Anglicans at the time were the proposed union with the United Church of Canada and the release of the Hendry report on church relations with First Nations peoples, both of which produced acrimonious debate. The ethical political issues the Anglican Church of Canada was interested in were abolition of the death penalty and the distribution of birth control information and materials; those issues produced official church resolutions. Decriminalization of homosexuality was apparently a non-issue, thanks to legislative developments taking place in England, a liberal press, egregious cases of injustice needing correction, the work of

secular and church advocacy groups, the liberal ethos of the sixties, and Trudeau mania. However, after decriminalization in 1969, many problems would continue and the church would also face many controversies around its gay and lesbian clergy and laity, the blessing of gay and lesbian unions, and the existence of gay and lesbian bishops. As a rule, the Canadian government has moved much more quickly on these issues than the church, though there have always been strong church advocates. But that is another story.

The Canadian story encourages communication and advocacy that is shared and coordinated among all sectors: legal, political, judiciary, law enforcement, medical, psychological, church, media, gay advocacy, and the general population as the best way forward in the global struggle for the decriminalization of homosexuality. No one sector carries the day by itself. But if enough join together, decriminalization becomes a commonsensical and easily accepted solution to a great deal of suffering and fear.

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<sup>1</sup> Letter from a member of the University of Toronto Homophile Association to Anne M. Davidson, Social Action Unit, Anglican Church of Canada, January 13, 1971, enclosing a letter to the Minister of Manpower and Immigration, Hon. Otto Lang, copied to the Minister of Justice, the Hon. John Turner, advocating the change to the Immigration Act. Homosexuality, 1965-1972 file, Social Action Ministries records in the Program fonds, GS76-01, Box 2. Anglican Church of Canada/General Synod Archives (ACC/GSA).

<sup>2</sup> D. Kimmel and D. Robinson, "Sex, Crime, Pathology, Homosexuality and Criminal Code Reform in Canada, 1949-1969," *Canadian Journal of Law and Society* (April 2001): p. 148.

<sup>3</sup> "Homosexuality and the Law," *The Globe and Mail*, July 6, 1967. Quoted in Kimmel and Robinson, p. 155.

<sup>4</sup> Quoted in Kimmel and Robinson, p. 152.

<sup>5</sup> Kimmel and Robinson, p. 152.

<sup>6</sup> Kimmel and Robinson, pp. 153-154.

<sup>7</sup> J. Ibbitson, "Trudeau to urge pardon for man deemed a dangerous sex offender for being gay in 1960s," *The Globe and Mail*, February 27, 2016.

<sup>8</sup> "Church Council Aims to Aid Homosexuals," *The Globe and Mail*, June 2, 1965, p. 9. Kimmel and Robinson discuss CCHR and other church groups on page 154 of their article.

<sup>9</sup> Homosexuality, 1965-1972 file. ACC/GSA.

<sup>10</sup> Homosexuality, 1965-1972 file. ACC/GSA. The CCHR official documents are not included in the archival file. There are further archival records of the CCHR, including official publications, in the Anglican Diocese of Ottawa archives but I have not had the chance to consult them.

<sup>11</sup> "Ottawa," *Over to You*, January 1966, p. 6. A complete run of *Over to You* is available at the General Synod Archives, Toronto.

<sup>12</sup> T. Warner, *Never Going Back: A History of Queer Activism in Canada* (Toronto: University of Toronto Press, 2002): p. 45.

<sup>13</sup> M. Western, "Trudeau's First Year Reviewed," *Canadian Churchman* (July-August 1969): p. 6.

# The Anglican Church since Decriminalization

*Bishop Kevin Robertson*

My name is Kevin Robertson; I'm bishop suffragan in the Anglican Diocese of Toronto within the Anglican Church of Canada. I was elected bishop just over a year ago on September 17th, 2016, and consecrated on January 7th, 2017, along with two other colleagues. The way our diocese works, we have a diocesan bishop and four other bishops suffragan. It's the largest diocese in the Anglican Church of Canada, so we have five bishops—four area bishops who are each responsible for a particular geographical region of the diocese, and the diocesan bishop who oversees working for the entire diocese.

My area is called York-Scarborough, which includes downtown Toronto, the north end of the city and the east end of the city—including Scarborough. And we have lots and lots of Jamaicans and Barbadians in Toronto; as you know, Toronto is a very multicultural place. So, it's my privilege, Sunday by Sunday, as I move around to different parishes in my area, to see people from this place and from many other places in the Caribbean. They really enrich the life of the church in our diocese. And in some cases some of those parishes would not exist without the faith invested by the Anglicans.

We moved things around on the agenda a little bit just so that I can follow Bishop Terry. He provided information about the early days, and I'd like to say a few words in the limited time that I have about what's been happening in the life of the Anglican Church of Canada, and in Canadian society, since decriminalization. And, Winnie, I was interested to hear what you were saying about how the Episcopal Church often felt like it was leading the way in the United States. It was the voice of advocacy and prophecy as secular society was kind of doing its own thing and didn't actually come to a place of decriminalization until just over a decade ago.

I would generally say that the experience in Canada and with the Anglican Church of Canada has been the opposite. We are approaching almost 50 years since decriminalization in Canada. Winnie and I are about the same age, so I can say I was not even born when decriminalization took place in Canada. So I certainly don't have much to say to you today about those days; I wasn't even around.

I think I do have something to say about what has happened in the intervening years—about how, even after decriminalization with secular Canadian society and the churches in Canada, in particular the Anglican church of Canada, have made strides forward and understood themselves in relationship to one another as working with each other. Sometimes the church has been ahead; sometimes

society has been ahead.

One of the things that happened after decriminalization, about a decade later in 1982, is that Canada patriated its constitution and Her Majesty Queen Elizabeth II came to Ottawa and we owned our own constitution for the first time since the *British North America Act* from more than a century before. And in section 15 of the constitution, it says this:

*Every individual is equal before and under the law, and has the right to the equal protection and equal benefit of the law without discrimination. And—in particular—without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.*

Section 15 was written so as to protect against discrimination generally, with the enumerated grounds of prohibited discrimination—race, sex, that kind of thing—being only examples of that. And in a landmark ruling in 1995 called *Egan v. Canada*, the Supreme Court of Canada recognized that sexual orientation was implicitly included in the section—in section 15—as an analogous ground, and is therefore a prohibited ground of discrimination.

So this further solidified the claims that many people were making around decriminalization, that under the constitution of Canada, you cannot discriminate based on sexual orientation.

Interestingly, the issues of transsexuality and HIV/AIDS were later also incorporated in some of those rulings. So that was a significant moment for Canadian society. Then came, as most of you know, the movement towards the legalization of same-sex marriage in Canada, which took place just over a decade ago in 2005.

This was in response to various provinces and territories in Canada making their own way forward. And then in 2005, it became law across Canada.

Let me say a word about where the church has been—the Anglican church of Canada, in particular—about that. As I said a moment ago, I think the church has often been behind secular society, responding to the needs and voices of people across the country.

In 1979, in a decision from the National House of Bishops—that's our house of bishops in Canada—a statement was made by the bishops that homosexuals may be ordained ministers, but must abstain from sex.

Homosexual unions were still not permitted in the church, nor was there a change to the national marriage canon, which is Canon 21. That was not changed in order to change the definition of marriage, or to allow for same-sex marriages.

The National House of Bishops also did not change the guidelines that existed in the 30 dioceses across the country, which said that clergy who were not married were expected to be celibate.

In the years that followed, those guidelines and understandings were tested at various times. In 1986, two lesbian deacons in the diocese of Toronto—in my diocese—came to the archbishop and let him know that they were married—not civilly, but they had married sort of underground. And they were expecting a child together. The archbishop “inhibited” those two women—meaning he took away their licenses to practice as deacons—and made a press statement about that. And then about six years later, a priest in our diocese, again in Toronto, was effectively fired because the archbishop—a new archbishop, Richard Finley—had found that he was in a same-sex relationship and Archbishop Finley said he either needed to give up his relationship or give up his cure.

And that led to something called a bishop’s court, an ecclesiastical court that had not been convened in the diocese of Toronto for decades and decades, and it ended in the priest losing his position. Interestingly, we now look back on that 25 years later and in the case of those two lesbian deacons, one has been ordained a priest just in the past couple of years and the other is still a deacon in good standing. The priest, James Ferry, who was effectively fired in 1992, has seen his orders restored and is now functioning in a parish in the diocese of Toronto.

It’s interesting that in a fairly short period of time those clergy are back in good standing in the diocese.

I want to say a quick word in the few minutes I have left about a vote that took place in General Synod at the Anglican Church of Canada a year and a half ago. I spoke about that marriage canon a few moments ago that was not changed in 1979 when the National House of Bishops made their statement. A motion came to General Synod to change Cannon 21 to permit, in the Anglican Church of Canada, the marriage of two people of the same sex.

There was lots of controversy in the days and weeks leading up to that. The motion required two thirds in the House of Laity, the House of Clergy and House of Bishops. After a miscount, we discovered that it had indeed passed. Just by one vote in the House of Clergy, but more substantially in the House of Bishops and the House of Laity.

There is a second reading of that motion, which will come to our next General Synod in 2019. Again, that motion will require two thirds of the votes in each of the three houses in order to pass. After that, dioceses and diocesan bishops may allow and encourage same-sex marriages in the dioceses.

Interestingly, some diocesan bishops went ahead with this even after the 2016 vote and that has been the source of some difficulty and controversy in our church to this day. There are about five or six diocesan bishops who have proceeded in limited circumstances, including our own bishop, the bishop of Toronto, and so we are actually celebrating same-sex marriages in our diocese right now, though it’s in contravention of the National Church of Canada Canon 21. Lots of devel-

opments still to come between now and 2019. So please keep us in your prayers.

Finally, my election as a bishop in the Anglican Church of Canada, just a couple of months after General Synod, was not without some controversy. I am an openly gay and partnered man, we have two children, and at various stages along the way, clergy and lay people rose at Synod to object to my name being on the ballot and then wrote to the other Canadian bishops and ultimately to the archbishop of Canterbury to ask him to intervene so that I wouldn't be consecrated last January. That obviously didn't happen because I'm standing here wearing a purple shirt.

But it's a reflection, I think, of the many challenges that our church faces in moving forward. I would say that almost 50 years after decriminalization in Canadian society, we are making it work. And this wonderful dance between not only churches but other faith communities and the government and society. We are making it work. I hope that's a word of encouragement for all of us who are here today.

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# Military Chaplaincy in the Canadian Armed Forces

*Rev. Tom Decker*

The 1973 Sydney Pollack movie, *The Way We Were*, starring Barbra Streisand and Robert Redford and considered to be one of the best romantic movies to date, offers a neat analogy for how the relationship between military chaplains and their secular employer, the Canadian Armed Forces, is perceived to have evolved in recent times. The movie chronicles the initial attraction between two people whose differences are immense, the ups and downs in their relationship, and their drifting apart as one adapts more easily to changing circumstances while the other stands firm on principles and convictions, which makes compromise next to impossible. Eventually, disillusioned by the constant fighting, they part ways. What is left for them to share is a profound sense of loss and the bittersweet memory of the way they once were.

One might argue that Canada and military chaplains in the Canadian Armed Forces share a similar relationship dynamic. At first they were inseparable. Military chaplains accompanied both the British and the French naval expeditions. They were the first to bring Christianity to what was later to become Canada. Following the victory of the British in the Battle of the Plains of Abraham (1759), which secured British rule in what was to become Canada, for a few years (1796–1802) their union was one that excluded all others. “Chaplains serving with the British military forces in Canada all had to be members of the Church of England in order to be enrolled as full time garrison or brigade chaplains.”<sup>1</sup>

For the next 100-plus years, Canadian military chaplaincy was open to other Christian denominations, including Roman Catholics, while the relationship between the chaplains and first the Dominion then the young nation remained a very close one. In the military there were mandatory church parades and in turn Canada’s iconic military chaplain of the First World War, Frederick G. Scott, “had unwavering faith in the sanctity of the British Empire and its Imperial vision. . . It was a time in which the crosses on the Union Jack were regarded with absolute certainty as symbols not only of a British, but a world-wide Christian empire in which military conquest in the Queen’s name was equal to spiritual conquest in Christ’s name.”<sup>2</sup>

## **Drifting Apart—Canada Evolves to be a Multicultural and Pluralist Society**

In 1971, Prime Minister Pierre Elliott Trudeau declared in the House of Commons that bilingualism and multiculturalism would henceforth underpin Canadian policy-making. Thus, Canada became the first country in the world to adopt multiculturalism as part of its identity.

In 1982, Canada repatriated its constitution and enacted the *Canadian Charter of Rights and Freedoms*. Section 27 of the Charter recognizes Canada's policy of multiculturalism and elevates it to the constitutional level. This section reads: "This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians." Multiculturalism, according to the Charter, must not be viewed as something static or fully defined at the time the Charter was enacted, but as something that is constantly evolving and adaptive to the needs of a changing Canadian society.

In 1988, Canada enacted the federal *Multiculturalism Act*, which states in section 3 (1) that it is the policy of the Government of Canada to (a) recognize and promote the understanding that multiculturalism is a fundamental characteristic of Canadian heritage and identity and that it provides an invaluable resource in the shaping of Canada's future and (b) promote the full and equitable participation of individuals and communities of all origins in the continuing evolution and shaping of all aspects of Canadian society and assist them in the elimination of any barrier to that participation.

The Canadian Armed Forces are mandated to mirror Canadian society both in its composition and policy. The 2017 Department of National Defense policy entitled *Strong, Secure, Engaged* makes this patently clear when it commits every aspect of military life to the realization to the fullest degree possible of multiculturalism, diversity and inclusion:

*The Canadian Armed Forces is committed to demonstrating leadership in reflecting Canadian ideals of diversity, respect and inclusion, including striving for gender equality and building a workforce that leverages the diversity of Canadian society. Canada's unique, diverse and multicultural population is one of its greatest strengths. While positive steps have been made towards greater diversity, inclusion and gender equality, we can do much more to reflect and harness the strength and diversity of the people we serve, in both military and civilian ranks.*

*We are fully committed to implementing our comprehensive Diversity Strategy and Action Plan, which will promote an institution-wide culture that embraces diversity and inclusion. This includes reinforcing diversity in the identity of the Canadian Armed Forces and our doctrine, modernizing career management and all policies to support diversity and inclusion, and conducting targeted research to better understand diversity within the Department of National Defense.*

*Embracing diversity will enhance military operational effectiveness by drawing on all of the strengths of Canada's population.<sup>3</sup>*

There can be no doubt: What makes Canada the country it is, is our unwavering commitment to multiculturalism, diversity, and inclusion. The Canadian Armed Forces are not exempt but are in fact held to a higher standard in terms of realizing these policy goals.

If multiculturalism, diversity, and inclusion are considered hallmarks of Canadian policy, it follows that the State cannot be partial to one group and not the other, to one religion and not the other nor, indeed, no religion whatsoever. This places the State in a markedly different position vis-à-vis its companion of old, the Christian church (in its various denominations). A relationship that for much of its history had displayed elements of if not exclusivity then, at least, preferential treatment, was opened up to welcome all faiths as well as no faith alike. The doctrine of clear separation between church and state, which has been a pillar of modern political philosophy, was elevated from the status of being an ideal we espouse to a practice we live. Being employed by the State to render a distinctly religious service, have military chaplains thus been rendered one of the last vestiges of a bygone era?

### **Headed for Divorce?**

Jean L. Cohen offers a compelling description of the role religion and its adherents have played in the socio-political landscape in recent times by stating that ours is

*an epoch in which demands for religious freedom, state accommodation, and recognition of religion, on the one side, and for freedom from religion, from control by religious authorities, and from state enforcement of religious norms and privileges, on the other, are proliferating and politicized in myriad ways. Indeed, polarization between political religionists and militant secularists on both sides of the Atlantic is on the rise. Settled constitutional arrangements are becoming destabilized in regions that were the seedbed and locus classicus of political secularism and liberal constitutional democracy, and the assumption that these must or even can go together is now being questioned. Political religionists and many post-secularists reject what they take to be characteristic of political secularism—the privatization of religion—and regard the principles of nonestablishment and separation of church and state with suspicion. Secularists are equally suspicious of escalating demands for accommodation, ‘multicultural jurisdiction,’ or legal pluralism for religious-status groups involving immunity from the state’s secular legal ordering and recognition of the right of religious groups to*

*autonomously make their own laws and to enforce them in key domains (family law and education) with or without state help. Each side enlists the discourses of pluralism, human rights, and fundamental constitutional principles on its behalf.<sup>4</sup>*

In Canada, the two camps have been butting heads over a number of issues including but not limited to legal recognition of same-sex relationships, public funding for private denominational schools, provincial sex education curricula, the question of whether religious organizations must operate in accordance with public policy in matters of housing, health care, and employment, whether public prayer can act as an instrument of discrimination, and myriad religious accommodation issues ranging from the placement/substitution of religious insignia on government-issued uniforms to the recent very hotly debated issue of whether religious garments that conceal a person's face may be worn. Many of these hotly debated issues in one way or another are perceived as limitations or violations of a person's rights under the *Canadian Charter of Rights and Freedoms*. Competing rights claims frequently revolve around issues of freedom of conscience and religion on the one hand and freedom of thought, belief, opinion, and expression, the right to life, liberty, and security of the person, the right to privacy and all equality rights on the other. All these cases have one thing in common: one person's/group's exercise of protected freedoms is experienced by another person or group as directly causing complete or partial loss of enjoyment of one or more of their constitutionally protected rights and freedoms.

Because these fundamental rights and freedoms are very dear to most of us and affect us at the very core of our identity—not to mention the fact that since World War II most western societies recognize them as *inalienable rights*, i.e., they are not granted but emerge from our shared humanity and the inherent dignity of each and every person and cannot be taken away from us<sup>5</sup>—when we feel that these fundamental rights and freedoms are curtailed, infringed upon, or abrogated, the remedy provided for by most modern democracies is in the form of a claim brought against the state or another party before Human Rights Institutions created specifically for the purpose of mediating or adjudicating such matters or before the regular courts. These matters are usually complex because although some of these fundamental rights and freedoms are inalienable, they are not absolute. The enjoyment of my fundamental rights and freedoms finds its logical limitation as soon as the exercise of my fundamental right causes another person harm<sup>6</sup> or diminishes the enjoyment of any of their fundamental rights and freedoms. More often than not, we are faced with a situation of competing rights, all of which exist for the protection or in furtherance of a specific value or good and in so doing may conflict with one another. If resolution cannot be obtained

from a lower instance court, it is the task of the Supreme Court of Canada to definitively rule on the balance of competing rights. In finding this balance between competing rights, the Supreme Court itself is bound by section 1 of the *Canadian Charter of Rights and Freedoms*, which states:

*The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.*<sup>7</sup>

This section ensures that the Charter is interpreted as liberally as is possible and that it remains a living document adaptable to current and future needs of a continually evolving Canadian society built on the principles of multiculturalism, pluralism, and diversity. The burden of proof regarding the reasonableness of a rights limitation rests squarely with the party (usually the state itself or an institution of the state) seeking to retain an existing limitation or impose a new one. The instrument at the Supreme Court's disposal to determine what reasonable limits imposed on rights and freedoms can be demonstrably justified in a free and democratic society is known as the Oakes test, which Ian Greene succinctly describes as follows:

*The Oakes test has two key components. First, the objective of the government in limiting a right must be of sufficient importance to society to justify encroachment on a right. Second, the limit must be reasonable and demonstrably justified in terms of not being out of proportion to the government objective, and must therefore satisfy three criteria: (a) it must be rationally connected to the government objective, and not arbitrary or capricious; (b) it should impair the right as little as is necessary to achieve the government objective; and (c) even if the previous points are satisfied, the effects of the limit cannot be out of proportion to what is accomplished by the government objective—in other words, the cure cannot be allowed to be more harmful than the disease.*<sup>8</sup>

There is a body of Canadian jurisprudence pertaining to matters of religious accommodation and/or to matters where religion or religious practice has come in conflict with someone else's fundamental rights and freedoms. This body is sizeable enough to allow us to discern certain trends. Salient cases include *Hutterian Brethren of Wilson Colony*, *Jones, Multani*, *Regina v. Big M Drug Mart Ltd.*, *Robertson and Rosetanni*, *Saguenay*, and *Saumur*.<sup>9</sup>

In all the above-mentioned cases, Justices were also wrestling with far more fundamental questions found at the core of the various presenting issues, i.e., what we understand freedom of religion to really mean and how we should define

the role of the secular, multicultural, pluralist state of the 21st century vis-à-vis religion and religious institutions.

Justice Gascon, who penned the *Saguenay* decision, first reminds us of the full meaning of freedom of religion. Whilst in popular discourse, freedom of religion is often understood as “the right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly and without fear of hindrance or reprisal, and the right to manifest religious belief by worship and practice or by teaching and dissemination,”<sup>10</sup> Justice Gascon unequivocally states the logical corollary of the above, i.e., that “[t]he freedom not to believe, to manifest one’s non-belief and to refuse to participate in religious observance is also protected... For the purposes of the protections afforded by the charters, the concepts of ‘belief’ and ‘religion’ encompass non-belief, atheism and agnosticism.”<sup>11</sup> Freedom of religion therefore means on the one hand the freedom to do something, such as espousing a particular religious belief (the ascribing sense), and on the other it also and equally means freedom *from* religion, i.e., the freedom not to hold any religious belief (the privative sense).

