

March 17, 2016

An Open Letter to Delegates to the 2016 General Conference of The United Methodist Church concerning Rule 44 in the Plan of Organization and Rules of Order for the 2016 General Conference:

I urge the delegates to the 2016 General Conference of The United Methodist Church to not adopt proposed Rule 44 as part of the Plan of Organization and Rules of Order for the 2016 General Conference for the following reasons:

Legislation adopted using the process contemplated by proposed Rule 44 will be null and void. Legislative bodies within The United Methodist Church are authorized to adopt rules to govern their processes, but that authority is not unfettered. In Judicial Council Decision 367, the Council held any organizational structure dealing with legislative matters must protect “the rights of individual members of the conference to be informed on and to participate fully in all legislative decisions.” In Judicial Council Decision 876, the Council examined a Group Discernment Process not unlike the process outlined in proposed Rule 44 and held “[t]hat model, from its distillation process, to its unique voting options process, neither allows full participation by delegates in all legislative decisions, nor does it permit final consideration and decisions to be made by the total conference membership. Therefore, this model cannot be upheld and legislative proposals passed thereunder are null and void.” A challenge to proposed Rule 44 will be brought before the Judicial Council by motion for declaratory decision during the 2016 General Conference. The uncertainty created by the probable illegality of the proposed rule under the precedent of the Judicial Council will further confuse the resolution of an already contentious issue. The only legislation to which proposed Rule 44 is sought to be applied is legislation related to human sexuality. Existing legislative processes provide an orderly and comprehensive way of dealing with such legislation designed to create maximum participation of delegates in responding to well-developed legislative proposals that ensure that all potential viewpoints are given fair hearing and consideration. Proposed Rule 44 fails in this respect.

Proposed Rule 44 creates a process which lacks transparency enhancing the lack of trust already pervasive in The United Methodist Church. The process contemplated by proposed Rule 44 concentrates power in a small, appointed group with no guarantee that such a group is representative of those who are delegates to General Conference. The process replaces an impartial presiding officer with leaders who become active participants in the process, and who themselves determine the outcome by what he/she interprets to be the common understanding which emerges. The work of the Facilitation Group which is to take the reports of all the small group sessions is based on impressions drawn from impressions. There is no way provided for any sense of how conflicted the small group discussions were, no process to record the diversity of opinions offered, and no means to gauge whether the proposals outlined in each small group were widely or narrowly supported. The definition of consensus and the methodology of determining whether it has been achieved are ambiguous. The Facilitation Group is left with creating what they subjectively want out of whatever cloth they choose to develop. And no one other than the Facilitation Group will know how faithfully they dealt with the diversity of reports that have been delivered to them by the variety of small groups. The Facilitation Group is not required to justify the broad decisions they unilaterally make to anyone.

The very selection of the Facilitation Group occurs as part of a process that is designed to severely limit the involvement of the delegates to General Conference, the very persons to whom the legislative decision is ultimately entrusted. No guidelines are provided in this selection process to ensure that the Facilitation Group is ultimately reflective of and representative of the entirety of the delegates to General Conference. In contrast, legislative committees, by the very process in which they are formed, are ensured to be fairly representative of the breadth and diversity of the delegates to General Conference. And in our existing legislative process, delegates of similar opinion have the opportunity to gather together and select those who best represent their voices to advance legislative proposals which most accurately reflect their positions and are ensured the opportunity to present their legislative proposals to the plenary body under rules that are known by all. No one knows or will know what rules or principles governed the operation of the Facilitation Group.

Proposed Rule 44 creates a process which fails to safeguard the role of the minority in the legislative process. The discernment process removes those procedures implicit in a parliamentary system which protect the rights of a minority to be heard and receive consideration from the majority. There is no process built into proposed Rule 44 that ensures that minority positions are noted and influence whatever consensus is perceived by others. In our existing legislative process, minority voices have the opportunity to be heard and assert themselves at every step of the process, can freely offer amendments which may shape and modify legislation advanced by the “majority,” and as we have seen in prior General Conferences can even advance a minority report which the plenary can elect to substitute for the “majority” report. Our current legislative process has substantial safeguards to ensure that minority voices are not disenfranchised. Proposed Rule 44 contains none of these safeguards.

