

A Law Professor's Perspective on the Proposed Changes to Article II

May 20, 2023

I oppose the proposed changes to Article 2.

Last fall, the Article 2 Commission released its initial proposal. That version would have eliminated entirely the Fourth Principle, which affirms our right to a “free and responsible search for truth and meaning.” It would have eliminated the “right of conscience” and the commitment to democratic processes embodied in the Fifth Principle. It would have restricted “freedom of belief” such that beliefs could be expressed only “in ways that further our Beloved Community.” This caused great uproar among Unitarian Universalists who were aware of the proposal.

Recognizing that the previous version was utterly unacceptable to many Unitarian Universalists, the Article 2 Commission in its January 2023 proposal sprinkled some of the words of our fundamental principles into the language under some of the values. That effort does not truly reinstate those principles.

1. Reasons for the proposed changes. I have yet to see a coherent justification of the need for any changes. We are told that we must change with the times. But what is that supposed to accomplish? Presumably more words are needed to inspire us to meet the challenges of our times, especially with respect to social and racial justice.

That justification is an insult to the memories of James Reeb and Viola Liuzzo, murdered in the cause of civil rights, and to the memory of thousands of UUs who have long engaged in that struggle and who opposed the War in Vietnam, fought for equal rights for women, LGBTQ+, and many others, and engaged in the struggle for immigrant justice, and so much more. They were all inspired by the simple clarity of our principles of that era. More words were not necessary for them and are not necessary for us.

2. The beauty of Unitarian Universalism. Since well before the Article II controversy ever arose, I have believed that one of the true beauties of Unitarian Universalism is that we are truly a free religion of free individuals and free congregations, accountable to ourselves and our fellow congregants, but certainly not accountable to the UUA.

We come together as free individuals to join others whose values we share and, ultimately, whose company we enjoy. We are not coerced by threats of damnation. No one tells us what to believe, and no one tells us what to do. At the congregational level, we are not subject to control by any superior body or even by the other congregations. The congregations are free and independent. There is not yet a UU Vatican.

On a personal level, nothing stands between me and my sins, whatever they may be. No God is there to comfort me, no priest to take confession and absolve me of those sins. I have to live with them and always strive to do better.

The proposed regime of extensive covenants and imposed accountability would destroy this beauty. It would impose a scheme of standardless judgment of our behavior, with an emphasis on punishment. We would be expected to comply with a concept of “right relations” that means whatever those in power want it to mean. Fear would become – has already become – a factor in our relationship with the church. That has already happened at our church with the institution of the widely distrusted right relations committee and adoption – without congregational input – of the previously secret disruptive behavior policy.

A religion with these changes would not be Unitarian Universalism.

3. What happened to the 7 Principles? We come together as individuals who believe deeply in the inherent worth and dignity of every person. All the other principles (except possibly the 7th) derive inherently from our First Principle. It is both fundamental and foundational. The inherent worth and dignity of every person stands alone. It does not depend upon and is unrelated to anyone or anything else.

The proposal demotes the First Principle to second class status under the “Equity” value. In that formulation, we exist only as members of a community and have no independent status. Nothing could be more contrary to Unitarian Universalism. Surely a hermit can be a Unitarian Universalist – our principles are a belief structure that can be shared by anyone. Equity is a legitimate concern, of course, and anyone committed to the First Principle must be concerned about it. They have it backwards.

The next most important principle, in my view, is the Fourth – affirmation of a “free and responsible search for truth and meaning.” After trying to eliminate this principle, the Commission was forced to reinsert the language. But again it demoted a foundational principle to second class status. It appears in the “Pluralism” value. Once again, we are to undertake this search only as part of the community, not as independent, free individuals.

The Fifth Principle’s commitment to freedom of conscience would have been deleted, but it was ultimately merely demoted from our key principles. After eliminating any commitment to democratic process, the Commission was again forced to reinsert some of the language under the “Justice” value. This calls for “inclusive democracy,” which is undefined. With no assurance that this actually means full democratic participation for the members of our congregations – one person – one vote – without a thumb on the scale for any particular interests, we cannot trust this reference.

Key words from the rest of the 7 Principles are scattered through the draft values. The common denominator for all of the values, though, is that they impose covenants absolutely unsuited to and unauthorized for the GA or UUA to impose.

4. Centralizing power in the UUA – the end of a free church. The proposed changes are replete with language imposing covenant requirements on the congregations and centralizing power in the UUA. The tools of covenant and

accountability become weapons to be used against dissenters and congregations to force them to obey the dictates of the UUA.

This stands on its head the relationship between the congregations and the UUA. The UUA's primary purpose is to serve the needs of the congregations. Neither it nor the GA has any authority to direct actions of any kind. It is up to the congregations to decide how to interpret the principles and how to apply them in their particular circumstances and according to their particular understandings, with no oversight or control by the UUA. Despite the huge diversity of our congregations, the proposal would force them all into the same mold.

The proposed new Purpose provision states that two of the roles of the UUA are to "heal historic injustices and "to actively engage its member in the transformation of the world through liberating love." This is a standardless, unbounded grant of authority to do whatever it wants – including direct the congregations in whatever way it wants – in pursuit of transformation. But "transformation" and "liberating love" are both undefined. This broad language is ripe for abuse. And neither the UUA nor the GA has the authority to impose any of this on our free congregations.

The proposed Part C-2.2 accountability provision authorizes the UUA to take control as it wishes. The Generosity and Equity values include covenants to share our resources and money. This opens the door to imposing "accountability" by auditing how we expend our resources and insisting that we spend more as the UUA thinks we should.