Historically, the privative understanding of freedom of religion, i.e., freedom *from* state-imposed religion, came first. Most of us today would probably understand the notion of freedom of conscience and religion to be something that emerged as a result of the Enlightenment and therefore consider it a concept germane to societies of modernity and post-modernity. It may therefore surprise some that the first claim to respect freedom of conscience and religion was made more than fifteen centuries earlier in Carthage (North Africa) around 212 CE. In a stand-off with the Roman magistrate Scapula, Tertullian, Bishop of Carthage, coins the term freedom of religion (*libertate religionis*, Lat.) which he clearly understands to mean freedom *from* state-imposed religion, conceives it to be a human right and makes the following claim:

*...it is a fundamental human right, a privilege of nature, that every man should worship according to his own convictions: one man’s religion neither harms nor helps another man. It is assuredly no part of religion to compel religion—to which free-will and not force should lead us—the sacrificial victims even being required of a willing mind. You will render no real service to your gods by compelling us to sacrifice. For they can have no desire of offerings from the unwilling, unless they are animated by a spirit of contention, which is a thing altogether undivine.<sup>12</sup>*

After having sunk into oblivion for centuries, the concept reemerges in the wake of the Reformation, again first and foremost in its privative meaning. Justice Dickson in *Big M* unfolded the historical argument for the primacy of a privative understanding of freedom of religion and supported his argument with practical

reasoning. He noted how in post-Reformation Europe, both Roman Catholic and Protestant monarchs had attempted to impose their beliefs on all their subjects, not often with great success but always at the cost of many lives.<sup>13</sup> During the 17th century in England, people eventually realized that “belief itself was not amenable to compulsion.”<sup>14</sup> Therefore, the position that the minority must conform to the traditions of the religious majority, either for the sake of convenience or to promote the truth (as the majority understood it to be) was no longer acceptable.

A logical consequence of an understanding of freedom of religion as primarily freedom from religion is that the state itself must not espouse any religion, but has in fact a duty of neutrality in this regard. In *Saguenay*, Justice Gascon traces the history of how the concept of the state’s duty of neutrality developed in Western democratic traditions and in Canada in particular.<sup>15</sup> He then concludes that

*the evolution of Canadian society has given rise to a concept of neutrality according to which the state must not interfere in religion and beliefs. The state must instead remain neutral in this regard. This neutrality requires that the state neither favour nor hinder any particular belief, and the same holds true for non-belief... It requires that the state abstain from taking any position and thus avoid adhering to a particular belief... By expressing no preference, the state ensures that it preserves a neutral public space that is free of discrimination and in which true freedom to believe or not to believe is enjoyed by everyone equally, given that everyone is valued equally.<sup>16</sup>*

In light of the above, there can be no doubt that the sociopolitical landscape has fundamentally changed from what it was (or at least is reputed to have been) a few decades ago. Gone are the days when the relationship bonds between church and state were strong and the state accorded the (Christian) church a position of privilege that other social institutions did not enjoy. Such privilege no longer exists; instead, the church, whilst having managed to remain an important institution of the dominant culture in Canada, is but one of many moral entrepreneurs and public opinion shapers. Once regarded a close confidant of the state, she now has to queue up like everybody else in order to be heard.

Similarly, the state should not impose narrow religious interpretations of morality on the lives and loves of consenting adults. Therefore, criminalizing same-sex intimacy ostensibly to protect religious views is untenable in a multicultural society.

## **Breaking New Ground—How Military Chaplaincy Keeps Adapting to Changing Social Realities**

Needless to say that as the role of religion and the position of the church changed as a consequence of the state's duty of neutrality, the role and station of the military chaplain—a religious professional in the state's employ—has undergone equally profound changes. This loss of station is sometimes lamented,<sup>17</sup> but at the same time military chaplains have demonstrated extraordinary resilience and adaptability to a rapidly changing socio-political landscape and the tensions that go along with such change. Not only have military chaplains adapted, they have also carved out new territory for themselves whereby they have transitioned from being church leaders in a military environment to religious advisors and experts, for example, in the field of religious leader engagement. In fact, it is hardly an exaggeration to say that the role of military chaplaincy has broadened and deepened, and that for the most part the well-reasoned opinion and the expertise of the chaplain is valued, actively sought, and respected.

I am also convinced that the continued relevance of and respect for the chaplaincy stands in direct correlation to how well chaplains themselves embody the values of diversity in all its forms and expressions, how sincere they are in their desire to engage and continuously grow in a multifaith and multicultural engagement, and how relentless they are in their efforts to respect and uphold the dignity of every human being. Conversely, an obstinate refusal to embrace all that diversity has to offer, the mere appearance of exclusionary or discriminatory practices,<sup>18</sup> and quite possibly an over-inflated nostalgia about the way we were in the good ol' days will only hurt military chaplaincy and potentially cause its demise.

The Supreme Court in *Saguenay* made it patently clear that we are not a protected species. Justice Gascon did not mince words when he emphasized that the Supreme Court's election of a *strong* neutrality of the state vis-à-vis religion (meaning that the state must neither in fact nor appearance be taking part in a religion) as opposed to a *benevolent* neutrality for which the Court of Appeal, the lower instance court that found in favour of the City of Saguenay (the respondent), had advocated, was in good measure brought about by the obstinately defiant attitudes of Mr. Tremblay, the Mayor of Saguenay.<sup>19</sup> Justice Gascon writes:

*I concede that the state's duty of neutrality does not require it to abstain from celebrating and preserving its religious heritage. But that cannot justify the state engaging in a discriminatory practice for religious purposes, which is what happened in the case of the City's prayer. The mayor's public declarations are revealing of the true function of the council's practice.<sup>20</sup>*

The lesson to be drawn is apparent: Defiantly opposing the state's policy of multiculturalism, diversity, and inclusion and displaying a lack of respect for the

state's duty of neutrality will only hurt military chaplaincy and do so in relatively short order.

From this vantage point, one may indeed come away with a sense of loss or even doom concerning the future of military chaplaincy in Canada. However, I consider this to be an unnecessarily negative and defeatist assessment of the station, and even more so, of the potential role military chaplaincy can play in the Canadian Armed Forces as well as in Canadian society at large.

When attending and speaking at a public event, recognizing every person present regardless of their faith background or lack thereof and making them feel welcome and appreciated as well as acknowledging that the land we call home today did at one time belong to someone else should not seem onerous or be misconstrued as a forced-upon apology for being Christian. I am reminded of the popular phrase, "When you're accustomed to privilege, equality feels like oppression."

It can be viewed differently. Once multiculturalism, diversity, and inclusion are wholeheartedly accepted and celebrated as that which makes Canada and its people strong, rich, and beautiful, such a requirement can hardly be viewed as a chore, but instead is elevated and becomes a prestigious task. One might even go so far as to say that the requirement of non-discrimination and inclusion has returned military chaplains to a place of honour and entrusted them with responsibility to ensure that ALL are recognized as equal and of intrinsic and inalienable value in the eyes of the modern state. This is an honour and a privilege.

I dare say the future for military chaplaincy is a bright one. To be sure, chaplains will be required to keep adjusting to ever more quickly changing social realities. But who would be better suited for the task than military chaplains? In one way or another military chaplains have lived up to the ideal of promoting diversity and inclusion for years, and they have done so authentically and with integrity. They have even made it their motto: *We care for all, we minister to our own, and we facilitate the worship of others.*

In an increasingly secular environment, military chaplaincy has the potential of serving as a role model for people of faith negotiating the multicultural, multi-faith, pluralist social landscapes in which we live today. In previous eras, the people came to the church. Today, the church has to go to the people if she wants to survive. In military chaplaincy, the church has always gone to the people, and better yet, lived with the people through all their joys and tribulations. Might military chaplains have a bit of an edge when it comes to figuring out how to do church in the 21st century? Time will tell (and I am quite hopeful).

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<sup>1</sup> Anglican Church of Canada, "History of Canadian Military Chaplaincy," [www.anglican.ca/amo/ourhistory](http://www.anglican.ca/amo/ourhistory).

<sup>2</sup> Hustak, A., *Faith Under Fire: Frederick G. Scott, Canada's extraordinary chaplain of the Great War* (Montreal, Vehicule Press, 2014)

<sup>3</sup> Department of National Defense, *Strong, Secure, Engaged* (2017), p. 23.

<sup>4</sup> Cohen, J.L., "Introduction," *Religion, Secularism, and Constitutional Democracy*, ed. Cohen, J.L./Laborde, C. (New York, Columbia University Press, 2016). Emphasis mine.

<sup>5</sup> All modern democracies reserve the right to temporarily suspend or curtail (some) inalienable rights for cause and in accordance with very narrowly defined rules of due process.

<sup>6</sup> This is known as John Stuart Mill's Harm Principle: "That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him, must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign." (*On Liberty*, pp. 10f.)

<sup>7</sup> *Canadian Charter of Rights and Freedoms*, s. 1, Part I of the Constitution Act, 1982.

<sup>8</sup> Greene, I., *The Charter of Rights and Freedoms: 30+ years of decisions that shape Canadian life* (Toronto: James Lorimer & Company Ltd., Publishers, 2014) p. 77.

<sup>9</sup> Greene, *supra*, pp. 97-106, offers a succinct exploration of these cases minus *Saguénay*. The issue of public prayer has been addressed in *Freitag v Penetanguishene* (Town) [1999] CanLII 3786 (ON CA); *Allen v Renfrew (Corp of the County)* [2004] CanLII 13978 (ON SC). *Commission des droits de la personne et des droits de la jeunesse v Laval (Ville de)* [2006] QCTDP 17. The matter litigated in three instances thus ending up before the Supreme Court of Canada is *Simoneau v Tremblay* [2011] QCTDP 1; *Saguénay (Ville de) v Mouvement laïque québécois* [2013] QCCA 936; *Mouvement laïque québécois v Saguénay (City)* [2015] SCC 16. A detailed discussion of these cases can be found in Lefebvre, S., "The Prayer Case Saga in Canada: An 'Expert Insider' Perspective on Praying in the Political and Public Arenas," Berger, B.L./Moon, R., *Religion and the Exercise of Public Authority* (Oxford: Hart Publishing, 2016).

<sup>10</sup> *Mouvement laïque québécois v Saguénay (City)* [2015] SCC 16, at para. 68 citing Justice Dickson J. in *Regina v. Big M Drug Mart Ltd. et al.*, 1 SCR 295 (1985).

<sup>11</sup> *Ibid.*, at para. 70.

<sup>12</sup> Tertullian, *Ad Scapulam*, II (2). Tamen humani iuris et naturalis potestatis est unicuique quod putauerit colere; nec alii obest aut prodest alterius religio. Sed nec religionis est cogere religionem, quae sponte suscipi debeat, non ui, cum et hostiae ab animo libenti expostulentur. Ita etsi nos compuleritis ad sacrificandum, nihil praestabitis diis uestris: ab inuitis enim sacrificia non desiderabunt, nisi si contentiosi sunt; contentiosus autem Deus non est.

<sup>13</sup> *R. v. Big M Drug Mart Ltd.* [1985] 1 SCR 295, at para. 118-123.

<sup>14</sup> *Ibid.*, at para. 120.

<sup>15</sup> *Mouvement laïque québécois v Saguénay (City)* [2015] SCC 16, at para. 70. Richard Moon in "Freedom of Religion under the Charter of Rights: The Limits of State Neutrality," *UBC Law Review*, vol. 45:2 (2012), pp. 497-549, offers an excellent and highly nuanced exploration of state neutrality.

<sup>16</sup> *Ibid.*, at para. 72-74.

- <sup>17</sup> For an in-depth assessment of how chaplains have dealt with the demands of pluralism in recent times, see Peterson, M.T., “The Reinvention of the Canadian Armed Forces Chaplaincy and the Limits of Religious Pluralism” (2015) 1729, pp. 136ff.
- <sup>18</sup> Excluded from this statement are such instances where ecclesiastical authorities prohibit a chaplain from providing certain services (usually in the form of sacraments or rites) to a specific group of persons. A case in point would be the prohibition maintained by some Christian denominations concerning the solemnization of marriage between two persons of the same gender. In the secular realm, such discrimination and alienation has been unlawful in Canada since 2005. Being religious professionals employed by the state, chaplains may find themselves in a position where—on the one hand—their secular employer (the state) has a reasonable expectation that all persons in the state’s employ abide by public policy and render all services in a non-discriminatory fashion, without bias or prejudice, and in accordance with the laws of the nation, and—on the other—their religious authority which may expressly forbid such inclusion. For a local pastor or parish priest, this may not pose a problem at all. The state has granted recognized religious organizations broad autonomy in all matters of faith and to a lesser degree in matters of social structuring. The local pastor can simply refuse to entertain the request for service, bid the enquirers a good day and send them on their merry (or possibly not so merry) way. Not so the military chaplain. If his or her ecclesiastical authority prohibits them from providing a service, the military chaplain cannot simply dismiss the person seeking service, but has to provide an alternative, i.e., a religious professional from another denomination or faith that does not impose restrictions concerning the eligibility of persons seeking service.
- <sup>19</sup> *Mouvement laïque québécois v Saguenay (City)* [2015] SCC 16, at paras. 147-53.
- <sup>20</sup> *Ibid.*, at para. 116.

# A Church of England Take on Buggery Law

*Rt. Rev. Dr. Alan Wilson*

Buggery was criminalized in England in 1533. The date is no accident. The law was a legal fix to enable Henry VIII to pressurize and, if necessary, hang monks whilst seizing their assets, a footnote to the history of the English Reformation.

Before 1533, sodomy, to use the biblically illiterate terminology of the Middle Ages, was a matter for canon law, not criminal law. It was dealt with, alongside adultery and marital disputes, as a minor offence by Church courts. Henry's daughter Mary put it back in the hands of the Church when she was crowned twenty years later. By 1563, the pendulum had swung back, and Henry's Protestant daughter, Elizabeth, re-enacted her father's law. But buggery was historically seen in England as a sin, a matter for the Church, not a crime.

The 1533 legislation was a key part of Henry's plan to seize and suppress the monasteries. Thomas Cromwell devised a bill

*to punish the detestable and abominable Vice of Buggerie committed with Mankind or Beast...the offenders being hereof convicted by verdict confession or outlawry shall suffer such pains of death and losses and penalties of their goods chattels debts lands tenements and hereditaments as felons do according to the Common Laws of this Realm. And no person offending in any such offence shall be admitted to his Clergy.*

Henry VIII was, notoriously, a prodigious family man, but this was not his rationale about buggery. He did not believe homosexuality was particularly sinful—indeed he lived 300 years before the homosexuality as we know it was first conceptualized. As part of his campaign against the historic privileges of the Church, his new buggery law enabled him to try monks and other ecclesiastics in criminal courts.

He suspected, and commissioners' inquiries revealed, that all kinds of vice went on in single-sex monasteries. Monks who had previously been dealt with in a Church court, if at all, could now be convicted of a new hanging offence by confession, by verdict of a state court (including the high court of parliament), or by failing to show up before a judge. They could be executed and any private assets taken by the Crown. Commissioners were sent round to collect gossip and allegations about monks all over the country, and by the mid-1530s many were surrendering their houses and their assets to the King.

This legislation was a political tool, and death sentences were rarely carried out. Nicholas Udall, headmaster of Eton, was the first cleric to be convicted under

the new law, but he wasn't executed and instead ended his days a few years later as headmaster of Westminster School. Over the coming centuries a few people were occasionally hanged for buggery, especially those who fell afoul of powerful enemies.

Thus John Atherton, Bishop of Waterford, was hanged in Dublin in 1641. Rich and influential Protestant landowners were enraged by his attempts to protect and consolidate Church lands beyond their reach. The buggery law was used for politics and property, not sexual morality. Executions for buggery were unusual but occasional in England right up to 1835 when James Pratt and John Smith were hanged in London.

In 1828, a new *Offences against the Person Act* passed into English law, and was later reformed in 1861. Buggery, its definition slightly modified, would now carry a 10-year prison sentence.

The mid-nineteenth century saw much anxiety in England about its presence in India, especially during the buildup to and aftermath of what Victorian Imperialists called the Indian Mutiny. Lord Macaulay served as chair of the Indian law commission from 1834. The aim of the commission was to simplify and then impose English Law on the many and varied cultures of India in order to consolidate British rule across the subcontinent. For this purpose, Macaulay drafted what became section 377 of the *Indian Penal Code*, which imposed by the British in 1860. This dealt with "unnatural offences," providing that

*Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to ten years, and shall also be liable to fine.*

This provision outlasted the British Empire in India. By 1898, all of the countries coloured in red on the map had similar provisions, originating from the colonial office in London. Such carnal intercourse laws became a distinctive feature of British imperialism in the high Victorian age.

Victorian morality reached its raging zenith in the mid-1880s. London, where some were dressing up their piano legs for modesty's sake, was also a place where, as one newspaper revealed in 1885, a child of 13 could be procured on the streets for £5. That year, Parliament passed a new *Criminal Law Amendment Act*. This supplemented the buggery law with a new offence of gross indecency to punish homosexual conduct that fell short of legal buggery. This was the law under which Oscar Wilde was imprisoned in 1895.

The church broadly drifted along with high Victorian moralism but after the First World War, some Anglican theologians began to argue that whilst homosexual behaviour was wrong, it was a time for Anglicans to take a fresh pastoral

approach to the people concerned. In 1932, the Anglo-Catholic theologian Alec Vidler wrote:

*Because most adults people are heterosexual (i.e. attracted to people of the opposite sex to their own), homosexuality is popularly regarded as abnormal (which it is) but also as a discreditable, evil and pathological condition (which it is not). Popular judgement is grossly mistaken and unfair. The fact of homosexuality (which is no more discreditable when heterosexuality) must be taken into account and provided for in any ethic which is to meet the necessities of human life.*

In the early 1950s, Derrick Sherwin Bailey was Study Secretary of the Church of England Moral Welfare Council (CEMWC). He argued even more forcefully for a fresh pastoral approach. A confidential briefing was prepared for the CEMWC in 1954 and in 1956, he co-ordinated the background report on which V. A. Demant, Regius Professor of Moral and Pastoral Theology at Oxford, based his contribution to the Wolfenden commission that reported in September 1957.

Lawmakers are always cautious about hotly contested areas of social policy and it took another 10 years before sexual intimacy in private between males was partially decriminalized by the *Sexual Offences Act*, 1967. This was not blanket decriminalization, but a first decisive step towards it. The act only applied to England and Wales, not the entire United Kingdom or the Merchant Navy and Armed Forces, and only to men over the age of 21.

In 1980, the 1967 Act was extended to Scotland and then to Northern Ireland in 1982. The 2003 *Sexual Offences Act* equalized the age of consent. But homosexual intimacy was not fully decriminalized in the United Kingdom until 2017, when royal assent was given to the *Merchant Shipping Homosexual Conduct Act*.

Social attitudes in the U.K. have, naturally, changed drastically during the past 50 years. The vast majority of English people today see homosexuality as a variant within the range of normal sexual desire and behaviour. A smaller group would still see homosexuality as an illness or disability, but this view is waning. Once society stops treating gay people as a problem, gay people simply integrate in society with everyone else. Christian gay-straightening ministries have collapsed in failure since the 1990s. This cannot be surprising since the National Health Service itself applied various bogus gay-straightening therapies to thousands of LGBT people between 1947 and the late 1980s, and to no useful purpose or effect.

There is still a significant group in the U.K. population, recently estimated as 16% of Anglicans, 20% of Evangelical Christians, and about 12% of the general population, who see homosexuality as a sin. The number who believe it should

be a crime is now microscopic. Even U.K. anti-gay warriors who secretly think decriminalization in the U.K. was a mistake, only say so in Jamaica and pretend they didn't when they get home. They know perfectly well that there is absolutely no argument to recriminalize homosexual love in the U.K. today.

How might this analysis apply to the U.K. 60 years ago at the threshold of decriminalization?

There was no systematic survey in these terms at the time. But working on the basis of Wolfenden evidence, over half were in favour of decriminalization, but only very few were, in any sense, pro-gay. Twenty percent, perhaps, saw homosexuality as a morally neutral variant. More people, perhaps 30%, saw it as an illness to be treated by psychiatrists. An even larger number of people, including most Anglicans, believed homosexuality was a sin. And, 60 years ago, about a quarter seemed to believe that homosexuality should remain a crime.

So, very few of the people who passed the 1967 Act were in any sense pro-gay. Around 80% of them regarded homosexuality as wrong for one reason or another.

For many, it was a matter of irrational disgust. David Maxwell-Fyfe, Lord Kilmuir, was Lord Chancellor in 1965. He asked the House of Lords, "Are your lordships going to pass a bill that would make it lawful for two senior officers of police to go to bed together?"

Bishops led by the Archbishop of Canterbury, Dr. Michael Ramsey, took a more intelligent and pastoral approach. They voted for partial decriminalization. Although they regarded homosexuality as wrong, they thought the present law obsolete and unjust.