Proposed Rule 44 is cumbersome and unwieldy. We have an established legislative process that has been refined over the life of our church. Proposed Rule 44 seeks to introduce another process that unduly complicates our decision-making process. In spite of legislative committees which are already organized, whose leaders are in place, and which operate according to announced rules, a parallel universe is created requiring the division of the General Conference into some 58 small groups (each with a leader and recorder to be selected and a monitor to be assigned). These small groups operate with no authorized operating procedures, no impartial presiders and no method of resolving conflicts in how the groups are conducted or the conclusions reached presumably by the groups. What constitutes consensus is not defined and can vary from small group to small group.

General Conference struggles to provide accurate and timely interpretation for the multiple languages spoken as it is, but now persons speaking multiple languages are going to be spread over some 58 small groups. Resources which have proven inadequate in the past are going to be further taxed and the integrity of the process is dependent upon those resources being deployed comprehensively. Serious questions will remain about whether each delegate was enabled to be heard and to meaningfully participate because of this uncertainty alone.

Small group reports will be funneled to the Facilitation Group with the larger body never knowing what is actually contained in them. Once again transparency is lost. No one will know

whether the Facilitation Group comprehensively interacted with all of the small group reports or what criteria were utilized in choosing which would be utilized and which would be minimized.

Proposed Rule 44 is a fundamentally flawed methodology for dealing with issues on which there is great conflict and polarization. For most of the last fifty years, no issue has resulted in greater conflict and polarization than our debates around issues of human sexuality. Even proposals to develop some form of “agree to disagree” have resulted in great conflict and polarization. Assuming that the small groups are representative of the entirety of delegates to General Conference, they will produce reports that will demonstrate to the Facilitation Group that the plenary remains in great conflict and polarization. Either the final work product will not be reflective of the great diversity of positions in the entirety of delegates to General Conference in which event it will not have aided the body in reaching a decision or it will report even less than would have been accomplished if legislative committees had been permitted to conduct their work and bring their reports to the plenary.

As one commentator, Chris Ritter, has observed, “There are going to be a flood of disparate opinions. There will be no consensus. A group of six people will nevertheless write legislative proposals based on what they are hearing that will make it to the floor of General Conference for plenary vote. They have the power to kill any petition they feel does not capture the spirit of what they are hearing from the Group Discernment Process. The authority to substitute one petition for another is sweeping authority to be granted to a very small group that may not be representative of the church.” Such authority has heretofore only been entrusted to a legislative committee, which is broadly representative, or the plenary itself.

Our current legislative process is in fact the most open, fair and comprehensive way for dealing with issues around which there is great conflict and polarization.

Proposed Rule 44 robs General Conference of valuable time to deal with other crucial issues which will more likely be dealt with if historic legislative processes are deployed. While the process is outlined in the proposed Rule 44, it is unclear how much time will be devoted to all of the delegates meeting in the small group sessions. During the time devoted to these small groups, all of the delegates will be diverted from other important legislative work that would have been occurring in their legislative committees.

The assumptions which have given rise to proposed Rule 44 are manifestly erroneous. While some disagree with the decisions of prior General Conferences on matters related to human sexuality, numerous proposals from every perspective have been carefully crafted and considered in our existing legislative process with great transparency, fairness and thoroughness. The only time that that process has been thwarted has been because of outside disruption coupled with decisions made by leadership to alter the agenda to preclude considering petitions which were ready to be considered and heard. These decisions made by a small group of leaders were not voted on by the plenary. Once again, a small group of leaders now seeks to prevent ten percent of the petitions filed before General Conference from receiving a transparent, fair and thorough consideration.

The conditions established in proposed Rule 44 for its deployment to an issue are not met by the legislation dealing with human sexuality. In its report to General Conference, the Commission on General Conference states that the process outlined in proposed Rule 44 is to be used “with a topic that might span different paragraphs of the *Discipline*, or a topic that would benefit by the input of as many voices as possible.” ADCA at 45. For example, a major restructuring of the general church, such as the various alternative structure plans advanced at General Conference 2012, might benefit from such an approach since they impact numerous legislative committees. The disciplinary provisions that currently relate to human sexuality have all been developed using our present system of legislative committees. No case is made that those same legislative committees have failed to be adept at addressing the many legislative petitions entrusted to them on this topic in the past. One is left with the conclusion that some desire to circumvent established processes not because they don’t work, but for other reasons unrelated to the goals of our legislative procedures.

For all of the foregoing reasons, I urge the delegates to the 2016 General Conference of The United Methodist Church to not adopt proposed Rule 44 as part of the Plan of Organization and Rules of Order for the 2016 General Conference.

Keith Boyette, Elder
Second Clergy Alternate to General Conference
Virginia Annual Conference
The United Methodist Church
Member, Judicial Council (2000-2008)