

THE INSTITUTE OF THE BLESSED VIRGIN MARY

**A STRUCTURE OF ACCOUNTABILITY AND PROCESSES FOR THE RESOLUTION OF
CONFLICTS**

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A STRUCTURE OF ACCOUNTABILITY

Much of the history of the Institute of the Blessed Virgin Mary and, by association, all those who share in the Mary Ward tradition, has been guided by Rules, originally approved by Pope Clement XI on 13th June, 1703, and confirmed by the Sacred Congregation of Religious in Rome on 14th July 1914.

The Preface of these Rules inspires us to believe that:

1. The sovereign wisdom and goodness of our Lord and Creator, as He has called us to this Rule, will undoubtedly give us grace to observe the same.
2. The interior law of love and charity, which the Holy Spirit is used to write and imprint upon the heart, is more helpful to that end than any exterior constitutions.
3. The sweet disposition of Divine Providence requires the co-operation of His creatures.
4. As such is the custom of all well-governed congregations, we have thought it necessary also to prescribe Rules for ours, by the observance of which we may with the greater ease, attain to the end we propose to ourselves.

These insights refer us back to the calling and charisms of our foundress, Mary Ward (1585 – 1645), and her companions as they were inspired to adopt and adapt the lifestyle of the Society of Jesus. In recent time formal permission to adopt the Jesuit Constitutions in 1985 and the publication of our contemporary Constitutions in 2010 further sustain our graced history and traditions with specific reference to the sisters under vows. Subsequent to the Second Vatican Council and the publication of the Council's final document, The Code of Canon Law, we can take heart from Pope John Paul II's words in promulgating the Code where, on page xiii, he reiterates the long-held tradition of the 1703 Preface:

The purpose of the Code is not in any way to replace faith, grace, charisms and above all charity in the life of the Church or of Christ's faithful. On the contrary, the Code rather looks towards the achievement of order in the ecclesial society, such that while attributing a primacy to love, grace and the charisms, it facilitates at the same time an orderly development in the life both of the ecclesial society and of the individual persons who belong to it.

In this regard various canons relating to every member of the Church are designed to support, safeguard and promote an authentic and creative way of life in the lived tradition of the Institute (Appendix 1 Cann. 209-223 and 1389).

STRUCTURE OF ACCOUNTABILITY

Charity in the culture of the Institute is marked ideally by a union of minds and hearts together with mutual assistance in fulfilling our vocation, thereby exemplifying a universal reconciliation in Christ (Can.602).

Whenever and wherever discord or disorder is manifest, every effort needs to be made to promote harmony, peace, re-integration and communion. Can. 578 highlights the pre-eminence of “the interior law of love and charity” over external regulations in our way of proceeding:

The whole patrimony of an institute must be faithfully preserved by all. This patrimony is comprised of the intentions of the founders, of all that the competent ecclesiastical authority has approved concerning the nature, purpose, spirit and character of the institute, and of its sound traditions.

In the spirit of this canon, it is paramount that our charisms are to be especially honoured and espoused with respect to anyone associated with the IBVM in any way. These charisms, the graced gifts of the Holy Spirit, determine the fundamental orientation and essential character of the Institute:

1. **Freedom:** The capacity to refer all things to God implies an observance of the just decrees of religious and secular authorities but above and beyond all other hierarchies of interest an entire application and apt disposition to all good works according to the will and rule of God. (Appendix 2: Principle and Foundation)
2. **Justice:** This involves a commitment to promote and protect the rights and responsibilities of everyone within our sphere of influence: members, families, friends, benefactors, colleagues and anyone associated with the Institute.
3. **Sincerity:** In Mary Ward’s words, we are, “To be what we appear and to appear such as we are.” Sincerity implies honesty of intention and freedom from hypocrisy, avoidance of every kind of deceit in dealing with others, and a special fear of self-deceit.
4. **Verity:** This charism entails an endowment with true wisdom, discernment of things as they are in themselves, accurate judgement, avoidance of errors, differentiation between trifles and matters of importance, an apt choice of what is to be done or not done in all.
5. **Felicity:** The chief glory of our calling is that we have free and open access to our God. In reciprocal receptivity and hospitality ideally we offer free and open access to the gifts and graces of the Holy Spirit within our way of living, finding God in all things and finding oneself in God.

PRE-EMINENT PLACE OF OBEDIENCE

Everything that pertains to the patrimony of the Institute is safeguarded by an obedience that emerges from the derivation of the word, *ob*, towards, and *audire*, to listen/hear.

Obedience in the Ignatian/Mary Ward sense presupposes an enlightened, rational, intelligent, accountable and conscientious practice of discernment and decision-making based on attentiveness to listening and hearing the Word of God. This may arise from personal inspiration or the invitation of Institute leadership and is progressed through prayerful discernment and conversation with superiors and others as appropriate. Primary considerations in discernment are listed in Appendix 3.

INFORMAL PROCESS OF CONCILIATION

Inevitably perceived injustices, disagreements or misunderstandings will arise from within the Institute and from associates of the community. At times a superior's administrative decree will be deemed harmful by one or more persons under her jurisdiction. Apart from cases requiring mandatory reporting to secular authorities or the penal sanctions addressed in Book VI of the Code, the Principle of Subsidiarity advocates that grievances and complaints are best addressed expeditiously and informally within an Institute framework (Cann.1400 §2, 1446), guided by the Province **Commission for Conflict Resolution** (CCR). This commission is made up of competent personnel, to include a Provincial Council representative, a canon lawyer, a civil lawyer and a mediator, appointed by the Provincial on the advice of her Council. Can. 1733 §§2, 3 recommends the establishment of a diocesan "permanent office or council seeking and suggesting equitable solutions." By analogy the IBVM **Commission for Conflict Resolution** provides a parallel resource appropriate for the Institute.