Roger Wilson, Bishop of Chichester, spoke in the same Lords debate in May 1965:

*The law relating to private homosexual conduct between consenting adults does grave injustice to a large number of individuals. It is productive much misery. It produces a squalid underworld of suspicion and fear. It leads to blackmail. It leads often enough to the tragedy of suicide. Moreover, it obstructs the very purposes which the law should make possible—namely, the pastoral care and treatment of the offender and the rescue with many would be offenders struggling, it may be, against a weakness which they have been born with, whose own resistance to the danger at present cannot receive the reinforcement of the counsel which they so desperately need. Indeed what we wish to bring to this problem is the possibility of an area of compassion and of spiritual resources, which are almost precluded under the present state of the law.*

There were two fundamental legal arguments for change in 1967. One was to do with the bad effects of the present law. Prohibition in the United States had been a high-minded attempt to enforce morality, but it ended up with Al Capone. Whatever good it accomplished was rubbed out by overwhelmingly more evil effects.

A second and more important argument was between two distinguished lawyers.

Patrick Devlin, the youngest high court judge of the 20th century, was a law lord from 1961. Devlin argued, from his Catholic perspective, that the purpose of law was to enforce morality on the population. Law should send up markers of approval and disapproval, whatever the human impact of attempting to do that.

He was opposed by H. L. A. Hart, Professor of Jurisprudence at Oxford University. In his book on the subject, *Law, Liberty, and Morality*, Hart argued that the purpose of the criminal law was not to enforce a moral code but simply to restrain any behaviour that was dangerous or harmful to others. Personal moral decisions should be made by individuals on the basis of their own moral judgement, and the law should stay out of those decisions where they caused no harm.

Even though the vast majority of U.K. lawmakers disapproved of homosexuality, by 1967 they had come to see that they had no business to police what went on in the bedroom as long as it caused no harm to anyone else.

In the years following the *Sexual Offences Act*, the Church of England produced various reports summarizing the ongoing moral debate in England, often recommending great caution but expanding pastoral accommodation.

A secret report produced in 1970 was followed by a public one in 1979, chaired by the Bishop of Gloucester. In 1989, the House of Bishops commissioned the Osborne report proposing an approach that could hold across all shades of Church opinion. This was suppressed out of episcopal cowardice about of a newly ascendant conservative faction in the General Synod, and only published in 2012. In 1991, a group commissioned by the House of Bishops produced *Issues in Human Sexuality*, which became the standard dogma to which all Church of England ordinands still have, theoretically, to sign up. Again this discussion paper took an extremely conservative line, whilst trying to reach out to gay people, especially if they were not ordained.

*Issues in Human Sexuality* was followed eight years later by *Some Issues in Human Sexuality: A Guide to the Debate* and a string of other reports and papers including the so-called Pilling report of 2013. The Church of England has still not come to a common mind on the rightness or wrongness of homosexuality. As many as 16% still believe it to be wrong, often vehemently.

The Pilling report attempted to initiate a listening process of charitable engagement between people on different sides. Without something like this, it's hard

to see how any progress can be made beyond deadlock, and a desire for intelligent mutual understanding, more than slogans, lies behind the present conference.

There has been much change and, through the past 50 years, gut feelings about homosexuality have often been something of the elephant in the room. What has driven change more than anything else has been the emergence of gay people from the ghetto. Once people who are gay are taken seriously rather than stigmatized and shamed, the basic Christian commandment to love takes over.

It is interesting to note that in 1957 the senior leadership of the church were, broadly speaking, ahead of most people in the pews. That position is now reversed, with much more acceptance among ordinary Anglicans but a senior leadership that is far more anxious, neurotic, and hidebound. Many overestimate the extent to which a post-Imperialist Church of England can, or indeed should, influence other provinces' discernments within their separate cultures. In some ways the most internally damaging effect of the way the Church of England has engaged with LGBT+ people in the past 60 years has been a phenomenon that was drawn to the church's attention in the 1989 Osborne report. A lifetime of trying to steer around difficulties rather than facing them has been wearying all round, and as minimal—if not non-existent—as Jesus's teaching on homosexuality is, his teaching on hypocrisy is clear:

*The present methods may be perceived to lack clarity. From one side it may be suggested that there is not enough toughness in the opposing on the sexual contact. On the other it may be seen to be discriminating against homosexual persons.*

*It runs the risk of inhibiting clergy and ordinands from being open to the bishop. Indeed, there is evidence to suggest that homosexuals very cautious about how much they feel able to share with their bishop. All of this can lead to deception, hypocrisy and concealment which are detrimental to spiritual growth and healthy adult relationships.*

The simple fact is that Church of England Christians sincerely hold strongly divergent feelings about homosexuality. The vast majority are affirming up to a point. Only a microscopic minority of zealots believe ethical and cultural differences are matters over which to split the church. Christ is the way, the truth, and the life. He stands above and beyond all cultures. Therefore the only solution has to be to live together, acknowledging difference and respecting others' consciences.

Christians have always taken sharply divergent views on cultural topics. Romans 14 offers a simple model of how to live with such differences, which are not credal but cultural. This model suggests those on both sides of a contentious theological dispute should be convinced in their own minds. They should embrace and advocate the position they believe in, but from faith, not party spirit.

Everyone should consider their impact on the whole church and should not split into tribes. Finally, says Paul, nothing should be judged before the time. God allows such wrangling in order to allow the truth to emerge as disciples interact with each other. Finally, when Christ comes, and not before, the truth may be known to all in its fullness.

The Church of England also bears an outward facing responsibility for the policy about which it drifted along with society in the age of high Victorian moralism, and which it imposed throughout the British Empire. For over 400 years, the church led the way in establishing, enforcing, and criminalizing foreign cultures. The Church of England needs to learn how to relate to former colonial churches on the basis of equality and mutuality. We need to grow out of cultural imperialism and let churches discern for themselves their calling in their contexts. This means shedding some culturally imperialistic attitudes on which the British Empire was built in Victorian times, and which make Church of England practice normative throughout the communion.

However, the vast majority of Anglican primates around the world have recognized the moral and pastoral damage caused by criminalization. In January 2016, Anglican primates gathered in Canterbury and condemned homophobic prejudice and violence and committed themselves to work together to offer pastoral care and loving service irrespective of sexual orientation:

*This conviction arises out of our discipleship of Jesus Christ.  
The primates reaffirm their rejection of criminal sanctions  
against same-sex attracted people.*

Whether, like those who enacted the U.K. legislation of 1967, Anglicans believe that homosexuality is wrong, or, like most members of the Church of England today, they believe it is simply a variant within the spectrum of human sexuality, the Church has now reached a point where it is obvious to almost all that criminalization has been ineffective, pastorally foolish, and morally wrong. It breeds double think and hypocrisy within the Church, and provides a rich soil for abuse and violence across society. The time has come to recognize that responding positively to our call to holiness and the law of love is far more important than enforcing Victorian morality across an empire on which the sun has, thankfully, set.

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## Awakening to Freedom: A Global South Perspective

*The Very Reverend Michael Weeder*

*Psalm 73:25–26: Whom have I in heaven but thee? and there is none upon earth that I desire beside thee. My flesh and my heart faileth: but God is the strength of my heart, and my portion forever.*

I greet you with the traditional Zulu greeting of my country, “Sawubonani” (We see you, all of you), and you are invited to respond with “yebo!” (yes).

It is another way of saying, “You matter.” We meet each, however fleetingly, along the way. Let these moments be weighted with respect, kindness, and mutual acceptance that God loves us all.

In 2003, the movie *Proteus* was screened in our new democracy of South Africa. It was inspired by the relationship between two men, the Dutchman Rijkhaart Jacobsz and the first nation African man Claas Blank. They had been imprisoned on Robben Island in the 18th century, at a time when the Cape was occupied by the Dutch under the governance of the Dutch East India Company.

Some of the narrative and factual details of the movie were sourced from a 270-year-old court transcript and give a glimpse into the lives of the accused.

Claas and Rijkhaart had already been serving a lengthy sentence when they were brought up on charges of the crime of sodomy. They were found guilty and executed in the prescribed format informed by the cruel ingenuity of colonial power: their bodies were tied to weighted blocks and cast into the waters of Table Bay, above which looms Table Mountain or Hoerikamma (“the stone from the waters”) as it was named by the first nation people of Southern Africa, the Khoi and San.

Jack Lewis, the South African director of *Proteus*, participating in a panel discussion on the movie, in reference to the title of the movie—said, “I arrived at our interest in nomenclature through a coincidence of history.” He noted that *Proteaceae*, the giant or king protea, was named as such in the year 1735. (It became the national flower of an apartheid South Africa in 1976.) Seventeen thirty-five was also the year of the execution of Claas and Rijkhaart.

The film, adds Lewis, explores the parallels between the cultivation of this particular flower species “at the same time as the decade-long relationship of our prisoners (and it) allowed us to mobilize the metaphors of binomial classification, and in a broader sense the central question of naming that drove our story: what names could Claas and Rijkhaart have for each other, for their feelings, for the sex they shared?”

Noa Ben-Asher, an Israeli queer legal theorist, adds the following insight when describing the execution scene: “...when the sodomites disappear into the

sea. This, the film argues, is analogous to the classification of people into races and of plant life into families of flowers. The process of naming is erotically charged, and the named becomes the subject of academic (fill in the blank: racist/botanic/homophobic) desire.”

On October 9, 1998, the Constitutional Court of South Africa “declared that the common-law offence of sodomy is inconsistent with the *Constitution of the Republic of South Africa 1996*.”

In the section headed “The Treatment of Difference in an Open Society,” the following is detailed: “Although the Constitution itself cannot destroy homophobic prejudice, it can require the elimination of public institutions which are based on and perpetuate such prejudice. From today a section of the community can feel the equal concern and regard of the Constitution and enjoy lives less threatened, less lonely and more dignified. The law catches up with an evolving social reality.”

The Anglican Church of Southern Africa (ACSA)—which includes South Africa, Lesotho, Swaziland, Mozambique, Namibia, Angola, and the British Settlement of the Island of St. Helena in the Atlantic Ocean—is a committed participant in the Lambeth of 2008–initiated Indaba Process: a dialogic engagement on the matter of human sexuality as part of the church’s commitment to establish an appropriate response to the matter of human sexuality. (As Cherie Wetzel described it for Anglicans United, “[Indaba is] a process that South African villages use as a method of engagement for problems that face a set group of people. The word is from the Zulu, and means ‘business.’ Traditionally, the elder men of the community meet and deal especially with an issue that affects the entire community. The discussion begins on a quite superficial level and then goes deeper and deeper into the gist of the problem, with the sharing ideas and information.”)

The ruling of the South African Constitutional Court removed the statute that criminalized same-sex intimacy. In so doing, it presented the Church with both gift and challenge.

This decision gifts us with an impetus, a resource that focuses our attention, spiritually and pastorally. Many of my cathedral parishioners have entered into same-sex unions and the current position of the church prohibits me from blessing their legal standing. And so, while our state has forged the way in its determination, we the church seem consistent with the charge levelled against us in the 1980s, namely that we arrive late and out of breath.

But Miles Davis was right when he said that “there is no such thing as a wrong note”—and Herbie Hancock recalls a performance moment in that celebrated quintet when he played what he believed was “a wrong note,” Miles paused, thought about, and then proceeded to musically elaborate on what he had received. “It’s what you play afterwards that matters,” was the Davisian ruling.

Of specific interest to our conversation here today as part of the worldwide Church is the reference made by the Constitutional Court to “a situation-sensitive human rights approach” focused “not on abstract categories, but on the lives as lived and the injuries as experienced by different groups in our society.”

The Con Court’s comes from a particularly reflective and thorough methodology that was pursued over many years by the best legal minds, from academia, from the formal institutions of our courts and organization of civil society.

The result is this: the decision came after a protracted and scholarly study of the subject at hand. The nature of the presence of homosexuals in civilization and in our society was defined by members of the affected community themselves. They were seen in the manner that Irenaeus, the second-century bishop of Lyon, understood as when he declared “*gloria enim Dei vivens homo, vita autem hominis visio Dei.*”

“The glory of God is the living human,” or, “to be alive to the glory of God.”

The various permutations of making love, of being, were weighed on the scales of human rights, equality, and the nature of prejudice and the incongruous way in which it normalizes our values.

The conventional Anglican approach to decision-making has, over time, been guided by an understanding informed, firstly, by what Scripture says. Yet we have become alert to what feminist theologians refer to as “texts of terror.” Those sections of the sacred text that, for example, depict sexual violence inflicted on women, without any critique. Then there is Reason, the necessity of thought, especially safe-space informed conversation. And of course, the ever-present Anglican sense of tradition: this is often presented as a judgmental critique on what is believed to be beyond the bound of orthodoxy, the sphere of “right ideas.” But tradition, essentially, is like a calabash—the traditional container, for instance of *umqombothi*, the homemade brew used at rites of passages. It is a semiotic of the ancient, which continues to nurture and nourish in the present. It is not a stagnant pool but a deep and slow-flowing river. We are called to be part of vital, respect-centered engagement of ideas and orthopraxis: the intentional discipleship of those who follow in the steps of Jesus Christ, as the perennial peacemakers of our times.

In South Africa, we have a constitution that I believe rightly calls us as the faith community to give an account of what we believe and deem precious. I am of the Anglican tradition, which is comfortable with the honorific “Father.” It is a functional reference to my place in the family of the church. It is informed by the example and practice of my mother. Mum had a preferential bias towards any one of her children who at a given time had special need of her care and attention. And sometimes a rebuke with a rolled-up, wet dishcloth. She looked out for the one who was not the table. She enquired about who was not eating. And why we

were not talking to each other. What was the content of our silence.

Archbishop Emeritus Desmond Tutu has often reminded us, with chortling laughter, that heaven is not for Christians only. And that we'd be very surprised at who we might find there. I once teased the Arch by remarking that should I be able to enter heaven, I would encounter some ruckus and would ask the angel "Who is making all that noise?" and the answer would be, "Oh, that is Desmond Tutu arguing with Jesus. He wants to know why there are so few white people in heaven."

A variation on the heaven-is-not-for-Christians-only theme is the stark challenge of Dorothy Day, a devout Catholic and worker for justice who noted that "I really only love God as much as I love the person I love the least."

In response to the question asked by Jesus Christ, "Who do you say I am?", the Christian is invited to reflect on the quality of our lives lived in relation to each other. Who we say our enemies are and those whom we damn will show those outside our faith community the face of God in these times.

*Whom have I in heaven but thee? and there is none upon earth that I desire beside thee.*

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# Building an Ecumenical Dialogue for Decriminalization

*Rev. Colin Coward*

For the first twenty-two years of my life in the U.K., homosexual sexual activity was illegal. Fortunately I didn't know that when I was playing around with other boys at school. Later, when I was 16, and the curate at my church seduced me sexually, I did know. I knew that if I reported what he was doing, he would likely end up in prison and I would be humiliated. I kept silent. That's one of the effects of the criminalization of homosexuality. People, young and old, live in abusive cultures. Changing the culture from within, if you are, for example, a gay Nigerian, is almost impossible. That is why this conference is so vitally important.

I have spent the past twenty-six years of my life trying to change the culture of the Church of England from within. I have observed the changing attitudes in my church and of the Anglican Communion to homosexuality—some positive, many negative. I have campaigned for a positive change in the attitude towards LGBTI people in the church since 1995. My experience has been very direct. I was invited by Njongonkulu Ndugane, the Archbishop of Cape Town, to address the subsection dealing with human sexuality at the 1998 Lambeth Conference. The invitation was never fulfilled. The bishops refused to meet anyone who was openly gay.

At the end of that conference, I witnessed the plenary session chaired by George Carey, the Archbishop of Canterbury, when the carefully agreed-upon report produced by the subsection was ignored. In its place, a two-hour debate was held on a Global South motion that, after much amendment, was passed by a huge majority, with fewer than 30 bishops voting against. The result was Lambeth Resolution 1.10. My bishop described the atmosphere in the hall as being like a Nazi rally. The anger, prejudice, and abuse vented during the debate was frightening. George Carey was instrumental in the outcome of such a hostile, ambivalent resolution. Later the same day, a pastoral letter in support of LGBTI Anglicans began to be circulated by bishops from the U.S. Episcopal Church, eventually being signed by 180 bishops internationally.

As a result of my experience at the 1998 Lambeth Conference, I began to attend every meeting of the Church of England General Synod, though I wasn't a member. I wanted to build relationships and be present as an unashamedly open gay priest. Discovering the value of this real presence and with the support of my trustees, I attended meetings of the Primates of the Communion in Tanzania and Egypt, and of the Anglican Consultative Council in Nottingham and Jamaica. I have dialogued with Primates and bishops from many parts of the Anglican Communion, both those opposed to LGBTI people and others who support de-

criminalization and full inclusion.

At their meeting in Canterbury in January 2016, the Primates agreed to condemn homophobic prejudice and violence. They reaffirmed their rejection of criminal sanctions against same-sex attracted people. They recognized that the Christian church has often acted towards LGBTI people in ways that have caused deep hurt.

But actions speak louder than words. Two weeks ago, the Diocese of Sydney, a member of the GAFCON group (Global Anglican Future Conference, a group dedicated to preserving the interpretation of marriage as between a man and a woman and to condemning same-sex relationships), donated \$1 million to the campaign opposing marriage equality in Australia. The Archbishop of Canterbury declined to write a statement of support for today's conference. It probably didn't occur to him to appoint a bishop to officially represent him here. The continuing hostile actions and the failure to implement the commitment to oppose criminalization are signs of failure, Gospel failure to raise up the broken-hearted and proclaim God's Kingdom of justice for all people.

The GAFCON axis has an intimidating effect on the archbishops and bishops of the Church of England. This has compromised my church's ability to make progress in step with the dramatically changed social attitudes and legal protection and equality in U.K. society. GAFCON Provinces refuse to observe the statements agreed at the Primates' meeting opposing the criminalization and oppression of LGBTI people. Unlike the Provinces of the U.S., Canada, and Scotland, where sanctions have been imposed as a result of their decisions to recognize marriage equality, sanctions are never imposed on the GAFCON Provinces.

The Primates of every Anglican Province have already, in theory, committed themselves to oppose criminalization, and therefore, presumably, to support movements working to remove laws that criminalize LGBTI people. How can further progress be made, how can the Primates be encouraged to implement their commitment?

In England, I have witnessed how social and legal change is effected as people are sensitized and educated thanks to media attention, initially paid to campaigns opposed to anti-gay legislation, then to the injustice perpetrated against LGBTI people, and eventually to coverage of the lives and experience of gay people as members of society for whom equal dignity and protection is a given. In countries like Nigeria and Uganda, with the introduction of anti-gay marriage and anti-homosexuality legislation, a public conversation has been initiated thanks to widespread media and social network coverage. Eventually, as in the U.K. and other countries, this conversation will lead to growing awareness, dawning understanding, and diminishing prejudice leading to decriminalization.

We have to work using the same process within the church.

My own conviction is that God is unconditional, infinite, intimate love. Conservative Christian theology tends to be rooted in a belief that God's love is conditional, restricted to those who conform to so-called "orthodox," traditional dogma and teaching. The Christian dispute about human sexuality is at root a dispute about the nature of God. If I am right in my conviction, and God's love is universal and unconditional, I question whether the hostile stance to LGBTI people held by GAFCON and other conservative networks can be described as Christian.

We need to take personal responsibility for building networks with allies, identifying people who are open and aware, as well as with those hostile to LGBTI people, building an international network to share information, provide support and education, and strengthen alliances between denominations and between Christian and other faith networks.

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*Rev. Colin Coward describes himself as a contemplative activist. After 17 years of ministry as a Church of England priest in London, in 1995, he founded Changing Attitude, campaigning for equality in ministry and relationships for LGBTI people in the Church of England. Colin believes the "face" of Christianity is being transformed by the life sciences, globalization, climate change, and evolution, with conflicts over human sexuality acting as a surrogate for more profound emergence of faith worldwide. In 2014, the Queen awarded Colin an MBE for services towards equality, recognizing the work of Changing Attitude in the church.*



# SECTION TWO

OTHER CHURCHES AND DECRIMINALIZATION



# Wouldn't it be Nice to Take My Whole Queer Body to Church?

*Rev. Basil Coward*

Thank you, organizers. It's good to be here. And it is difficult to be here. This queer Black body of mine is experiencing an acute sense of oppression in this contested space.

I was tasked with reflecting on The United Church of Canada's (UCC) process towards affirmation and inclusion of people of all sexual orientation and gender identities, but this afternoon I'm compelled to speak from a place of personal experience and integrity.

There are three things that do not co-exist harmoniously—Blackness, queerness and Christianity—and yet I embody all three. These intersecting identities are more obvious if we take a look at where I spend my days.

You'll find me at the front of a church, where I've served in ministry for twenty-five years.

You'll find me at George Brown College in Toronto where I work as a counsellor, talking to students who find themselves marginalized from many communities, including communities of faith.

You'll find me hanging around the beaches of Barbados, my first home, where my roots run deep.

You'll find me curled up somewhere, carried away by story because I have an extravagant curiosity with oral histories, sacred text, and storytelling.

And you'll find me cruising Church Street (Toronto's gay village), where, when gayness tenderly wrapped herself around me and drew me close, I initially pushed her away. But I have now come to hold her with exuberance, especially because my own experience of comfort and philosophical expansion involved letting go of the church's dogma around sexual orientation, but not around love. This expansion arises from how I experience myself as known by God, above and beyond any fairy tales about God; and it deepens through how costly and valuable this has been for me as a queer Black Christian man who has known such troubles.