We must reject all these provisions to remain a free church of free individuals.

5. Article III does not protect us, as some church leaders claim. The assertion is that we are protected by Article III, which provides that, "Nothing in these Bylaws shall be construed as infringing upon the congregational polity or internal self-government of member congregations, including the exclusive right of each such congregation to call and ordain its own minister or ministers, and to control its own property and funds."

I disagree. By its very language, this protects only our internal decision making. It does not protect us from UUA audits or review to determine whether we comply with the various new covenants that the proposal would foist upon us. It is instructive that there was a proposal that congregations be required to certify compliance every two years. Moreover, the new covenants and accountability provisions of the proposal are in serious tension with the Article III purported protection of congregational polity. The new provisions arguably amend Article III to allow assurance of compliance with covenants. And all of the Bylaws are under review. We can expect revisions to Article III to authorize whatever intrusions the authorities believe are necessary to ensure compliance with their new covenants.

And our new to-be President said at the 2022 GA, "covenant without consequences is not actually covenant." Taking her at her word, we can be certain that she will pursue imposing accountability on the congregations. See this video for an excellent extensive discussion of the effort to impose accountability on the congregations:

<https://savethe7principles.org/we-must-protect-the-uu-principles-and-sources/more/videos/on-accountability/>.

In this regard, it is noteworthy that Article II currently provides that, “We, the member congregations of the Unitarian Universalist Association, covenant to affirm and promote” the 7 Principles. Under that language, each congregation as a free and independent body covenants with each other congregation to affirm the Principles. The proposed revision would provide that, “As Unitarian Universalists, we covenant, congregation-to-congregation and through our association, to support and assist one another in our ministries.” Under this language, we are subsets of the UUA, working with other congregations through the UUA. We are no longer independent actors joining each other in affirming our principles.

6. Non-Inclusive Inclusion. The proposal would welcome only “those who share our values,” a sad and dramatic departure from our historic welcoming of all people.

This provision reflects a severe lack of faith in our own faith. If our faith is strong, it will either convince those who do not share our values and cause true transformation, or it will drive them away. Either way, our commitment to the inherent worth and dignity of every person requires that we continue to welcome everyone.

7. Freedom of belief. No concept is more fundamental to Unitarian Universalism than freedom of belief, which the current bylaws fully protect: “Nothing herein shall be deemed to infringe upon the individual freedom of belief which is inherent in the Universalist and Unitarian heritages.”

The proposed amendment would eliminate protection of freedom of belief. Although proposed Section C 2.5 is titled “Freedom of belief,” the text does not refer to freedom of belief:

“Congregational freedom and the individual’s right of conscience are central to our Unitarian Universalist heritage. Congregations may establish statements or purpose, covenants, and bonds of union so long as they do not require that members adhere to a particular creed.”

Under standard principles of interpretation, the section titles are not part of the bylaws, so the reference to freedom of belief in the title means nothing. In the text, “freedom of belief” has been replaced with “the individual’s right of conscience,” which is purportedly “central to our Unitarian Universalist heritage.” Whatever “central” may mean, there is no longer a prohibition on infringement upon freedom of belief or right of conscience.

Moreover, the “right of conscience” is not the same as “freedom of belief.” The “right of conscience” has a connotation of the right to act on one’s beliefs, as when a draftee may refuse to serve in the military based upon religious beliefs. This language protects the right to act according to one’s beliefs, but not the right to actual freedom of belief.

While “conscience” and “belief” seem quite similar, standard principles of interpretation provide that when a lawmaker changes language in this way, it must intend a meaning different from use of the term “freedom of belief” in the previous provision. Again, protection of conscience does not extend to belief when the language is changed in this way. Accordingly, the new language would not prohibit the UUA or church authorities from censuring or otherwise penalizing a minister or congregant for expression of a belief with which the authorities do not agree, as long as that belief does not constitute a “creed.” Thus, for example, a disagreement as to the appropriate approach to pursuing racial justice, which is not a creed in the traditional sense, would not be protected and could be the basis for punitive treatment.

8. Failed Process. It has become increasingly clear that the process for developing the proposed changes to Article II has failed. First, these changes are not the result of a grassroots effort, as was true, for example, of the changes to gendered language and other provisions made in 1985. The current proposed revision was very much top-down, with a carefully selected Commission following a very specific directive from the UUA Board.

Second, the proposed changes took essentially their present form last fall. By that time, it was too late to achieve changes to the basic approach. Indeed, during feedback sessions last fall, those disputing that approach were ruled out of order. Congregations are, in reality, only just beginning to learn about the proposals. In the second UUA Board- sponsored session to discuss developing proposed amendments – very late in the process – we heard from a congregation that was very new to the discussion. Congregations joining this late in the game have no realistic chance to influence the outcome.

This contrasts sharply with the change to gendered language (and other significant changes) in 1985, which came very much from the grassroots and developed over roughly six years. It also developed through extensive and careful consultation with the congregations. See *How the UU Principles and Purposes were shaped and how they’ve changed Unitarian Universalism*. (UU World, November/December 2000) <https://www.uuworld.org/articles/how-uu-principles-purposes-were-adopted>. With that extensive and careful process, the 1985 changes were adopted by a huge margin – only one dissenting vote. That should be the goal now. As important as those changes certainly were, they were not as extensive and profound as the changes in this proposal. Surely a similar timeline and more extensive and careful consultation are necessary in this case.

Conclusion

If we are to remain Unitarian Universalists, we must reject this proposal.

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