I am finally certain that any interpretation of scripture that could generate self-loathing in any LGBTIQ2S+ person is illegitimate. I further know that Christ, and the church, can function perfectly well without such interpretations. And more, that for the church to be legitimate, it must actively denounce such interpretations. The UCC has done this ably, welcoming white LGBTIQ2S+ folks into the church and ministry. Yes, you can be queer in the UCC. But can you be both queer and Black and still enjoy a welcoming, secure, nourishing, celebrated,

and visible presence within the UCC?

This question is not within the scope of this panel. And yet it is!

Because I seek to engage the church in a dialogue about queerness, Blackness and Christianity, and what that means to my Black body—to all Black bodies. I'll share two stories to help us explore first what my perspective means and what it could mean for my membership in or for the other members of the communities I serve as a queer Black Christian man. And then what the decriminalization of sodomy might mean for our Black bodies.

Last week, I was in Edmonton at the Network of Black Clergy of the UCC gathering—which meets biannually in our struggle for voice and for recognition in a church that often does not want to hear or see us. Thus, like many other struggles for justice in the UCC, including that of LGBTIQ2S+ folks, our gathering is a reminder to the church that we are not home as yet—at least not all of us—and it's a struggle for our own liberation.

At that gathering, a young queer Black man said to me, "I live in a world where my body is not safe anywhere, including the church, and I'm exhausted." (And we know, considering the current news cycle, that that statement can be extended to all Black bodies. We also know that while criminalization has silenced people in the past, today Black LGBTIQ2S+ folks are silenced by fear, stigma, suicide, immigration status [or non-status], and violence, and that places of faith, of employment, of enjoyment, of work, can all be safe and welcoming spaces, or they can be places of fear and shame.)

So, with that young Black man, I engaged in a conversation about the objectification of his body, of our bodies. We commiserated about our experiences of homophobia, and the claims that people still lay to our bodies. We talked of anger and violence and we also spoke about pleasure, the sweet titillating pleasure that these queer Black bodies of ours visit upon our souls.

Further, I was able to share with him, and the gathering, my pastoral sabbatical project—funded by The Louisville Institute—entitled: "Wouldn't It Be Nice To Take My Whole Body To Church? The Embodied Struggle for Spiritual Wholeness of Black LGBTIQ2S+ in the Toronto Area." The core question: how have queer Black folks experienced welcome (or not) from Affirming UCC congregations they have visited in the past decade? Anecdotally we know that queer Black folks have not always been welcome in Affirming congregations in the UCC.

Second story. This summer in Barbados, I spent the first three days of my holiday with my nephews and niece and a little friend of theirs. On the fourth day, they showed up again. This time, the little boy stood sulking in the doorway and no one could entice him to enter the place where he had been comfortable just the day before. On the other days, I was the playful, friendly uncle of his friends.

Now, I faced his stares and his sly, distrustful eyes because his mother had told him that I was a buller (fag, battyman), and his grandfather, a respectable stalwart in my community, confirmed for him that indeed I was “a dirty old buller.” And with that the boy was commanded not to come to our family house again. So, this precious eight-year-old was whispering to his friends (my niece and nephews), all the while keeping an eye on me to ensure that I did not hear, because, after all he did not want to hurt me.

Something happened that day that was deeply disturbing to me, and that child, and my niece and nephews. How I wish I could proclaim that the vilification, dehumanization, and devaluation of my identity no longer delivers a sudden punch, leaving me gasping for breath and flushed and angry and hurt, but that would be untrue. Each time, it hurts like hell. It pierces. That day my fragile heart was pierced thrice. First for my darling nephews and niece who tried so valiantly to defend me at such a tender age, whispering to him about their experience with me. The dagger plunged again, and my heart was pierced for how that precious boy, having been taught to distrust me, was now unable to trust his own experience with me. The dagger plunged a third time, deep into the heart of the child who cowers inside this queer Black body each time I experience dehumanization.

I spent the final days of my holiday in Barbados pondering what the message to that little boy, the friend of my niece and nephews, might have been from a godly mother and grandfather, both deeply committed members of the Anglican church. And, Bishop Holder, sheep of your flock.

Bishop Holder, I ought not to hold you responsible for each of sheep in your fold. I recognize that this is complex. These are deeply complicated moments, with no villains within them, but maybe some heroes—my nephews and niece and that beautiful little boy for returning the next day. So, the intent is not to demonize the homophobic Barbadian/Caribbean person. And yet, I cannot pretend they are not there, that they are not powerful. Still, I wonder what that conversation could have been if that boy’s mum and granddad had affirmed my personhood and fundamental right not to be discriminated against.

Perhaps both because of and in spite of my location at the intersection of queer/Black/Christian and minister, I bring a unique perspective and embodied experience to this dialogue about the decriminalization of sodomy in the Caribbean, especially because what always grounds this intersectionality is my Black body, which overlays all other possible identities that I bring to today’s complex questions. And that’s why I argue, regardless of theological, colonial, sociological or any other kind of belief, that we need to commit to a moral position, to take a side, to stand unequivocally with queer folks in the struggle for decriminalization. Anything less amounts to standing against us.

Here’s my last word. Something or someone divine remains with me,

animates me and grounds my fragile faith. So, these days I've landed in a safe place and I commit to continuing the struggle so that all my queer relatives, particularly my queer Black kin, are able to land in a safe place, too.

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*Rev. Basil Coward has served in the congregational ministry for 25 years. He is a registered psychotherapist in Ontario, a faculty member and counsellor at George Brown College, and a writer. He holds Master of Divinity and Master of Theology degrees from Wycliffe College, University of Toronto. Basil is Queer and deeply rooted in stories of gospel, a Bajan/Torontonian, and father of two young adult children.*

# **Building Bridges: The Roman Catholic Church and the LGBT Community**

*Francis DeBernardo*

Good afternoon. It is an honor to be among such an august group of presenters who have been passionately working to end oppression against LGBT people, which is too often fueled by incorrect understandings of religious ideas.

My name is Francis DeBernardo, and I am from the United States where I serve as the executive director of New Ways Ministry, a national Roman Catholic ministry of justice and reconciliation, which builds bridges between the LGBT community and the Roman Catholic Church. So, I bring greetings and a report from across the Tiber!

I would like to briefly present some thoughts about the Roman Catholic tradition and how some of its leaders have used our tradition to both support and oppose criminalization laws: a very complex situation. I will give you some theology, an analysis of the current hierarchical atmosphere, and some hopes for the future.

The reason some Roman Catholic leaders have taken opposite positions about criminalization laws is that my church's discussion of sexual orientation and gender identity is influenced by two moral traditions that sometimes come into conflict with each other: the social justice tradition and the sexual ethics tradition.

Briefly, the Catholic social justice tradition promotes the idea that the human dignity of all people, regardless of their state and condition in life, deserves respect and protection by law and by actions. All people are considered equal in dignity, with those who are poor or marginalized deserving the Church's preferential treatment. Church documents have acknowledged that this tradition applies to LGBT people, particularly in situations where their human rights are denied. In fact, in 2008, the Vatican's representative to the UN General Assembly said that the Holy See "continues to advocate that every sign of unjust discrimination towards homosexual persons should be avoided and urges states to do away with criminal penalties against them."

Yet, LGBT issues in Catholicism are also considered through the lens of the church's sexual ethics tradition, which states that all human beings are either male or female, that procreative possibility is essential for all sexual activity, and that sexual activity is permitted only within the context of heterosexual marriage.

So, it comes down to this: how does a church leader respect the human rights of LGBT people while not appearing to approve of sexual activity that the Church condemns? Which tradition should govern this topic? For some bishops, this is

not a problem. But too often other Catholic leaders have erred shamefully in prioritizing the sexual ethics tradition over the social justice tradition, and so they have remained silent, complicit, and even at times supportive of laws that criminalize LGBT people.

But if a balance existed between these two traditions, then we should see Catholic leaders defending the human rights of LGBT people with the same vigor and forthrightness that they defend traditional heterosexual marriage. So why don't they? Besides the homophobia and transphobia that still plagues much of the Catholic hierarchy, some other forces are at work.

In 2015, I received press credentials to cover the Vatican's Synod on the Family, an international gathering of bishops in Rome that discussed sexuality, marriage, and family. At a press conference, I addressed Archbishop Charles Palmer-Buckle, the archbishop of Accra in Ghana, and I pointed out to him that while many African bishops have spoken against marriage for lesbian and gay couples, fewer have spoken as publically against laws criminalizing gay and lesbian people. I asked him, "Do you think that the African bishops, or indeed any bishops, would support a statement from the synod condemning the criminalization of lesbian and gay people?"

He said a sticking point for bishops on LGBT issues is the refusal of foreign governments and foundations to send humanitarian aid unless marriage equality laws were passed. Sadly, the archbishop and his confreres believe that notion, even though it is not true. Indeed, many bishops maintain that promoting LGBT equality is a threat to their national sovereignty

I also spoke with Cardinal Peter Turkson, the president of the Pontifical Council for Justice and Peace at the Vatican, whose position on criminalization laws has been ambiguous. When I asked him to clarify it for me, his answer was similar to Palmer-Buckle's. He said: "My position has had two parts. Homosexuals cannot be criminalized. Neither can any state be victimized. So, let no state criminalize homosexuals, but let no state be victimized. No state should have aid denied because of this." So, the untruth persists, and bishops too often allow this falsehood to prevent them from speaking up for LGBT rights, lest they appear to be bowing to foreign pressures.

Another factor influencing the Catholic discussion on criminalization is the so-called "Francis effect," meaning a new spirit of openness about LGBT issues that has developed since the papacy of Pope Francis began in 2013. The pope's new discourse is indeed a major step forward. However, this new discourse is still very far away from entering into political discussions on LGBT human rights. When Pope Francis visited Uganda in November 2015, he did not make a statement about the bleak legal situation of LGBT people in that predominantly Catholic nation. Though he spoke out against oppression in the countries he visited, he

would not directly name LGBT oppression.

In a similar vein, Cardinal Turkson echoed the pope's reserve on this issue when I asked him what he would say to politicians who supported criminalization laws. Turkson's answer: "I don't think that we should be condemning anybody. People need to grow." That kind of sympathy for politicians is never evident in Catholic hierarchical statements on issues like abortion and birth control.

Another dimension of the Francis effect has been the pope's move to decentralize church authority away from the Vatican and out to local bishops. While such a policy allows for better decision-making on many church matters, in regard to criminalization laws, it allows local ignorance and fear of LGBT issues to perpetuate injustices.

So, in this vague and ambiguous ecclesial environment, we have seen Roman Catholic bishops in Malawi, Uganda, Cameroon, and Nigeria supporting criminalization laws, and in other situations, including here in Jamaica under the previous archbishop, bishops have refused to speak out against them. Still, there is room for hope, thanks to some brave leaders and individuals. In India, when the idea of criminalization was reintroduced in 2013, Cardinal Oswald Gracias, the president of the Indian Catholic Bishops' Conference, was the only religious leader in India to speak out against such a possibility.

Similarly, Bishop Gabriel Malzairé of the nearby island of Dominica said that his diocese affirmed the idea that free sexual acts between adults must not be treated as crimes by civil authorities.

And there have been many more: the Catholic bishops of South Africa, Botswana, Swaziland, Ghana; the Apostolic Nuncio to Kenya; the Apostolic Nuncio to Uganda; the Peace and Justice Commission of the Archdiocese of São Paulo, Brazil; the Catholic Agency for Overseas Development; and a group of U.S. Catholic theologians. My own organization, New Ways Ministry, launched the #PopeSpeakOut Twitter campaign. Whenever criminalization laws become news, we ask our supporters on social media to tweet to the Pope to ask him to speak out against these injustices. On New Ways Ministry's daily blog about Catholic LGBT issues, we cover criminalization news and opinion about church leaders, and we have a category for these stories to filter out these posts for you.

In closing, I'd like to say that in its Catholic social justice tradition, Roman Catholicism has the tools to oppose criminalization laws against LGBT people. No doctrinal argument prevents bishops from speaking out, and in fact, our tradition actually compels them to do so. Catholic leaders should defend LGBT human rights *because* these leaders are Catholic, not *in spite* of their Catholic identity. Catholic bishops need to live up to the best ideals of our tradition, move past homophobia, transphobia, and bad information, so they can help build the reign of God on earth, where all are equal and free.

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*Since 1996, Francis DeBernardo has served as Executive Director of New Ways Ministry. He has conducted programs on LGBT issues and Catholicism in religious and secular settings throughout the United States, Latin America, and Europe. In October 2015, he was given press credentials by the Vatican to cover the Synod on the Family in Rome, where he raised the issue of criminalization laws with bishops and Vatican officials at the meeting.*

## Where Politics and Religion Intersect

*Rev. Dr. Cheri DiNovo*

Hi, everyone. First of all, I want to say: great show of thanksgiving and thanks to Maurice Tomlinson for organizing, and to the Anglican Church for their courage and faith for bringing us all here.

When I was first ordained, which was many, many years ago, and I wore this collar for the first time and walked down Main St. in Toronto, a lovely little man came up to me and said “Good afternoon, Father.” I always knew I was queer. I knew that from being a little girl, being chased home from school, being called “dyke” and all those names, along with growing up queer in a not-queer-positive world. And I’d been Christian for a number of years before that man spoke to me, but it was really in that moment that I knew I was a queer Christian. And that’s what I consider myself. And I consider Christianity to be a queer-positive religion, and that’s why I’m standing here today.

I’ve had great fortune. In 1988, I walked into a church called The United Church of Canada, which is the largest Protestant denomination in Canada. That year, the United Church took a very brave stand and ordained openly gay and lesbian people. A third of their congregants left the church, and I walked in. And many others like me walked in the doors, and still do.

When I took over my church in the downtown, west-end parish, it was a dying church. That’s the only reason I got the job—they had two years left of life—and so I made it my mission to build that church up on an inclusive basis. There I had the privilege and the pleasure of performing the first legalized same-sex marriage in Canada. Two women of color, by the way, were those two individuals, and we did it by reading the banns, an ancient Christian tradition, so we didn’t have to take them to City Hall and get refused for a license since this was before the laws changed in Canada. So we read the banns in our church, and our congregation went along with it. Needless to say I was behind the pulpit. We sent the banns form to the registrar’s office in Ontario, and lo and behold, the Holy Spirit was at work. The clerk read the name “Paula” as being a man’s name—it didn’t say “male” or “female” on the form, just “bride” and “groom”—and vetted it. Yay!

*The Toronto Star*, which is one of the biggest daily newspapers in Canada, and the CBC, the national broadcaster in Canada, and a very good lawyer all rose to the occasion and saved me from losing my license in that instance, and lo and behold, we had made “herstory.” I have to say that sadly, my parish didn’t back me up, but it helps to have a good lawyer and the CBC on your side.

Because of that, and because of other news we made in our congregation, we ended up having 1,000 people attend our Christmas Eve service. That church

still exists today. I wrote a book called *Queerying Evangelism*, which won the Lambda in Washington, D.C., about building a church based on inclusion, and how yes, you can get bums in pews based on inclusion, not on exclusion, and by doing it, following biblical theology, and being faithful every step of the way. Because of that, a political party asked me if I would consider running for office because they thought I could win, because I had a high profile in my community. They were right, and I did, and I have spent the last 11 years as a member of provincial parliament in Ontario, where we have 13 million people, and I represent 120,000 of them in my district, in downtown, west-end Toronto.

And again, why? Because I'm queer. Because I built an inclusive church. So I'm privileged, I get it. But I've also been at it for 40 years. So, in 1971, I was part of that demonstration you saw earlier today, on Parliament Hill. And when I was a little kid, as I said, I was chased home from school by boys who threw rocks at me. I've had death threats, I've been trolled, I've seen very good friends die, many others commit suicide. And before I tell you what I've done since being in political office, I wanted to talk about a group of people that hasn't been mentioned very much yet today, and that's children. The safety of our children. To raise our children in a safe world.

I can tell you, whatever we do in these conferences, whatever laws we pass or don't pass, whatever take we take theologically, whatever we think sin to be or not to be, 2-10% of our children will grow up to be LGBTQ, and in Canada we say "2S"—"2-spirited"—in honor of our First Nations people who have always had trans people in their midst and honor them. So no matter what we do, these children, our children—and I'm a mother—will exist, and will grow up and we have choices to make about their safety because right now I can tell you—even in Ontario, where we have some of the most progressive laws in North America—trans children are at risk. About 50% of them will attempt suicide or be met with violence from others; about 50% of them will live in poverty all of their days. LGBTQ children are highest at risk for suicide and homelessness. In high school, I was one of them. That is the fate of our children. These are our children. And so it's our decision how to look after them. And the Bible tells us we should love them. And we should love all of our children, including our queer children. So I hold that up for you because to me it's about saving lives. I'm here because I hope to be able to save lives.

So, getting back to my political days. What did we manage to do in political office? First of all, many, many times—and it took many, many years—I tabled a law called "Toby's Law." And Toby's Law is named after my music director at my church, who was trans. Toby died by an overdose, and we erected a stained-glass window of Toby at the piano in our sanctuary, and I said at Toby's funeral, "We're probably the only church in Christendom that has a stained-glass window

of a trans person in their sanctuary.” And someone yelled out, “What about Joan of Arc?” So yes, indeed, what about St. Joan of Arc?

So I worked on Toby’s Law, and Toby’s Law added gender identity and gender expression to the Ontario Human Rights Code. It took us a good five years and many tablings to get all parties’ support on that, even the most conservative members voted for that law. That is now the law, and Ontario was the first jurisdiction of its size in North America to pass a law like that. Now it is the law in Canada.

We also, in 2015, passed a law banning conversion therapy. We got that one done in two months. And shortly thereafter—I don’t intend that he was inspired by this; we were the first again in North America—but (then) President Obama said that he supported banning conversion therapy. It was good timing. And so that happened. Again, why any of this? To save lives.

Parent equality in 2016: because even with the change of the laws that we had accomplished out of my office—which by the way, is not me alone, never is; there’s a group of incredibly dedicated activists, of course, an army of them behind me—we found that queer couples were still having to adopt their own children. So we changed that.

And then finally, this fall, I hope—it will be my swan song bill because I’m leaving politics to go back into ministry in January after four elections in 11 years—we’re going to pass Trans Day of Remembrance. We’ve already acknowledged this in Parliament, where once a year, in November, we stand and have a moment of silence for all those trans folk who have died the previous year, and it’s always in the hundreds.

So that’s what we’ve done over the last 11 years in Parliament and, as I say, we’ve accomplished that with a small army of activists and with the support of the general population of our province, which is almost half the population of Canada, and with incredible amount of prayer and support.

I’m going to leave you with a couple of theological points. I listened with rapt interest to the Archbishop, with his keynote address earlier. One of the theological passages we always heralded in our queer-positive congregation that grew and grew was the very first Christian conversion story in Acts. The very first Christian conversion story in Acts is—guess what? A queer person of color: the Ethiopian eunuch. I advise you all to look at the Rembrandt painting of that moment, because as Jesus said, “There are different kind of eunuchs.” There are those who are forcibly, of course, castrated, but there were the other couple of thirds who chose to become eunuchs and who didn’t go the surgical route—that’s not quite the way that Jesus said it—but who obviously chose not to be heterosexual; in other words, queer folk. The very first convert in Christianity was a queer person of color, and Philip did not want to baptize them. Philip did not want to baptize them because Philip saw them as sexually unclean. And how did that eunuch

convince Philip to baptize them? By being biblically literate. So, is there not a message in that for the rest of us? He quoted scripture to Philip, and Philip said “Wow, you know it better than I do. Okay, we’re going to do this thing.” So please uphold that.

And the other thing that we used to lead with—those famous binary smashing words of St. Paul. “In Christ, there is no Jew or Greek, no male nor female, no slave nor free.” And guess what I would add: no queer nor straight.

That is our tradition, folks. That is our queer-positive Christianity. We don’t have to go around talking about those passages that seem to condemn Christianity. We should be talking about those passages that uphold queers in Christianity. Jesus never said a word about homosexuality, but Jesus did say “Love one another as I have loved you.” And He did say “Love you neighbor as yourself” and He never qualified who that neighbor was.

Thank you.

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*Rev. Dr. Cheri DiNovo was the Member of Provincial Parliament for Parkdale–High Park in Ontario, Canada, from 2006 until 2017. She is also an ordained United Church of Canada minister who performed Canada’s first legalized same-sex marriage. In 2012, Cheri succeeded in getting Toby’s Act passed, an amendment to the Ontario Human Rights Code to include gender identity and gender expression—the first of its kind in North America. And in 2015, she successfully passed Bill 77, which prohibits “conversion therapy” for youth.*

# We Who Believe in Freedom

*Rev. Dr. Robert Griffin*

Thank you for the invitation to be here today.

From 2006 to 2011, I traveled to Jamaica on behalf of the Sunshine Cathedral in Fort Lauderdale, and for Metropolitan Community Churches, and for the Global Justice Institute. I am here today representing Sunshine Cathedral and the Global Justice Institute.

My travels to Jamaica over the years were to work with individuals of the lesbian-gay-bisexual-transgender community and their allies, to offer spiritual support and encouragement to LGBT people of faith. I was also representing a spiritual movement that affirms the dignity and sacred value of same-gender loving and gender-nonconforming people. And, as a faith leader and a humanitarian, I tried to express opposition to violence against LGBT people.

Individuals living in Jamaica found themselves in danger simply because they identified as gay or were thought to be gay. They needed support, and I was one of several trying to respond to their concerns.

In those days, there were constant reports of people suspected of being gay being chased down, threatened, terrorized, and even brutally killed. The media carried a story of an Easter Sunday funeral of a gay person. While the funeral was taking place, the church was attacked and the congregants had to flee the funeral service.

So, returning to Jamaica brings these memories to mind for me.

I remember meeting with people who were hiding the truth of their lives.

I remember meeting activists who risked their safety to combat homophobia.

I remember meeting journalists, theologians, politicians, students, people seeking asylum, and people living with HIV/AIDS.

I still care about those dear people.

I still care about Jamaica.

I still remember.

When we can do nothing else, we can honor people by holding them in our loving memories.

There is a musical group in the U.S. called Sweet Honey in the Rock. Of their many songs, one is called “Ella’s Song” and includes the lyric “We who believe in freedom cannot rest until it comes.”

Sodomy laws and other oppressive policies, practices, and attitudes that dehumanize any group or community must be challenged. Even if one were to really believe that same-gender loving people were somehow flawed or were breaking with deeply held religious views, nevertheless, we must allow people the freedom

to live, to love, and to express themselves honestly without fear of being hurt or losing their liberty. We who believe in freedom cannot rest until it comes.

All people, all members of the human family are children of God and deserve to be safe, to live lives of dignity, and to be offered equal opportunity and equal protection. We who believe in freedom cannot rest until it comes.

We who believe in freedom cannot rest until there is a full repeal of the anti-sodomy laws globally. In a world where dozens of countries now have marriage equality, it doesn't make sense for other countries to criminalize relations between consenting adults.

And the church that has too often spread hate in the name of an all-loving God should repent. When the church abandons violence and bigotry, societies will likely follow in their footsteps. For the betterment of humankind, it's time for church and state to recognize and affirm the dignity of all people, including gay and lesbian people.

I say this even though recently, the U.S. was one of just 13 countries to vote against a United Nations resolution condemning the death penalty for people in same-sex relationships. I continue to work within my own country to challenge deadly attitudes and unfair policies. Wherever we are, we who believe in freedom cannot rest until it comes.

The reality is that not only do anti-sodomy laws unfairly target and penalize same-gender loving people, but they also reinforce homophobic attitudes that lead to violence against gays. The damage they do doesn't stop there; such laws also tend to keep people from seeking needed care for certain medical conditions. In an attempt to hide their sexuality, many may not seek help for certain stigmatized infections, and if they aren't diagnosed and treated for diseases, their health suffers. In multiple ways, anti-sodomy laws can harm, even destroy lives. Ending anti-sodomy laws will save lives. We who believe in freedom cannot rest until it comes.

So, I want to sum up my talk with three questions that I felt appropriate for today:

1. What is the opportunity before us to challenge anti-sodomy laws?
2. What is the role of the church in this movement?
3. Where do we go from here?

Whatever our answers or additional questions, I conclude with this hope: May we all be free of the pain caused by anti-sodomy laws, and of the oppressions motivated by homophobia. And I leave you with the profound words of "Ella's Song": We who believe in freedom cannot rest until it comes.

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## Adventism and Decriminalization: Notes from the Global North

*Dr. Keisha E. McKenzie*

This conference seems to have produced an exciting if unsettling week for the local Jamaican church and reporters at the *Gleaner* and *Observer*. Articles published yesterday suggest that they are unclear about several facts so I'll introduce myself this way: as the child of Jamaicans, one who graduated with highest honors from Northern Caribbean University in the misty past, and as a Seventh-day Adventist.

What I'm *not* is an *employee* of the Seventh-day Adventist church in Jamaica or anywhere else in the world. I am an active member of Adventist congregations and the wider lay Adventist community. The local church administration chose to be missing in action this week, but, as the organizers realize, the footprint of the Seventh-day Adventist church in Jamaica—including a Governor-General, a prime minister, one of the three largest universities, and a multitude of civil society leaders and others of influence—is simply too large for there to be an empty Adventist chair in this space. So for the next two days, I'm going to sit in this chair. Perhaps paid church employees will be more willing to engage next time.

While I will not be speaking *for* the church corporation at any time or debating the denomination's faith statements, I will in both panels speak *about* it, quoting from or referencing statements made by Adventist spokespersons, employees, lawyers, theologians, pastors, and lay members like myself, as well as several other sources that are part of the public record and as accessible to any of you as they have been to me.

At the outset, however, I'll also say that discussing sex, sexuality, identity, and faith exclusively through the legal lens of criminalization and decriminalization means that even on topics such as how humans know themselves, connect with each other, and honor God, real people are made background noise. Focusing on law and policy to the diminishment of people, while failing to name rape and abuse as such and conflating relationships of mutual care with criminal acts, overshadows the impact of generalized stigma and discrimination on ordinary people and their family systems. Rather than using civil law or religious policy to support and enlarge human life, we're using people to prop up our attachment to law and compliance. The outcome in all three of my cultures is the demonization of people who are presumed to be or are actually LGBTQIA (lesbian, gay, bisexual, transgender, queer, intersex, and asexual), who are socially stigmatized and minoritized in the legal and policy climate we have created.

As others may have said this morning, although British colonial law (now in

our context Jamaican post-colonial law) criminalized specific sex acts between adults regardless of sexual orientation or mutual consent, in regions where it's still current law, it has in practice been used to prohibit those specific acts between consenting adult *men*. It has further been generalized and popularly understood as a sanction against *all* sexual expression between same-sex partners, and, consequently, a legal and social sanction against LGBTQIA people regardless of relationship status or sexual expression. Thus, a purportedly universal civil law based on presumptions about what's decent and what's natural has yielded very specific stigmatizing legal and social outcomes for LGBTQIA people. Those outcomes affect members of this population whether they themselves practice only penile-vaginal penetration and regardless of whether the heterosexual married people "othering" or prosecuting them under the law also do.

There is a legal and social legacy of so-called "sodomy" laws here and around the world, and our respective religions bear significant responsibility for that impact. As my colleagues in Uganda, Kenya, Rwanda, and other African states have explained to me, that legacy turns visible LGBTQIA people from contributing and respectable members of society to a troubled category of "unapprehended criminals" (e.g. Mugisha, 2014; Mason-John, 2013). As I've argued recently, "Beliefs have real world consequences for real, live people, and real world consequences can be measured... Permitting discrimination and marginalization for one group creates vulnerabilities for all groups" (McKenzie, 2016).

So I come to this conference with a lot of curiosity about the wider context for how my religious community has engaged the LGBTQIA community. As I explored the church's papers, journals, records, and statements, I realized that the Seventh-day Adventist approach to the lives of LGBTQIA people is rooted in our historical approaches to religious and civic law. Over its 154-year history, the Adventist denomination has engaged in religious liberty and civic activism, and as it has done so, it has acted on the premise that the church has one appropriate lane of authority, the state has another separate and distinct lane, and that the church should carefully monitor these lanes so as to prevent both state interference in religious matters and religious tyranny's "improper influence" on individual conscience or minority populations (London, 2009; Moore, 2013; White, 1911).

I like how General Conference President Ted N. C. Wilson defined this in 2013: "keeping the church at arm's length from the state" (Wilson, 2013). According to Wilson, the principle of religious liberty precludes the Adventist church from accepting the belief that any nation-state rests on Christianity as its official faith or source of law. It also precludes Adventists from using faith "as a cudgel" or civic legislation "to coerce" other people (*ibid*). This principle, which the General Conference uses to monitor official church activity around the world, is rooted in traditional Adventist theological teachings about the separation of

church and state. Specifically, since the church's founding in the 1860s, Adventists have anticipated a time in contemporary history when church members would become othered and persecuted under civic state law. That expectation of future state persecution has understandably checked the church's willingness to either seek civic power or use it to target other populations.

A closer look yields a more mixed picture. Highlights from the church's 154 years of religious liberty activism include A.T. Jones's testimony to Congress in 1888 (Jones advocated for Adventists' ability to observe the Sabbath in a climate where Sunday sacredness was being grafted into local, state, and potentially national law). In his testimony, Jones noted that "religious bigotry... knows no such thing as progress or enlightenment; it is ever the same." He also said, "No man can allow any legislation in behalf of the religion, or the religious observances, in which he himself believes, without forfeiting his own religious freedom" (1989).

Another historical highlight is an appeal for liberty from the Southern Union's secretary of temperance and religious liberty, S. B. Horton, to the Louisiana state legislature in 1908. Both Jones's and Horton's appeals address religious liberty in terms of civil rights and not only in terms of sectarian theology. Interestingly, the Horton address, mostly about alcohol, also records a church spokesman "welcom[ing] restrictive legislation" against sex or marriage between white and Black people—in the name of pure morals and civic order. That should be a familiar argument to the people in this room (Horton, 1908, p. 4).

But Horton also foreshadowed the current GC president's argument about using Caesar to establish religious convictions: "Even if Sunday was the true rest day given to the church," Horton wrote, "it would be wrong for the state to enforce acceptance of a purely religious tenet... the passing of [religious] laws is a long step toward the union of church and state" (p. 10). And he further opposed such laws because "their primary purpose is to protect a religious institution, rather than to protect all citizens in the enjoyment of their natural and inalienable rights" (p. 11).

In the last thirty years, though, the North American Division, which serves the United States, Canada, Bermuda, and parts of Micronesia, has mostly sought to avoid public controversy on matters of civil law. Its staff members engage civil rights topics indirectly, through national or regional public affairs and religious liberty offices and legal "friend of the court" briefs. The church's brief strategy allows it to engage the current U.S. Supreme Court, which through cases like *Hosanna-Tabor v. EEOC* (2012) and *Burwell v. Hobby Lobby* (2014) has been unusually deferential to religious agents, organizations, and businesses providing services to the general public.

More recent cases such as *Gloucester County School Board v. G.G.* (vacated) and *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (pending)

explore the place of LGBTQIA people in civil society, and have inspired the church's lawyers to narrow their scope to how the legal questions are defined and skip over the theology or ethics of sexual minorities' morality, dignity, or rights.

There have also been exceptions. In 2004, the religious liberty director of the Adventist Church in Canada argued in print that civil marriage for "our neighbors who are struggling with immoral sexual inclinations" was part of "the greatest assault on religious freedom in recent memory" (Bussey, 2004). As California considered adopting civil marriage equality, the General Conferences Administrative Committee (ADCOM) issued a statement about "same-sex unions," the Pacific Union of Seventh-day Adventists publicly supported Proposition 8, and the North Pacific Union Conference of Seventh-day Adventists "urge[d] all state governments in the Northwest to reject any attempt to redefine marriage" (GC, 2005; NPUC, 2005). Seven years later, General Conference and North America Division staff promoted "no" votes on civil marriage referenda in two states, including at a large congregational forum in Spencerville, MD.

Outside the United States, the Southern Africa Union opposed South Africa's LGBTI-supportive constitution (2006) and subsequent marriage equality (Charles, 2006). The South African constitution was the first in the world to protect citizens from discrimination based on sexual orientation by the state or between individuals. To preserve equality and dignity, the constitution also specifically banned employment, healthcare, foster and adoption service, and public accommodations discrimination (SA History, 2011). In 2011, administrators of the British Union used the church's official newsletter to encourage members to sign petitions against civil same-sex marriage. A union staffer called the proposed equality laws "a personal challenge to Adventists," and the BUC president alleged a nefarious LGBT "strategy" to "desensitize" the public to non-heterosexual immorality.

Finally, at the denomination's mostly heterosexuals-only conference on gender and sexuality (in 2014), the General Conference general counsel made an about-turn from the church's 19th-century position on using civic law to benefit religious institutions rather than to benefit all people. The GC general counsel told delegates that denominational hiring, firing, and policy practice would be easier if more countries criminalized homosexuality and if the church opted out of non-discrimination (that is, opted *into* discriminatory practice) in countries where decriminalization has already happened (cf. Charles, 2006; Cruz, 2014). Here in Jamaica, representatives of the Jamaica Union have repeatedly declared that LGBT civil rights aren't human rights, and that the union "stridently opposes" repeal of the laws we're discussing today (Gilpin, 2016).

It may be surprising, then, that when Uganda, Nigeria, and several other African and Asian nations began a new round of LGBTQIA criminalization,

the denomination's religious affairs staff weighed in on one of them. Public Affairs and Religious Liberty staffer Dwayne Leslie wrote that the Ugandan Anti-homosexuality Bill, which imposed a constellation of severe sanctions against LGBTI people and heterosexual people who "counseled" them or failed to turn them into authorities, was "abhorrent" and "incomprehensible" (Leslie, 2014). In the same article, Leslie plainly stated that it was "wrong to criminalize" homosexuality and also claimed that the denomination "vehemently oppose[s] governments passing legislation to compel morality."

Whether the church does in fact vehemently oppose using state force to constrain or compel social minorities is debatable, but it was telling that it felt compelled to declare that it does. The denomination has not publicly addressed LGBTQIA criminalization movements in Nigeria, Kenya, Russia, or India over the past decade to the degree it addressed Uganda—if it has addressed them at all. Church papers and statements have instead underscored status quo theological and policy hostility to the LGBTQIA population rather than rein in what Leslie described—at least in Uganda—as an "abhorrent" use of the church's moral and social authority against minorities. It might be relevant that there has been unique international attention to the links between American evangelicals like Scott Lively, the Family Research Council, and The Family, and legislation criminalizing LGBTQIA people, relationships, sexual expression, and free association in Uganda (Blake, 2014; Mugisha, 2014). There has been far less attention to the slow decriminalization process in the United Kingdom since 1967, civil equality in continental Europe, or Adventist administrators ministering creatively to LGBTI people in the Netherlands Union Conference (2014).

I hope this survey shows that sometimes a denomination's moral interventions in civil society may have a self-interest motive even if they also have theological justifications. But what benefits the church *corporation*—for example, making norms so explicit that it is easy to hire and fire employees and dis-fellowship members—isn't always what's beneficial for the church *body*. Despite the moral imperative to "make men whole" that Adventism draws from scripture and its earliest founders (Nichol, 1956), the global church has largely failed to learn from its clinical professionals, particularly psychologists and social workers whose disciplines require them to navigate the territory between affirming professional ethics and restrictive religious teachings about LGBTQIA people (e.g. Patrick, 2012; Ruben, 2015; VanderWaal, Sedlacek, & Lane, 2017). In one recent survey of LGBT+ Adventist millennials and college students, for example, Andrews University researchers found that Adventist "caregivers, clergy, and religious congregations were generally not considered to be good sources of social support for respondents" (McKenzie, 2017). I don't believe this impact is because Adventists are bad helping professionals or intend to serve this population poorly.

Rather, any ambivalence toward LGBTQIA people flows from the only beliefs about LGBTQIA people that church workers are authorized to hold or publicly express. (This again partly explains their absence today.)

Yet, back in 2014 when Uganda attempted to criminalize its LGBTI population and Ugandan Adventist leaders advocated turning state law against their neighbors, global church workers asked their colleagues to consider, “How are we to behave in the face of behaviors with which we disagree? Clearly, with love.” And Elder Wilson, who does not affirm LGBTQIA people, more directly said: “My fellow Seventh-day Adventists around the world and I believe that we serve a wonderful and mighty God who cherishes religious liberty and grants each individual the right to believe or not to believe in harmony with the dictates of their own conscience” (Wilson, 2013).

So according to the current General Conference president, it is against Adventist teaching to use the force of the civil state against other people even if so doing appears to protect the church’s institutional or legal interests. While it is not against consistent church practice to do so, the General Conference and LGBTQIA Adventists around the world including those represented by Seventh-day Adventist Kinship International agree on that basic principle (SDA Kinship, 2012; SDA Kinship, 2014). As they spoke up for LGBTQIA church members being stigmatized and criminalized in East Africa this decade, Kinship’s communications team wrote:

*[The criminalization of LGBTI people] violates fundamental human rights, is a vehicle for discrimination, and is contrary to the character of Jesus Christ and the value system that our church promotes. We are each part of the diverse human family, and God calls us to love one another, to love our neighbor as we love ourselves. That includes loving our LGBTI neighbors, not scapegoating them, ostracizing them, or imprisoning them for consensual relationships.*

*Regardless of the church’s stance on human sexuality and gender roles, we believe that the Seventh-day Adventist church should never actively or passively promote the violation of basic human rights.*

The open question for Adventism on this topic is how to go beyond sentiments of love and kindness and actually deal justly with others, per Micah 6:8. As Cornel West has said, justice is what love looks like in public. Perhaps that’s especially true where parties disagree. President Wilson has outlined a way for the church to move forward, honoring both its convictions and religious liberty. It is up to all of us to wrestle with the implications for our context.

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# Approaches to Decriminalization in Scotland, England, and Wales

*Dr. Matthew Waites*

I arrive at this discussion as an academic based at the University of Glasgow, in the context of my research across the Commonwealth, which has included the co-edited book *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change*. While the book considers the Commonwealth's relationship to discussions of decriminalization, we need to keep in mind the problematic ways in which the Commonwealth has been shaped by colonial histories—for example, Queen Elizabeth II remains Head of the Commonwealth, and was the sole signatory of the Charter of the Commonwealth (The Commonwealth, 2013). However the Commonwealth is not my focus here, but rather church discussions in particular national contexts.

The task I have been asked to undertake here is to consider the approach of the churches in Scotland to the decriminalization issue, relative to the churches in England and Wales. I am glad to do so, especially since one of the most important themes to emerge from our book's comparative analysis of human rights struggles across the Caribbean was the very important role of churches and other religious organizations in decriminalization debates worldwide. In particular, the analysis highlighted the positive role that churches can play in taking moral understanding forward (Lennox and Waites, 2013, pp. 517–519).

I've been asked particularly to address the different approaches to decriminalization of same-sex sexual behaviour that have existed in the Church of Scotland and Church of England. I will be speaking from a historical perspective on the debates over this issue, with a focus on what can be learned from the decriminalizations in England and Wales in 1967, and much later in Scotland in 1980. As context, I was born and educated in England but have lived and worked in Scotland for over a decade.

Clearly, in the context of colonialism, it is not easy to draw from these discussions about the U.K. and apply them to Jamaica and the contemporary Caribbean. The nations of the Caribbean formed through decolonization and new nationalist projects have been conceived to provide stability and resilience against external economic and political pressures. Some associated understandings of family and relationships thus have a particular contextual fixity—as I return to in the final section. However, I want to argue it is useful to reflect on the internal power relations within the United Kingdom, particularly the problem of English power over Scotland. This focus on Scottish nationalism's contextual formation, with associated moral understandings, may reveal certain resonances with the postcolonial

experience of Jamaica and other Commonwealth Caribbean states.

### **England and Wales: the Church of England**

Before turning to Scotland, I want first to comment on the relationship of the Church of England to the debate over decriminalization beginning in the 1950s. Here we have had several excellent presentations this morning—particularly from the Rt. Rev. Dr. Alan Wilson representing the Church of England—so my comments are to elaborate on specific aspects.

The most detailed and insightful discussion of the role of the Church of England that I have found in the academic literature comes in an article from the *Journal of Ecclesiastical History*, published in 2009. This is by Matthew Grimley from Merton College at Oxford University. The article is titled “Law, Morality and Secularisation: the Church of England and the Wolfenden report, 1954-1967” (Grimley, 2009). The title refers to the *Report of the Departmental Committee on Homosexual Offences and Prostitution*, which became known by the name of the committee chair, John Wolfenden (Committee on Homosexual Offences and Prostitution, 1957). Grimley’s contribution was previously highlighted as significant for explaining different approaches in England and Wales compared to Scotland, in my own full analysis of decriminalizations within the United Kingdom (Waites, 2013; pp. 151, 175).

Grimley argues convincingly that “the role of the Church of England in the reforms of the 1960s has been neglected” (Grimley, 2009, p. 725). In particular, he highlights the key role of the Church of England’s Moral Welfare Council in the early 1950s, prompting the creation of the Wolfenden Committee by a Conservative government from 1954. More specifically, the Moral Welfare Council began investigating homosexuality after its study secretary, Anglican priest Derrick Sherwin Bailey, wrote an article in the periodical *Theology* in 1952 that initiated a debate over the legal position of homosexuals (Grimley, 2009, p. 728).

The Moral Welfare Council subsequently published a pivotal interim report in 1954, *The Problem of Homosexuality*, which was a key influence on government. Grimley notes the initial report was widely cited by supporters of an enquiry including *The Sunday Times* and the influential Conservative Lord Boothby. The Moral Welfare Council later submitted a final report to the Wolfenden Committee, published in 1956 as *Sexual Offenders and Social Punishment* (Grimley, 2009, p. 728).

We can see how for the authors of those Church of England reports it was axiomatic that public and private morality, law and sin should be separated. There was no overt emphasis on the idea that human rights included a right to privacy, as expressed in Article 12 of the Universal Declaration of Human Rights (United Nations, 1948), or Article 8 of the European Convention of Human Rights (Coun-

cil of Europe, 1950). Nevertheless, the implicit understanding of an entitlement of privacy emerged strongly in the Church of England's approach.

However, we must recognize that the Moral Welfare Council was not representative of wider Church of England opinion. We should also emphasize that these interventions were underpinned by a Church view of homosexuality as a psychological condition of those described in *Sexual Offenders and Social Punishment* as “inverts,” “handicapped by inversion” (Grimley, 2009, p. 729). Moreover, homosexual acts were still seen as inherently sinful.

Grimley argues that existing histories of the reformist legislation of the 1960s have overestimated the extent to which state regulation responded to pressure from new social movements:

*Most histories of the permissive reforms have concentrated on the activities of pressure groups, assuming that the role of official bodies was always reactive rather than proactive. To argue that institutions (especially religious ones) could themselves have been agents ... has been too counter-cultural for some tastes (Grimley, 2009, pp. 725–726).*

In this Grimley is somewhat inaccurate, since the emphasis of leading gay commentators like Jeffrey Weeks has been that the Wolfenden committee sought social control, and that the groundbreaking Homosexual Law Reform Society only emerged after the Wolfenden report (Weeks, 1977; Weeks, 2012, pp. 306–356). Nevertheless Grimley's argument works against some more mainstream views of change (Grimley, 2009, p. 731).

Conversely Grimley argues that existing academic history literatures have underestimated the positive role of the Church of England in initiating a valuable moral debate that led to legal reform. “The Church was prominent in a number of campaigns for legal reform, on homosexuality, the abolition of the death penalty and the rights of immigrants” (Grimley, 2009, p. 726). Here Grimley appears to be correct, and therefore existing narratives of how law reform emerged need to be rethought. Grimley shows that senior Anglicans were promoting distinctions between sin and crime, and a secularisation of law, even while many Church members disagreed.

For my purpose here, the central point is the extent to which people in senior positions in the Church of England, particularly but not only its Moral Welfare Council, exercised positive agency in favour of decriminalization from early in the 1950s. This accentuates a contrast with Scotland.

## **Scotland**

Decriminalization legislation was only passed in 1980 in Scotland, coming into effect in 1981—many years later than the 1967 law reform in England and

Wales. There was fierce debate within the Church of Scotland after the Wolfenden report was published in 1957, but the outcome was clearly for that Church to oppose decriminalization, in contrast to the other major churches in Britain.

There have now been studies discussing reasons for this difference. Roger Davison and Gayle Davis have argued that opposition from the Scottish churches was one of the key reasons decriminalization occurred later in Scotland—the other factors being a lack of appetite among Scottish politicians; opposition in media institutions; and differences in Scottish law, where consensual private acts had rarely been prosecuted due to higher evidential requirements (Davidson and Davis, 2012; discussed in Meek, 2015, p. 2).

It is my colleague Dr. Jeff Meek at the University of Glasgow who has provided the most recent in-depth analysis of the reasons for the Scottish difference, particularly in his recent book *Queer Voices in Post-War Scotland: Male Homosexuality, Religion and Society* (Meek, 2015a). Meek uses varied documentary sources as well as oral history interviews with 24 gay and bisexual men. To develop a more nuanced view than previous accounts, and to move beyond a simple emphasis on Church of Scotland opposition, Meek explores “ambivalence, contradiction and disagreement” within the Church of Scotland and other churches in Scotland (Meek, 2015b, p. 597).

Meek has emphasized that within the Wolfenden Committee, the most prominent Scottish member was James Adair, a procurator fiscal who was an elder of the Church of Scotland (Meek, 2015b, p. 599). Adair’s negative attitude towards decriminalization both embodied and set the tone for the Scottish debates that followed (Meek, 2015a, pp. 46–52). However the Church of Scotland did not present evidence to the Wolfenden Committee (Meek 2015b, p. 598), and although the Reverend F. V. Scott was an original committee member, he resigned in 1956 (Meek, 2015a, p. 107).

Meek nevertheless argues that after the report was published, the Church of Scotland endorsed Adair’s Scottish critique of the Wolfenden report (Meek, 2015a, p. 107, pp. 137–138). Yet he also shows how, in 1956, the Church of Scotland’s Church and Nation Committee (CNC) was inspired by the Wolfenden Committee context to create a subcommittee investigating homosexuality; and that this subcommittee came to favour Wolfenden’s proposals by 1958, even while the CNC remained opposed (Meek, 2015b, pp. 600–601). Meek also notes that while the Roman Catholic Church in England supported partial decriminalization, the Roman Catholic Church in Scotland made little comment. Meanwhile the Free Presbyterian Church in Scotland was deeply opposed to decriminalization, as was the Free Church of Scotland, until after decriminalization in 1980 (Meek, 2015b, p. 601).

But where earlier commentaries have emphasized the pivotal influence of the

churches in the rejection of the 1967 decriminalization, particularly the Church of Scotland, Meek puts more emphasis on organizational ambivalence over the legal status of Scottish homosexuals. In this view, a central reason for lack of pressure for decriminalization was ambivalence over whether, in light of a lack of prosecutions, decriminalization was necessary. Hence we should move away from simplistic accounts of church influences, and fully consider the diversity of views among church members. Differences existed between church leaders and emergent voices from lower in church hierarchies and the wider society, and such emergent voices are interesting to reflect on further.

### **Church engagements with homosexual rights organizations in Scotland**

Meek focuses on the theme of “reconciling religious identities and sexual identities,” particularly in Chapters 5 and 7 of his book. He uses archived documentary sources to discuss engagements of churches with the Scottish Minorities Group, as the groundbreaking group for law reform on homosexuality; also using oral history interviews, including with six men who had held church positions—one as a Church of Scotland minister. The majority of interviewees “attributed much of the blame for Scotland’s backward legal position to the churches” (Meek, 2015a, pp. 106–107). However, Meek argues the reality was more complex. In particular, by exploring relationships between Scottish Churches and homosexual law reform organizations, he demonstrates that such relationships existed and “were often complex and contradictory” (Meek, 2015b, p. 598).

Meek argues that by the late 1960s, parts of the Church of Scotland were “proactively engaging with the Scottish homosexual law reform movement” (Meek, 2015a, p. 3). A member of the Church of Scotland’s moral welfare wing began liaising with the Scottish Minorities Group. This occurred from the very first meeting of the group in 1969 (Meek, 2015a, pp. 106–112).

One of the striking features of Meek’s research is that it reveals differences between the official discourse of church leaders, and the more accommodating practices of some junior ministers and church members in everyday circumstances. This comes through particularly in Meek’s original account of the relationship of the lesbian and gay activism of the Scottish Minorities Group with specific figures and institutional spaces in the Church of Scotland and the Roman Catholic Church in Scotland.

Meek comments that from the first meeting of the Scottish Minorities Group in 1969, there was contact between the group’s instigator and the Reverend Ean Simpson, “an Argyllshire minister of the Church of Scotland.” This led to “regular and supportive” communications (Meek, 2015b, pp. 607, 608). More remarkably “many early meetings of the organization were held within church properties,” especially at the Church of Scotland’s “Edinburgh premises in Queen

Street” (Meek, 2015b, pp. 608, 611).

When the Scottish Minorities Group found itself “frozen out of the Church of Scotland” for offering social activities to participants (Meek, 2015b, p. 609), the group found unlikely support from the Roman Catholic Church, with which it became “intimately involved” from the early 1970s (Meek, 2015a, p. 3). According to Meek, “Father Anthony Ross, the Catholic chaplain to the University of Edinburgh, offered the SMG use of a meeting room from the end of 1970”; use of premises on George Square was allowed, which saved the organization in the view of a leading figure (Meek, 2015b, p. 611). Having a venue to meet regularly was a crucial resource for the small group that was emerging.

Jeff Meek’s research thus reveals the subtleties of constructive relations between emergent lesbian and gay organizing, the Church of Scotland and the Catholic Church. The point I would draw from this is our need to appreciate the complexity and diversity of relationships between members of church communities and members of lesbian, gay, bisexual, and transgender (LGBT) communities. Even when leaders and elites are unable or unwilling to engage in dialogue, constructive conversations and engagements can still emerge at grassroots level. The detailed study of Church activity reveals there have always been groups within the Churches, in Scotland as well as in England and Wales, who have been sympathetic to the case for decriminalization.

To bring the story up to date, in recent years Church of Scotland attitudes have shifted. In 2015, the Church of Scotland voted to allow people in same-sex civil partnerships to be ordained as ministers and deacons (Church of Scotland, 2015). On May 25, 2017, the Church of Scotland General Assembly voted to approve an apology for the Church’s history of discrimination against gay people; it also approved a report instructing official to review church laws which could open the possibility of some ministers performing same-sex marriages (Church of Scotland, 2017). These developments are widely seen in Scotland as reflecting broader changes in Scottish culture and society.

### **Conclusion: What can be learned?**

What can be learned from the differences between England and Wales and Scotland, and particularly the different histories and experiences of the Church of England and Church of Scotland, in relation to decriminalization?

The Caribbean feminist Jacqui Alexander argued in a well-known article, “Not just anybody can be a citizen,” that the context of decolonization led Caribbean nationalisms to be formed with an emphasis on the moral purpose and validity of the nation state (Alexander, 1994; Alexander 2003). She suggests this can help explain both why many Caribbean states maintained aspects of English criminal law after independence, particularly regarding sex offences, and she also

suggests it partly explains later regulation on sexual offences from the 1980s and 1990s:

*The state's authority to rule is currently under siege; the ideological moorings of nationalism have been dislodged, partly because of major international political economic incursions that have in turn provoked an internal crisis of authority. I argue that in this context criminalization functions as a technology of control, and much like other technologies of control becomes an important site for the production and reproduction of state power (Alexander, 2003, p. 174).*

These comments continue to resonate in the contemporary context of international neoliberal economics and associated social anxieties that foster demands for a strong state and moral nation to achieve crime control and social order. The problem identified here is that while legislation against sexual violence, for example, has been desirable, homosexuality has somewhat been conflated with other issues.

In this light, I would suggest that it is possible to identify a parallel between the ways in which the Scottish nationalist project, associated with the Scottish National Party, sought to assert moral authority in the 1970s, and some forms of nationalism that have been articulated with morality and Christianity in Caribbean states like Jamaica. Scottish politics and cultural identity in the 1970s, somewhat expressed in the preceding discussion of Scottish church approaches, was slower than in England to engage with gay politics (Hassan, 2017). Winnie Ewing, as a leading figure in the Scottish National Party of the 1970s, showed limited support for liberal reforms related to same-sex relationships. An emphasis on Scottish cultural difference, in the Labour party as well as the SNP, seems to have contributed to delaying decriminalization in Scotland until 1980. I suggest this cautiously, to open further discussion through consideration of both Scottish history and the contemporary situation of Jamaica and other Caribbean states. However the central point that emerges from this discussion is clear: there is no need to criminalize homosexuality in order to have a moral idea of the nation.

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## Ecumenical and Interfaith Engagement with Sodomy Laws in India

*Rev. Dr. George Zachariah*

There is a misconception that homosexuality and homoeroticism are of recent origin in India. There is also a malicious campaign by the Religious Right to spread the idea that homosexuality is a western import in India. In fact, homosexuality and homoeroticism have been practiced in India from time immemorial. Homosexual activity was never condemned or criminalized in ancient India. Such activities were tolerated as long as people fulfilled the societal expectations of marriage and procreation. Ancient Indian religious traditions never condemned homosexual practices. The Kama Sutra, the ancient Sanskrit text, dwells on homoeroticism in sensual terms. The walls of the Hindu and Jain temples from the medieval era, like Khajuraho, have sculptures that depict homoeroticism. Even in Islam we find the celebration of homoeroticism in Sufi poetry, music, and literature.

This is the context in which the British came to India as part of their mission of colonial expansion. Colonialism has always been a theological project. As one colonial document categorically says, “Colonialism is not a question of interest but a question of duty. It is necessary to colonize because there is moral obligation, for both nations and individuals, to employ the strengths they have received from Providence for the general good of humanity.”(See Charles Gide, *Conférence sur le devoir colonial*, 1897.)

The understanding of sexual ethics of the British colonial administration was deeply influenced by Victorian morality and its particular interpretation of Judeo-Christian scripture and theology. So, the British authorities considered tolerance towards homosexuality as a social evil, and based on heteronormative principles, they initiated stringent measures to criminalize homoeroticism as part of their mission to civilize the heathens in India.

In 1861, the British colonial administration imposed the sodomy laws in India to “purify” and “cure” the Indians of their primitive and deviant sexual practices. The British imposition of the sodomy laws in India and other colonies was a theological project as their motive was to save the people who were perishing.

We need to understand the sodomy laws as legal codes of fascism as well. section 377 of the *Indian Penal Code* provides the State with the power to intervene, invade, regulate, and monitor even the intimate spheres of human life. It sanctions a regime of imperial gaze where the people are always under the surveillance of the State. It reduces the human body and sexuality into “colonies” that can be invaded, tamed, and redeemed with the overt display of abusive power

by law enforcement officers and the judiciary, and the violent interventions by the moral policing of religious fanatics.

Section 377 enumerates that “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offense described in this section.”

There have been different initiatives, campaigns, and litigations in India to repeal this section. On July 2, 2009, in a historic verdict, the Delhi High Court repealed section 377 of the *Indian Penal Code*. According to the learned judges, “If there is one constitutional tenet that can be said to be underlying theme of the Indian Constitution, it is that of ‘inclusiveness’ . . . In our view, Indian Constitutional law does not permit the statutory criminal law to be held captive by the popular misconceptions of who the LGBTs are. It cannot be forgotten that discrimination is antithesis of equality and that it is the recognition of equality which will foster the dignity of every individual. . . We declare that Section 377 IPC, insofar it criminalizes consensual sexual acts of adults in private, is violative of Articles 21, 14 and 15 of the Constitution.”

However, the Supreme Court of India, in a verdict given in 2013, set aside the verdict of the Delhi High Court. “We hold that Section 377 does not suffer from unconstitutionality and the declaration made by the High Court is legally unsustainable. . . However, the competent legislature shall be free to consider the desirability and propriety of deleting Section 377 from the statute book or amend it.”

The Constitution Bench of the Supreme Court of India, in a recent verdict on August 24, 2017, held that “right to privacy is an intrinsic part of Right to Life and Personal Liberty under the Constitution.” “Discrete and insular minorities face grave dangers of discrimination for the simple reason that their views, beliefs or way of life does not accord with the ‘mainstream.’ Sexual orientation is an essential attribute of privacy. Discrimination against an individual on the basis of sexual orientation is deeply offensive to the dignity and self-worth of the individual.” This verdict is a great boost to the initiatives to decriminalize homoeroticism in India.

India is the cradle of several of the ancient religious traditions, and unfortunately, fundamentalist and fanatic groups now speak for these religions. Through cultural nationalism and revivalism, they misinterpret the doctrines and tenets of these religions to legitimize unjust practices of social exclusion, violence, and hatred. In contemporary India, religions play a major role in perpetuating homophobia. The responses of the leaders of various religious traditions on the wake of the Delhi High Court verdict to repeal section 377 explain this reality.

According to Baba Ramdev, a Hindu guru with large following, “The decision of the High Court, if allowed to sustain will have catastrophic effects on the moral fabric of society and will jeopardize the institution of marriage itself. This offends the structure of Indian value system, Indian culture and traditions, as derived from religious scriptures... It can be treated like any other congenital defect. Such tendencies can be treated by yoga, *pranayam* and other meditation techniques.” We see similar responses from the leaders of other communities as well. For Mufti Iftikhar Ahmed, president, Jamiat Ulema, Karnataka: “This kind of thing does not happen among any creature except human beings. When human beings can differentiate right from wrong, why should humans run after such wrong things?” Harminder Singh, the general secretary of Sri Guru Singh Sabha and a prominent Sikh leader, is of the opinion that, “We the Sikhs, the followers of Guru Granth Sahib, are saying no, no and no. We are not going to allow in Sikh dharma, gay sex or gay marriage at all.” Uttam Chand Bhadari, a Jain community representative, also shares a similar position: “God has made males and females for sex. Where does this new community come from? Many people don’t know what gay sex is.”

When it comes to the Indian Christian community, one can identify two dominant strands. Most of the Christians in India and the Indian churches consider homosexuality a sin. So they firmly believe that homosexuals should be criminalized. Many of the Church leaders issued statements expressing their concern over the Delhi High Court verdict to decriminalize homosexuality. They further demanded that section 377 should be retained in the *Indian Penal Code*. For them homosexuality is an aberration, and it can be cured through prayer and counseling.

The second position is a qualified one inspired by the “Love the sinner; Hate the sin” theology. The following statement of the Catholic Bishops’ Conference of India explains this position: “The Roman Catholic Church does not approve homosexual behavior. But our stand has always been very clear. The church has no serious objection with decriminalizing homosexuality between consenting adults, the church has never considered homosexuals as criminals,”

This is the context in which the National Council of Churches in India (NCCI) took the lead in organizing programs to address this issue. Soon after the Delhi High Court verdict repealing section 377, the NCCI organized a roundtable to reflect upon the verdict theologically and biblically. The statement of the roundtable affirmed that, “We recognize that there are people with different sexual orientations. Our faith affirmation that we are created in the image of God makes it imperative on us to reject systemic and personal attitudes of homophobia against sexual minorities. We consider the Delhi High Court verdict which upholds the constitutional and human rights to privacy and a life of dignity and non-

discrimination of all citizens as a positive step. We envision Church as a sanctuary to the ostracized who thirst for understanding, friendship, love, compassion and solidarity. We appeal the churches to sojourn with sexual minorities and their families without prejudice and discrimination, to provide them ministries of love, compassionate care, and justice. We request the National Council of Churches in India and its member churches to initiate an in-depth theological study on Human Sexuality for better discernment of God's purpose for us."

In the Indian context of religious diversity, it is important to initiate interfaith coalitions to campaign against homophobia. An interfaith roundtable was organized in 2014 that brought together theologians, clerics, and practitioners of all major religious traditions in India. The statement of the interfaith roundtable affirmed that:

*We commit ourselves to critically engage with our belief systems and practices to review and re-read scriptures and moral codes that stigmatize and demonize people who are different from us. We condemn homophobia and bigotry as morally unacceptable, and commit ourselves to eradicate this sin from our religious communities. We pledge to accompany friends who are stigmatized and criminalized due to their sexual orientations and to provide them fellowship and solidarity in their struggles to love and live with dignity. We commit ourselves to transform our worship places to welcome and provide safe spaces for sexual minorities. We discern the need to reclaim and reinterpret our traditions and rituals, festivals and feasts, scriptures and practices, to liberate our religions from the shackles of ideologies of exclusion such as patriarchy, casteism and homophobia. We dedicate ourselves to safeguard the rights of all sexual minorities and to join hands with civil society initiatives to decriminalize homosexuality and to eradicate homophobia. We call upon religious leaders to condemn homophobia and to practice non-discriminatory hiring policies in their institutions, and also to follow affirmative action to end the discrimination that transgendered people face in admissions and appointments. We affirm our resolve to work tirelessly to create a new world of compassion, justice, inclusivity and acceptance where the divine gift of sexuality will be celebrated in all diverse manifestations of affirmative love.*

The NCCI and other ecumenical movements brought out several publications during the last decade to create awareness among the congregations against homophobia and transphobia. We are committed to continuing this struggle. As

followers of the non-conformist Christ, the one who consistently quarreled with the priests of public morality, our call is to reject all laws that demonize, criminalize, and exclude human beings based on the dominant constructions of normativity and natural order.

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# SECTION THREE

GENDER, HIV, AND THE CHURCH



# Same-Gender Loving Women and the Church

Cynthia Ci

Gender is an issue for me in most LGBT dialogues because I feel there is a lack of attention and a lack of respect given to women.

By attention, I mean the way in which LGBTQI issues are discussed. Discussed in such a way that men dominate the argument. Now, I am aware that they dominate for a number of reasons and I am not trying to bash the male community. However, it is important to recognize that the lack of respect for women can be connected to the patriarchy and misogyny that exists in the Bible and the lack of respect that women are given in the religious texts.

I love men. I have four brothers and believe me I am not on an all-out assault with this presentation but rather using this platform to open your eyes to the disparate treatment given to same-gender loving women and women in general.

I was made to believe from a young age that I would make a good wife one day and would eventually progress into being a good mother. When my mother taught me how to cook, it was not for my own nourishment but rather for me to keep the future husband that she assumed I would marry. And when I protested because I actually don't like cooking, my mum would use scriptures to justify her arguments.

I would like to use the example of Ruth. I like Ruth. But I struggle with the story of Ruth because as much as she is celebrated in the Bible, she also reinforces the religious notion that women must have men in order to survive.

You may be wondering why this is relevant. Well, it is important because this sets the tone for some of the issues same-gender loving women face in affirming their relationships or how they identify within the wider society.

Countless times I have heard:

“I understand gay men, but how do women have sex?”

“Who's the man?”

And often the most insulting comments are “you're just playful...flirty...a freak,” or the most common insult: “can I join in?”

Same-gender loving women are not taken seriously. To the extent that the lawmakers in the country of my birth, England, did not bother to make a law decriminalizing it. Neither did lesbians in England have a law regarding the age of consent. In fact, when a law did finally get passed in 2000—the *Sexual Offences (Amendment) Act*—it did not explicitly mention lesbians or same-gender loving women in the same way or context that it explicitly mentioned men.

For a long time, England did not want to admit and, in some ways, could not fathom the existence of lesbians. We were not taken seriously.

We are influenced by culture and culture, in some instances, can be defined by which religious sect you follow. My heritage is African; my parents are Nigerians and my matriarchal lineage is deeply religious.

I was born in London and my culture is British. It has Nigerian influences but it is predominately British. I only accepted I was actually British and not Nigerian two years ago. Because for many years I did not want to identify with the slavers of my tribe.

See, I grew up in the African churches of London. And anyone who's been to South London where I came from knows that, after chicken and chip shops, the next most frequent establishment you come across is churches. And in the many churches I have ventured into, I have been taught to be submissive and to play my position.

But in school and in the wider British society, my teachers were telling me I could be a leader and I could travel the world and I could do anything I want to do as long as I put my mind to it. So I grew up with this conflict as a woman.

As the first-generation offspring of migrants, I refuse to be oppressed by the same system of beliefs that would have oppressed my grandmother, preventing her from being ordained. Thus she served the church whilst her two younger brothers, my great-uncles, ascended through the church hierarchy to become leaders. So my grandmother's brothers—who, because of seniority in the context of African culture, are not allowed to call her by her name—can assume senior positions and sit higher than her within the church.

So, on the one hand I'm being oppressed and on the other hand I'm being told to reach for the stars. I felt the church was trying to tame the fire that burned in me. I wanted to lead, but I was told I couldn't lead because I'm still a single woman. Once I was married, "of course we'd love to have you." And most African traditional churches do not ordain women for this reason and some of the other reasons I've already outlined.

The church has played a huge role in patriarchy and misogyny—for decades.

With women seen as not being good enough for ordination, their service in the church was reduced to being servers and deacons.

I'm no deacon. And neither are my friends. We are willing to fight tooth and nail in order not to be oppressed—to the point that we drive ourselves mad and suffer with mental illnesses, fighting the inner battle to go against everything we know and everything we have been taught about our place and role in society.

If women are made to feel unimportant or inferior in a religious context, it is no wonder these views seep through into our cultures in such a way that a woman who does not play her part according to the religious texts is invisible and a nobody.

Naomi and Ruth were nobodies until Boaz came into their lives. That's the

way I see it. Sorry if I have offended my religious leaders.

You are killing your children's talents with this way of thinking. And it's no wonder many young people are leaving the church. You have to adapt and move with the times and encourage the youth to lead regardless of gender, creed, sexuality or anything.

We cannot allow male issues to dominate the argument. Women are visible, women are here and although the laws did not criminalize us, the church and, in some ways, society have penalized us.

I'm a liberal. I'm a Christian, although many may argue that ground—but I don't care. I realized soon after I came out that I am not a Christian because it pleases you. I am a Christian because it pleases God. And only God can judge me.

I'm fierce and headstrong and I think that's because I'm British.

I want to conclude with this personal sentiment: My mother says to me all the time, "I don't think you'd be parading your lesbianism if you were born in Nigeria."

I say, "Yes, Mum, you're right. But I never made that decision. You did. God brought you here to birth me because he wanted a leader."

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*Cynthia Ci is a film graduate from London who believes nothing is better than serving the Lord. She first came across House of Rainbow Fellowship in 2013 while looking for a wholly accepting Christian ministry. Cynthia now serves on the board of directors. Outside the ministry, Cynthia lives a simple life, assisting her friends and family and helping the homeless projects in London.*

## Decriminalizing Lesbianism: A British Perspective

*Philippa Drew*

First, just a quick word about the Kaleidoscope Trust, of which I am a trustee. The Trust is a member of and provides the secretariat for The Commonwealth Equality Network, which is a network of 42 LGBT organizations around the Commonwealth representing 42 countries (including Jamaica). TCEN became a fully accredited Commonwealth organization in June 2017 when all the member states (including Jamaica) agreed that it met the criteria for accreditation. The Network will be advocating strongly for LGBT rights, in particular decriminalization, at the Commonwealth Heads of Government meeting to be held in London in April 2018.

Second, an equally quick word about being British. I feel that the U.K. has a special responsibility to advocate for decriminalization. As Prime Minister May said on Pride Day, July 8, this year, “Around the world cruel and discriminatory laws still exist—some of them directly based on the very laws which were repealed in this country 50 years ago. So, the U.K. has a responsibility to stand up for our values and to promote the rights of LGBT+ people internationally. That’s why we will continue to stand up for human rights, directly challenging at the highest political levels governments that criminalise homosexuality or practice violence and discrimination against LGBT+ people internationally.” I applaud that. But I expect more of my country. I think the British government should apologize for the criminalization of homosexuality, which they imposed on millions of people worldwide who never had such laws and which has brought uncountable misery, violence and death to millions.

I realized yesterday that I am in a minority four times over at this conference:

- As a woman
- As a non-black person
- As a lesbian
- As a non-religious person. I was brought up in the Christian faith but it left me 50 years ago.

The church’s role throughout the world in relation to LGBT people is a dishonourable one. I hope that this conference and any future dialogues will lead to better understanding between all—and in particular that people of faith will support the decriminalization of homosexuality. People of faith may consider homosexuality to be a sin but that does not mean it should be a crime. Adultery is a sin but it is not a crime. If it were, there would not be nearly enough prisons in the world to accommodate all those convicted.

Lesbians suffer from the criminalization of homosexuality. As of October

2017, 72 countries still criminalize homosexuality, in one form or another. Of those countries, 44 expressly or implicitly criminalize lesbians and bisexual women. Furthermore, of the 52 countries in the Commonwealth, 36 countries criminalize homosexuality, and 16 countries (31%) specifically criminalize lesbian and bisexual women. Even where female homosexuality is not expressly criminalized, lesbians are threatened with arrest, arrested, blackmailed or subject to violence whether from their families, from members of the public or the forces of the state.

Whilst there is a general trend towards decriminalization globally, there is a converse trend towards an *increase* in criminalization of LBT women. Over the past 30 years, 45 jurisdictions have decriminalized homosexuality, either through legislative repeal or the courts. However, during that same period, at least 10 jurisdictions have amended their laws that criminalize gay and bisexual men to include LBT women. This has been achieved through the courts, by interpreting ambiguous laws as applying to women, or by governments amending legislation to use gender-neutral language, so that it applies to women as well as men.

My third point is about intersectionality. Women are “economically, socially, politically, legally and culturally disadvantaged compared with similarly situated men” throughout the world, with these disadvantages operating on multiple levels: international, regional, national, communal, and familial.

In General Recommendation 28, the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) identified intersectionality as a “basic concept for understanding the scope of the general obligations of States parties” and said that:

*The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men.*

Influenced by their religious beliefs, the families of LBT women are, in some cases, responsible for much of the violence and discrimination against them. In some cultures, the practice of “corrective rape” is used to turn LBT into “real women.” A brother, uncle or other family member may undertake this practice, to “fix” the LBT woman. For example, Irina, a Russian lesbian, claimed asylum in the U.S.A. on the grounds that she had been tortured or ill-treated by a range of people, including her own family members. Irina’s sisters demanded she give up custody of her son and get psychiatric treatment to “cure” her of her homosexuality. Furthermore, Irina’s parents hired two investigators to probe her lifestyle. These investigators then abducted Irina, and raped her to “teach her a lesson” and

“reorient” her sexual identity.

The implication of corrective rape is that women who are not attracted to men need to be fixed by men, thus asserting the dominance of men over women’s bodies. This practice highlights the interconnection between gender equality issues and the vulnerabilities women face due to their sexual orientation or gender identity.

In addition to domestic laws that criminalize same-sex conduct, other domestic laws can have a severely negative impact on the lives of LBT women. Some countries either fail to recognize rape within marriage as a crime, or explicitly exclude marital rape from criminal sanctions (e.g. Sri Lanka). Rape laws that fail to criminalize rape within marriage are harmful to all girls and women, regardless of their sexual orientation. This is especially true when women are forced into marriage against their will. This situation is even more traumatic for lesbian women, however, who will never have any sexual attraction to their husband. Such laws perpetuate the belief that “women, and particularly married women, are always available for sex—with or without their consent.”

Some LBT women may become ostracized from their families as a result of the stigma associated with being LBT, stigma for which religious belief may be responsible. With limited economic opportunities, LBT women may be forced to turn to sex work, which is criminalized to some extent in 117 countries. According to Amnesty International, sex workers “are at heightened risk of a whole host of human rights abuses including rape, violence, extortion and discrimination” as a result of criminalization.

Furthermore, women who are forced into prostitution, forced to have sex within marriage, or undergo “corrective rape,” may become pregnant as a result. They may not be able to obtain an abortion, if desired, as this may be illegal in many jurisdictions, again for religious reasons.

Some LBT women might be forced into a heterosexual marriage because they are economically and culturally expected to be dependent on men. The result of such a marriage is essentially a lifetime of sexual abuse. For example, a lesbian member of Gays and Lesbians in Zimbabwe reported that, when her parents discovered she was a lesbian, they forced her to live with and marry a man who they knew was consistently raping her.

LBT women in forced marriages suffer from a lack of autonomy over their reproductive health and their family planning choices. Such marriages can have a negative impact on their mental and physical health. Where LBT women are rejected by their families, on account of their sexual orientation, they experience disproportionate levels of suicide, homelessness, and food insecurity. I could say a lot more about how religious attitudes towards women and towards homosexuality combine to the detriment of LBT women.

In countries that still criminalize homosexuality, the first step towards eradicating discrimination and stigma is decriminalization. However, whilst changing the law to decriminalize homosexuality is important, LBT women's lives will not substantially change until the overwhelming family and community pressure to conform to expectations "to be a dutiful, married woman" are removed. Indeed, gender equality in religions and in society is essential if women in general and LBT women in particular are not to continue to suffer disproportionately.

I will end with my own exegesis of the Book of Ruth. Naomi is Ruth's mother-in-law. Both are widows. Naomi decides to return to her home country and tells Ruth to remain in Moab. But Ruth and Naomi are close, very close. Ruth says to Naomi, "Where you go I will go, and where you stay I will stay. Your people will be my people and your God my God. Where you die I will die, and there will I be buried." But Naomi and Ruth live in a society where it is impossible for a woman or two women living together to be economically independent. So, Ruth has to demean herself in order to find a husband so that both she and Naomi may survive. I like to think that as Boaz was a busy man, Ruth and Naomi would have had plenty of quality time together....

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## Healing Our Image of God

*Rev. Canon Rosie Harper*

I want to start my talk by describing a particular and seminal moment. One of the things I do in my work with Bishop Alan Wilson as his chaplain is to go along to his meetings with people and make very precise notes to record exactly what is being said. This particular meeting we knew was going to be challenging because it was a safeguarding meeting.

The woman had been seriously abused by her clergy husband over many, many years. None of us had picked it up. In the parish, everyone believed his story, not her story. He told everyone that she was a drunk, that she was a difficult woman, and they all believed him and not her. In the end, she managed to escape and she moved out of the area. Then many years later, she came back saying, “You as the Church should have done better by me. You should have protected me.”

We had a very long, helpful conversation. She began to talk about things she hadn’t been able to for a long time and started by expressing herself in very angry terms. Gradually that calmed down into something a bit calmer, a bit deeper. As she left, although she hadn’t shaken hands with anyone in the church for a long time, she shook Bishop Alan’s hand. And then, in that way that usually only happens when you’re leaving the doctor’s office and you say the really important thing just as you’re going out the door, she looked Alan in the eye and said, “Of course it was the theology that did it.” And it was like this cold icicle ran down my spine and I thought, “She is right, you know.”

I think most of us have had conversations about various theories of atonement and penal substitution and the violence inherent in some of that, but I think it goes further and deeper than that. I think we need, at the bottom of this entire conversation, to look for a healing of our image of God. We need to heal who we think God is.

Now, it’s a fundamental tenet of our Christian faith that we do not make an idol of God. It’s absolutely important that we do not make an idol of God. And when we went to God and asked, “Who are you? Describe yourself!”, God actually did not say, “I am male. I am heterosexual.” All God said was, “I am that I am.”

Now, the trouble is that we don’t have a mental, emotional, spiritual capacity to stay with that. In the end, it came such that we needed Jesus in order to say, “Maybe this is what God is like.” But meanwhile we have inevitably created God in our own image. Because we have no other image and no other language available to us, the image of God that triumphs is going to be aligned to the image of

the people who have the most power. So, you see, it's all about what sort of God you believe in. In the olden days, you created a kind of feudal God. Have you noticed God was really quite like Abraham, who had his children and his wife and his slaves and his prosperity? Mostly he was benign, but that was God and that was where the power was. And you can track it through history.

The people of Israel went to God and said, "Please can we have a king?" God looked at them and said, "This is not going to end well." Nevertheless, they had a king and then, guess what, we have an image of God as the king, God who has power and authority and controls people. We have had all sorts of different models of what God might be like in the historical context. But it's always a male God. If there's one thing that gets right up the nose of my congregation back in Great Missenden in the U.K.—a nice, white, middle-class bunch of folks—it's when I refer to God as "She." Were I to refer to God as queer, all hell would break loose and yet of course we all know that God is not gendered in that way. And we come to the present day and I would suggest that in the Church of England at the moment God is rather more like a corporate CEO. Well, as you can imagine, I have my discomfort about that.

Now, the problem is multilayered. It's difficult as an individual level. When you are, as a young child, told that God is love, you believe it—especially if you are fortunate enough to be growing up in a family where love abounds and you are treated well. But then as you grow older, it's extraordinary how all sorts of caveats develop. God is love...BUT. I would suggest to you that when you qualify the love of God, you are always being idolatrous. God is not "love but"—God is love. Full stop.

When you say, "God is love, but God is just," you are saying that God is love but that God also has the capacity for anger and violence—and watch out because you'll get it if you don't obey. That's a misreading of the Bible because God's justice is not punitive justice. God's justice is the justice of equity.

So, as a little child, you grow up and gradually you learn that God is not only to be loved, but to be feared. God is not only there to love you, but to control you. And the love of God that controls you is extraordinarily like the love of the men around you, particularly the men in the church.

This works at an individual level and it hampers the growth of your spiritual life when you have a patriarchal vision of God, and a power-driven vision of God.

But it works in church structures, too, because in a church if you have a God who is essentially male, it stands to reason that the church should be run by the men. Because the men are the ones who know what to do with the power, just like God knows what to do with power. And the worst thing is that then you read the text, backfilling the power that you want from God.

So you say, "God is a just and angry God." What you actually mean when

you stand up in the pulpit and say that is, “I am an angry man.” But you don’t take responsibility for that anger; you blame God.

You say, “I’m really sorry, I want to be equal and fair to all the gay people in the congregation, but the Bible says God says I may not.” Actually what you are saying is, “I’m a bigot, I’m a homophobe, but I’m going to blame God.”

You say, “Of course we want to please women, and we want women to have equality, but actually God says we’ve got to keep women in their place. This is what women have to do. Look at what Paul says.”

And what you are really saying is, “I want to keep women in their place, but I’m not going to own up to it; I’m going to blame God.”

So that’s all I’ve got to say today. When we create God in our own image, who will at the moment—maybe it will change—inevitably be male, we are making a terrible idolatrous mistake. Our prayer, underneath everything else that is talked about at this conference, our prayer should be that we can heal our image of God.

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# A Jamaican Perspective

*Angeline Jackson*

I am Angeline Jackson, and I am from Communities of Restoration, a new faith-based group, and Quality of Citizenship Jamaica, an organization that works with lesbian, bisexual, and trans women.

I am happy to be part of this esteemed panel.

I believe that Jamaica's melting pot of religion, culture, music, and pervasive, though oftentimes subtle, misogyny creates a type of homophobia unique to our island. Each of these components is connected. This plays out in several ways.

- Many Jamaicans claim Jamaica as a Christian country and as such, phrases like “the Bible says,” “the pastor says,” or “God says” are frequently used to justify negative attitudes and homophobia. Additionally, the passages often referred to as the clobber passages (i.e. Romans 1:26–27, Leviticus 18:22 & 20:13, and Genesis 19, better known as the story of Sodom and Gomorrah) are regularly used in anti-gay rhetoric from the political sphere to the personal sphere. As Rev. Dr. John Holder expressed in his keynote address, the Bible is often used as a yardstick by which human and moral issues are measured even for those who do not attend church.
- Jamaicans generally argue that their dislike of homosexuality is because they are culturally opposed to it. This argument is usually used in conjunction with the religious argument.
- While new recordings are not as common today, music ranging from Buju Banton's notorious “Boom Bye Bye” to T.O.K.'s “Chi Chi Man,” not only express disgust at homosexuality but also serve to reinforce culturally and religiously approved attitudes.
- The misogyny that exists within our society can oftentimes be missed but is regularly displayed by men's assumption that they have the authority and right to catcall women, or dictate women's actions. Within the context of homophobia, misogyny produces the attitude that a man being gay means that he's making himself a woman, thus less than a man.

Now, while Jamaica's buggery law—or the *Offences Against the Person Act*, sections 76, 77, and 79—does not directly criminalize same-sex intimacy between women, the existence of the law creates an environment where discrimination and violence towards lesbian, bisexual women and other same-gender loving (LBSGL) women is permissible. In effect, LBSGL women are vulnerable to the homophobia, lesbophobia, and biphobia that are given licence by the statute.

In a 2014 online study, our organization, Quality of Citizenship Jamaica

(QCJ), found that 47% of respondents (lesbian and bisexual women) experienced sexual harassment, violence and threats of violence; a further 30% experienced physical violence, and threats of violence.

The 2014 IACHR (Inter-American Commission on Human Rights) Annual Report reflected the challenges and negative consequences of the buggery law on LBSGL women. The report particularly stated that many sources indicate that “corrective” rape in Jamaica is an issue of concern. We define corrective rape as the sexual violation or rape of LBSGL women with the assumption and intent that the violation will make a woman heterosexual. Some incidents noted in the report included:

- In 2007, a 17-year-old lesbian was held captive by her own mother and her pastor for 18 days and raped repeatedly, day after day, by different religious men in the attempt “to make her take men” and “live as God instructed.”
- In 2008, four more cases of “corrective rape” were reported, with at least another three in 2009.
- In 2010, a lesbian woman was gang raped by four men from her community who had complained about her “butch” or “manly” attire. After she was raped, the rapists cut her with a knife “so she could better take men.” A few days later, that woman’s friend was abducted at knifepoint, brutally raped and then dumped half naked.

The report also noted that, in 2013, at a police station in St. Catherine Parish, a lesbian couple reported that they experienced discrimination from those charged to “serve and protect” when they went to report an incident that they had experienced. Similarly, QCJ recalled an incident that took place in October 2013 where “Kashima Talak” (name changed for security), a masculine-identified lesbian, was charged with assault causing bodily harm, although she was the person attacked and did not wound her attacker. The Independent Commission of Investigations (INDECOM) was called upon to investigate the matter, but there has been no indication it will do so.

In many cases, the women refused to go to the police because of the perceived ineffectual nature of their response. In 2012, the IACHR Report on the Situation of Human Rights in Jamaica, expressed concern of the possible reluctance of police to fully investigate crimes against LGBT people. LBSGL women are vulnerable to assaults because of their sexual orientation, gender identity and expression, and often believe they are unable to seek assistance from the police. Women would say, “How would they help when I know their response would be ‘you’re a lesbian, so it’s not a crime to fix you.’” For the few who muster the courage to report the matter, “the police...make it clear that if (she) were dating a man this would not have happened.”

Though the march towards progress is tedious, slow, and at times doesn't even look like progress, the general consensus among civil society and LGBT organizations is that there is some societal progress for LGBT Jamaicans. However, even in the face of this progress there remains significant hostility towards the LGBT community. We see the results of these attitudes in the continued reports of the violation of the rights of all LGBT Jamaicans.

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## Adventism, AIDS, and Decriminalization

*Dr. Keisha E. McKenzie*

Some Seventh-day Adventists are doctors or clinicians and live in regions where church members have robust, public conversations about HIV and AIDS. Those Adventists might not have many questions about the church's relationship with people living with HIV and AIDS. But comments like this from one American Adventist grandmother might be more common:

*I'm remembering the young people I went to school with in SDA schools who committed suicide. I wonder now if [church-imposed isolation] was the reason why. There was no safe place, so death was the only way out. I remember the ones in my very class who died of [AIDS]. What if their church could have embraced them? Would they have not run to a community that was rampant with the HIV virus? Would they still be alive today, finding joy in their Creator's arms and Church family? (N. Chadwick, Facebook comment, May 10, 2017)*

These are great questions.

As other papers in this forum note, the virus and complex of conditions that later became known as HIV and AIDS first broke into public health consciousness in North America in the 1970s. Researchers and advocates argue that the virus first infected humans in the 1920s, but the virus's trajectory between 1920 and the mid-1970s is unclear (AVERT, 2017).

The year many people recognize as Year 1 of the modern Western AIDS crisis is 1981, when clusters of young gay men in San Francisco and New York City began presenting with lung infections and a herpes-related tumoral cancer. That year, nearly half of the gay men diagnosed with "severe immune deficiency" died. The following summer, the condition was prematurely labeled GRID (gay-related immune deficiency), and by the fall of 1982, the U.S. Centers for Disease Control had renamed it AIDS. AIDS diagnoses were then occurring in the U.S., Haiti, Spain, France, Switzerland, the United Kingdom, and Uganda, and affecting men, women, and children regardless of sexual orientation, marital status, addiction status, or prior health. The World Health Organization began monitoring the global prevalence of AIDS in 1983 (AVERT, 2017).

During those years, while several U.S. states still maintained laws criminalizing same-sex sexuality, a small Adventist church in Southern California launched an unusual ministry to the gay community (then mostly "gay," or homosexual male). Congregants were inspired by direct interactions—personal relationships—between church members who were gay and HIV seropositive

and members who were heterosexual and presumably seronegative.

Under the direction of then-pastor Rudy Torres, and supported by each of its ministers since, Glendale City Church has nurtured a very strong collective conviction about caring for vulnerable people and intentionally welcoming non-heterosexual people. One report ties this ethic to an intimate moment in the early days of the international AIDS pandemic: when Carlos Martinez disclosed his AIDS diagnosis and sense of God's forgiveness during a Bible class at Glendale, 30 women over 65 years old responded by wrapping him up in hugs rather than in censure and condemnation (Aghajanian, 2015a).

Martinez's eventual funeral had 900 attendees, many of them from his local Adventist church (Aghajanian, 2015b). Glendale also became the first and, for a time the only, congregation in the city to hold funerals for people who had died from AIDS. Its legacy among lesbian, gay, bisexual, transgender, and intersex (LGBTI) people remains strong nearly forty years later, and the congregation today operates under the motto "Revealing Christ, Affirming All" (Glendale City Church, n.d.).

The story of Glendale, and other communities like Kansas Avenue Adventist church in Riverside, CA, which began a congregational AIDS ministry in 1996, is *not* the story of the wider Seventh-day Adventist denomination (Wright, 2008; Bull and Lockhart, 2006). The General Conference of Seventh-day Adventists monitored the epidemic through committees from 1987 onward, but did not move to actively coordinate local ministries to people living with HIV and AIDS until more than twenty years after the epidemic began in 1981 (see Lawson, 2008). By the end of the 1990s, AIDS had become the leading cause of death in Africa and the fourth-leading cause worldwide (AVERT, 2017).

It wasn't until 2002 that the General Conference Executive Committee voted to create a new program they called the Adventist AIDS International Ministry (AAIM) (Giordano & Giordano, 2016b, p. 9). AAIM's launch coincided with the launch of PEPFAR, U.S. President George W. Bush's \$15 billion initiative to control HIV and AIDS, tuberculosis, and malaria worldwide, especially in countries with high prevalence rates (Kaiser Family Foundation, 2017).

Today, AAIM's mission is "to coordinate actions and resources to bring comfort, healing and hope to people infected and/or affected by HIV/AIDS, share a message of education and prevention to the general population, and present a united front in order to accomplish what our Lord Jesus Christ has commissioned each of us to do" (Giordano & Giordano, 2016a, p. 6). This ministry is in line with what Adventists traditionally call "medical missions" (cf. Nichol, 1956).

So, on behalf of the Adventist denomination, Oscar and Eugenia Giordano, a husband-and-wife team of doctors, accepted the call to lead AAIM and moved to South Africa from their hospital practice in Rwanda. From that new office,

and with the assistance of volunteer coordinators across the continent, AAIM began dismantling the lattices of public health ignorance and social stigma that undermined the church's compassionate care for people living with AIDS in sub-Saharan Africa, the region where 70% of the world's people living with HIV are located (Giordano & Giordano, 2016b; Oliver, 2013).

The Giordanos worked across the region until the four individuals who attended their first meeting became "hundreds" in search of direct service and support programs (Oliver, 2013). The ministry's network of individuals, congregations, and clinical organizations now provides skills and job training, micro-businesses such as bakeries and seamstress shops, as well as clinical services with an engagement-and-evangelism strategy rooted in concern for the Other and "loving, compassionate care" (Giordano & Giordano, 2016a, p. 3; Giordano & Giordano, 2016b, p. 9). AAIM's 10th anniversary program included a multi-national meeting of 70 people, and the church's work for people living with HIV and AIDS then spanned 26 countries.

Since the Giordanos' retirement in 2016, what is now a 56-nation ministry has been headed by another husband-and wife team, Dr. Alexis and Nellie Llaguno. (For comparison, the U.S. government's PEPFAR operates in 60 countries on a much larger scale and with a much larger budget.) As of 2015, HIV and AIDS were no longer in the top ten global causes of death and there's no doubt that religious organizations like AAIM have contributed to that outcome (WHO, 2017).

As Deborah Birx, the U.S.'s global AIDS coordinator said at a UN prayer breakfast this year, "Faith-based organizations have been vital to the global AIDS response since the very beginning, saving and improving millions of lives. As we fast-track toward achieving epidemic control, the powerful leadership and unique reach of the faith community is as important as ever" (UNAIDS, 2017).

Among Seventh-day Adventists, that faith-based response varies by location. The Adventist Development and Relief Agency (ADRA) began single-nation HIV and AIDS programs the year after AAIM's launch, and AAIM has self-identified Adventism as "one of the most accepting and compassionate denominations" for its approach to HIV and AIDS among continental Africans (Giordano & Giordano, 2016b). AAIM was launched even before same-sex sexuality was decriminalized in the United States through the landmark Supreme Court case *Lawrence v. Texas* (2003). Yet there's no analogy to AAIM's scale of service for people with HIV and AIDS in North America, where HIV and AIDS first drew widespread public attention and where the worldwide headquarters of the Seventh-day Adventist denomination have always been located. Why not?

At least one answer is buried in phrases like "biblical principles regarding sexuality" and "God's ideal" for marriage and sexual expression, which recur throughout denominational statements on HIV and AIDS (e.g. Annual Council,

n.d.; AAIM, n.d.). In 2000, Dr. Harvey Elder, one of a few dogged advocates for faith-based, compassionate service to people living with HIV and AIDS, told an Adventist News Network reporter that part of the church's sloth and ambivalence on this issue was the perception that the disease is a moral penalty. "AIDS is generally perceived as a 'dirty, messy' business, which involves individuals who are 'not our kind of people,'" he said (Krause, 2000). To be clear, Dr. Elder did not himself advance that view, but a number of prominent Adventist leaders did and still do (cf. Lawson, 2008; Ferguson, 2010).

For example, in his 2008 book, *The Cross of Christ*, historian and practical theologian Dr. George R. Knight writes pointedly about sin's consequences as expressing divine anger.

*The concept of God's impersonal wrath does, it seems, have an element of truth in it. God does "give up" lawbreakers of physical and moral laws to the results of their actions. Thus habitual liars create distrust toward them, and sexual profligates risk the possibility of developing AIDS. (Knight, 2008, p. 41)*

Presumably, if someone set fire to their home and ended up trapped inside, it would not interfere with the wrath of God to call the fire department and try to drag them out. After the fire had been extinguished, perhaps, investigators might explore causes and culpability, not with the sole intent of assigning blame, but perhaps also to assess future risk and mitigate it with, say, sprinklers or training. When applied to people deemed "sexual profligates," however, the divine judgment theology that Knight proposed wouldn't even inspire a call to first responders.

Yet Knight's comments contradict the denomination's own guidelines on HIV and AIDS. According to the General Conference Executive Committee's June 1990 statement, Adventists are to "separate the disease from the issue of morality, demonstrating a compassionate, positive attitude toward persons with AIDS, offering acceptance and love, and providing for their physical and spiritual needs" (General Conference, 1990; cf. Guy, 1987). The nonjudgmental compassion recommended in that statement is the attitude that Dr. Elder and his colleague Dr. Gary Hopkins brought to health and HIV and AIDS advocacy within the Adventist global community. A theology of engaged compassion, not passive wrath, was what inspired both the 2000 study committee and the formation of AAIM a few years later. Dr. Hopkins framed his position in terms of Christian moral ethics and the church learning to imitate Christ in its dealings with the vulnerable. "AIDS is the leprosy of today," he told ANN. "And where we have tended to step back, Jesus would be stepping forward" (Krause, 2000).

Dr. Allan Handysides, a Maryland-based gynecologist who did double duty in the General Conference of Seventh-day Adventists' Adventist Health Minis-

tries department, advocated for “stepping forward” into the compassionate care of sick people regardless of their conditions for his entire career; his Health Ministries department successor, Dr. Peter Landless, participated in the General Conference’s 2014 conference on gender and sexuality, “In God’s Image,” which included presumptively heterosexual theologians, clinicians, and other church workers discussing the identities, experiences, and relationships of LGBTI people (Adventist Review/ANN Staff, 2014; ANN Staff, 2013). While Landless was one of the few presenters whose summit presentation was summarized in the official church paper, Handysides has been credited with prompting General Conference officials to dedicate attention to the HIV and AIDS pandemic across Africa (Giordano & Giordano, 2016b).

Sadly, the clinicians’ ethic of care came decades too late for a generation of gay Seventh-day Adventists isolated by their church’s moral condemnation and then decimated by the first twenty years of the AIDS epidemic in the United States. For many survivors, that period holds deeply traumatic memories of burying friends and nursing others while dealing with a “repelling, rejecting, and—to say the least—avoidant denomination” (McKenzie, 2016). After reviewing perhaps the only AIDS quilt in the world to memorialize Seventh-day Adventists last year, I wrote, “When the church wasn’t ‘family’ for them, they were family for each other” (*ibid*; see also Elliott, 2015). That generation of LGBTI Adventists suffered immensely and unnecessarily when church leaders’ opinions about their sexual orientation meant that a deepening public health crisis remained off the denomination’s mission targets and hundreds of thousands of deaths in the Global North exploded into millions worldwide.

A second answer to the question of selective Adventist responsiveness to people living with HIV and AIDS is related to the denomination’s evolving membership demographics. In 1981, when the U.S. crisis began, the North American Division (NAD) had almost 623,000 members. Today, its 1.2 million members represent just 6% of the global Adventist population. By contrast, more than 45% of the new Adventists who joined the church last year did so in divisions that serve sub-Saharan Africa (West-Central Africa [WAD], East-Central Africa [EAD], and Southern Africa-Indian Ocean [SID]). These regions of the world church hold almost 8 million members and are growing exponentially (Office of Archives, Statistics, and Research, 2017; Office of Archives, Statistics, and Research, n.d.). [Note: church divisions were reorganized in 2003 and current statistical reports do not allow for direct division-to-division membership comparisons prior to that year.]

Back in 1995, however, when Dr. Elder addressed the San Diego Adventist Forum with the startling title “The Seventh-day Adventist Church has AIDS,” he made this assessment:

*In countries where the Seventh-day Adventist Church has the most baptisms, this epidemic is exploding. Many young church workers are brands, plucked for the burning, individuals who had high risk behaviors. They near readiness for ordination toward the end of the latency of their HIV infection! For many, ordination and AIDS will occur the same year. (Elder, 1995)*

In regions where the denomination faced both exponential growth and an expanding pandemic among new members, women, and children, its medical missions heritage has kicked in, and it has found the motivation to act in the name of public health and the wholeness of humankind. Church medics in Lesotho have centered in their ministry's communications a statement that church co-founder Ellen G. White made in 1901: "Medical missionary work brings to humanity the gospel of release from suffering... It is the pioneer work of the gospel. It is the gospel practiced, the compassion of Christ revealed" (White, Maluti Adventist Hospital, n.d.). Their ministry is explicitly theologized, and not simply an expression or extension of their professional medical ethics.

But the "release from suffering" they are motivated to offer patients in Africa does not motivate comparable engagement with LGBTI people living with HIV and AIDS in the Global North. Sociologist Ronald Lawson has very thoroughly outlined this contrast in a book chapter on a church that, in his words, "has proven itself more concerned with rules and image than with the needs of its people" and has been "neither welcoming nor caring" to LGBTI people living with HIV and AIDS in the Global North (2008, p. 3–65). Moral disgust such as that quoted from George Knight blocks even medical missions incredibly well (McKenzie, 2015).

As Richard Beck explains in his book *Unclean: Meditations on Purity, Hospitality, and Mortality*, "Whenever the church speaks of love or holiness, the psychology of disgust is present and operative, often affecting the experience of the church in ways that lead to befuddlement, conflict, and missional failure" (p. 90).

This fall, the president of the Christian NGO World Relief asked, "Can you imagine the day when the chapter on AIDS is closed and a new chapter is written?" (UNAIDS, 2017).

I can. And I wonder if the Seventh-day Adventist Church will dare to imagine it, too—not just in regions where the majority of seropositive people are heterosexual, but also in parts of the world where LGBT+ youth and adults can slide into church pews beside graceful grandmothers and disclose their experience, their trust in God, and their faith in the kind of spiritual community that heals.

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# SECTION FOUR

AFTERWORDS



## Afterword

### *Pan Caribbean Partnership Against HIV and AIDS*

The Pan Caribbean Partnership Against HIV and AIDS (PANCAP) welcomes this groundbreaking international conference on the role of the church (past, present, and future) in the decriminalization of private, consensual same-gender intimacy.

This conference comes at a time when the phased implementation of the PANCAP Justice for All (JFA) Programme, initiated in 2013, has been and continues to be the subject of discussion among parliamentarians, faith leaders, youth, and civil society. The JFA Roadmap, which is aligned to the 2016 United Nations High-Level Meeting Political Declaration: On the Fast-Track to Accelerate the Fight against HIV and to End the AIDS Epidemic by 2030, provides the frame of reference for the region's response to stigma and discrimination. The JFA Roadmap includes among its 15 actionable recommendations sexual and reproductive health and rights, gender equality with special attention to reducing violence against women and girls with the support of men and boys, and the reduction and abolition of punitive laws that contribute to the persistence of HIV-associated stigma and discrimination toward persons living with HIV, men who have sex with men, and sex workers.

The PANCAP Regional Consultation of Religious Leaders, convened in Port of Spain, Republic of Trinidad and Tobago, on February 1–2, 2017, brought together 55 Religious Leaders from 14 Caribbean countries, representing Christian, Muslim, Hindu, Baha'i, and Voodoo religions. It was coordinated by the Planning Committee of Religious Leaders and PANCAP and focused on the theme *Religious Leaders' Contribution to the End of AIDS by 2030*. Among the 10 recommendations that emanated from the consultation was for faith leaders to explore the short- and medium-term actionable recommendations of the JFA Roadmap. The main focus was to enable religious groups and organizations to effectively address the gaps in prevention and treatment interventions and continue constructive dialogue on “how to proceed with those elements yet to be resolved.” Among those elements yet to be resolved is the abolition of punitive laws that criminalize private, consensual same-gender intimacy. The establishment of national faith leaders' networks in eight countries that so far have held follow-up consultations to the regional forum is an indication of the general commitment of faith leaders to contribute to the end of AIDS.

In his keynote address to the Regional Consultation of Faith Leaders, Professor Clive Landis of the University of the West Indies contended that the scientific developments have led to the conclusion that antiretroviral therapy

(ART) delivers a life-saving benefit to persons living with HIV by abolishing end-stage AIDS. But the power of ART extends to a public prevention benefit as well. “Treatment as Prevention” is the scientific breakthrough of the decade showing that persons living with HIV who achieve viral suppression on ART are non-infectious. Hence, an important avenue to ending AIDS is removing societal barriers that stand between persons living with HIV and effective ART treatment. Everyone, including the faith community, therefore has a rational self-interest in eliminating stigma and discrimination in order to create a supportive environment where people feel secure enough to know their status, to access ART medication, and to achieve viral suppression. These attitudes will have the effect of lowering HIV viral load in the population and hence limit HIV transmission in society.

This conference provides a unique opportunity to bring together church leadership to engage in respectful dialogue on anti-sodomy laws across the Commonwealth in the context of England’s repeal of these laws 50 years ago. We are aware that while there is common agreement on church doctrine, there are varied positions on repealing or retaining the sodomy laws. We therefore urge participants to use the conference to engage in constructive and practical discussions on how the church as a collective can sustain the dialogue required for resolving this issue.

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*The Pan Caribbean Partnership Against HIV and AIDS is a Caribbean regional partnership of governments, regional civil society organizations, regional institutions and organizations, bilateral and multilateral agencies, and contributing donor partners. It was established by a Declaration of CARICOM Heads of Government in 2001 in response to the threat of HIV to sustainable human development.*

## Afterword

*David Walker, Bishop of Manchester*

Look down as you turn between the restaurants and shops of Deansgate to enter Church House, the offices of the Bishop and Diocese of Manchester, and you will see that one of the paving stones is rainbow coloured. Look up, and to the side of the door, you will see a brown plaque commemorating the foundation of the movement that led to the 1967 decriminalization of sex between men over the age of 21. It was my privilege to take part in the ceremonies to dedicate this memorial in 2014, on the 50th anniversary of the forming of a local committee for the Northwest of England. This group rapidly grew into the Campaign for Homosexual Equality, which led the battle to achieve decriminalization.

The move for decriminalization was widely supported by the Church of England bishops and archbishops of the day, but none more so than Ted Wickham, then Bishop of Middleton, one of the suffragan bishop posts within the Diocese of Manchester. Ted was an extraordinary pioneer for the mission of the church in reaching men in the reality of their lives. In 1950s Sheffield, struck by the limited engagement of the church with the working class men who had returned from the battlefields of the Second World War, he founded the Industrial Mission movement, which provided chaplaincy in factories, mines, and other workplaces. His chaplains—of whom, after his time, I was one—soon discovered the link between pastoral care and the demands of social justice.

Wickham's personal contribution, and the wider role of bishops in the House of Lords and beyond, to supporting decriminalization, owed much to the Church of England's particular role as the Established Church. In the 1940s, Archbishop William Temple, who served successively as Bishop of Manchester and Archbishop of York before being appointed to Canterbury, coined the phrase that the church is "the only organisation that exists primarily for the benefit of those who are not its members." Temple argued that were social justice and the saving of souls ever to be in conflict then the latter must prevail, but, he went on to say, such conflict should never in practice arise. The work of saving souls and of improving the conditions of human life are part and parcel of the same mission. Temple's collaboration with the Labour politician Beveridge led directly to the formation of the post-war welfare state with universal free healthcare and state support for the sick and unemployed.

Consistent with Temple's phrase, every priest licenced or instituted to a parish or benefice in the Church of England shares with their bishop in the "cure of souls" of all those who reside in or belong to their parishes. Clergy have a responsibility not merely for the nurturing and well-being of those who come to church,

or who profess themselves to be Christians, but for all who live in their patch. In the campaign for decriminalization this meant that church people could make a distinction between whether homosexual acts were consistent with Christian teaching and whether they should be illegal. Bishops in the 1960s may have held widely differing views as to whether homosexual activity was or was not always a sin, but many of them could agree that this was no longer a matter for the criminal law to regulate. The well-being of society would be served better by releasing gay men from the fear of prosecution. The Church of England might continue, and indeed it does to this day, to struggle with questions of morality in relation to same-sex relationships, but henceforth it was to be a matter for the Church and its teaching, not for the criminal courts. Following the decriminalization of male homosexual acts in 1967 (sex between adult women had never been illegal in England), later legislation saw the age of consent for such acts lowered from 21 to 18 and then subsequently harmonized with the age of heterosexual consent at 16.

Formal recognition of same-sex relationships took place in 2005 with the advent of civil partnerships; this was followed in 2014 with the extension of civil marriage to same-sex couples. These most recent changes fall far beyond the scope of decriminalization, and have taken place against a background of concern, particularly with regard to marriage, from religious leaders including some within the Church of England. Undoubtedly, decriminalization paved the way for these later changes, and the formal support for same-sex relationships offered through partnership and marriage ceremonies has played a major role in liberalizing attitudes both in the church and in wider society.

Both the Archbishop of Canterbury and the Archbishop of York have made public their opposition to the criminalization of homosexuality, and have corresponded in that regard with the leaders of those Anglican Communion provinces who continue to oppose decriminalization or who support secular campaigns to strengthen criminal penalties. The small number of English Anglicans who continue to support the retention or strengthening of criminal sanctions in other parts of the world may be motivated more by the concern that decriminalization is the first step along a road towards acceptance and inclusion, in church as well as elsewhere, rather than a belief that civil society should use the system of criminal law to uphold distinctive elements of Christian moral teaching.

Fifty years on from when Bishop Wickham's committee led to decriminalization, many churches, especially in large cities such as Manchester, take an inclusive attitude towards same-sex relationships. LGBT Christians, lay and ordained, play important roles in the mission and ministry of their churches. After the retirement of my predecessor in 2013, it was appropriate that the diocese in which the decriminalization campaign had begun should be the first to produce and make public a person specification requiring the next appointee to be some-

one who would have the confidence of, among others, the LGBT communities of the diocese.

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*Rt. Rev. Dr. David Walker has been Bishop of Manchester since 2013.*

## Afterword

*Elizabeth Barker, Baroness Barker*

“Religion without humanity is very poor human stuff.”—*Sojourner Truth*

Every journey starts with one simple step. Throughout history, the attainment of human dignity and social enlightenment has been achieved when politicians and people of faith have become a joint force for good. The abolition of slavery and the emancipation of women are but two examples of great achievements.

The equality that LGBT+ people in the U.K. enjoy today exists because many years ago pioneers found the courage to debate and discuss fears and experiences with opponents who did not understand. Eventually hope triumphed, and *everyone* benefited. We were once where you are now and we stand ready to support you as you draw a roadmap to a confident, inclusive Jamaica.

Have faith, hold your conviction, and good will prevail.

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*Baroness Barker is a member of the U.K. House of Lords.*



In October 2017, The Canadian HIV/AIDS Legal Network and Anglicans for Decriminalization hosted a two-day conference examining the role of the Church in anti-sodomy laws across the Commonwealth. The conference, Intimate Conviction, was a groundbreaking gathering that brought together activists, church officials, and politicians from around the world for an inspiring discussion.

Now, to mark the one-year anniversary of this event, we are pleased to offer this edited volume containing many of the presentations from this conference. We hope this will be a valuable resource for anyone looking for tools to understand how these laws came to be and what role the Church can still play.