Regarding complaints from outside the ambit of the Institute the sisters and colleagues may expect the full support of the Institute executive to be behind them unless and until guilt is proven and the just consequences ensue.

In the spirit of Cann. 128, 1341, 1347, sufficient provision needs to be made for the amendment of any wrongdoing, just restoration of rights and the diminution of scandal.

There is no obligation to act on anonymous complaints.

It is possible for the Superior / Provincial to recommend a person to consult with a counsellor / psychologist / psychiatrist. The person concerned has the right to refuse such a request and to decline to give the relevant superior access to the results if the person does accede to the superior's recommendation.

The local superior's role is to bring about conciliation and harmony whenever possible by whatever means are opportune. Consulting wise people and employing relevant resources is normally beneficial in providing information, advice, support and a graced outcome. In the interests of charity, to protect the rights of the parties and to avoid scandal a discreet reserve is to be observed in any discussions with people not directly involved in the process.

Opportunities for Conciliation

For the sake of peace, harmony and good order, ideally attempts to resolve conflict are made at the earliest and simplest opportunity as suggested in the stages listed below, beginning with Face-to-Face Communication and ending with a determination by a representative of the Commission for Conflict Resolution. If all these options fail to resolve the dispute the matter may be pursued, if the parties so desire, through the more formal Administrative Recourse in accord with Cann. 1732 – 1739.

Before proceeding to the next stage, a committed effort needs to be made to the previous one preferably within the time frames recommended to avoid distressing delays.

Stage 1: Face to Face Communication

The goals are to:

- a. Attempt a solution directly with the person/s with whom there is a concern before taking the issue to a later stage;
- b. Protect confidentiality and avoid scandal;
- c. Honour the rights of the people concerned to engage fully in resolving the dispute through respectful and co-operative communication;
- d. Solve problems amicably in an informal meeting. This opportunity should take place within fifteen days of either party contacting the other.

Stage 2: Written Notification If the conflict is not resolved through the Stage 1 approach, either side may choose to summarise the matters in dispute in writing and submit the document to the other contender/s within fifteen days of the failed conclusion to Stage 1. The second party is encouraged to provide a written response within thirty days of receiving the said notification.

The goals are to:

- a. Negotiate a settlement which promotes a fair outcome and promotes mutual harmony;
- b. Ensure actions are agreed to by the parties concerned;
- c. Exchange a signed, written record of agreements to confirm the decisions of the parties.

Stage 3: Mediation: Failing a resolution of the conflict through the Stage 2 option, either party may initiate mediation within fifteen days of the unsuccessful Stage 2 conclusion either via a direct approach to the other party or through an intermediary. Within thirty days the second party may indicate a readiness to enter into mediation. Both parties need to provide the mediator with a signed written account of the nature of the disagreement from their particular perspective. Having advised the mediator at least three days before the meeting each person may bring an adviser to the mediation.

The goals are to:

- a. Employ an independent mediator, acceptable to the persons concerned;
- b. Provide for grievances outside the scope of the judicial system;
- c. Allow participants the freedom to control the process effectively as a mediator is not like a judge and does not decide the outcome;
- d. Negotiate an acceptable conclusion even if it requires settling for a compromise that sacrifices aspects of an ideal outcome.

Preliminary Meetings:

In separate private interviews with the mediator the persons concerned, supported by relevant documents, discuss their perspective of the issue:

- a. The details of the dispute;
- b. Desired outcomes;
- c. Proposed actions to settle the dispute.

Mediation Procedure:

- a. In turn the parties outline their perspective of the issue.
- b. If necessary, the mediator asks questions for clarification.

- c. General discussion.
- d. Further separate and joint meetings may follow to work towards a solution. In reaching an understanding of each party's perspective the mediator may propose steps that could lead to an amicable resolution. Ideally both parties are given every opportunity to present their case. It can be expected that great good can come from being given a fair hearing, taken seriously and treated respectfully. Conflict and alienation can be diminished through thoughtfully considering the matter from the other party's viewpoint. As a consequence, people of good will commonly achieve conciliation and a peaceful closure results.
- e. A signed written record of agreements is exchanged to confirm the decision of the parties.

Stage 4: Commission for Conflict Resolution

Failing an acceptable outcome to Stage 3, a written appeal may be made through the local superior within fifteen days of receiving the documented conclusion of Mediation, requesting the intervention of the CCR.

Having thoroughly researched the results of the abovementioned procedures in consultation with the contenders and the local superior a representative of the Commission will make a judgment of the case and determine a settlement to the dispute ideally with the acquiescence of the persons concerned.

A written record of the result will be signed by the participants.

Stage 5: Administrative Recourse

If the result of Stage 4 fails to bring about an acceptable conclusion, recourse in writing may be made directly to the local superior within ten days from the time the Stage 4 settlement document was received.

Subsequent procedures will be undertaken in accord with Cann. 1732 – 1739 as outlined in the next section.

RECOURSE AGAINST ADMINISTRATIVE DECREES IN THE IBVM (In accord with Cann. 1732 – 1739)

To be authentic and credible in asserting the rights and responsibilities of the Christian faithful (Appendix 1) it is essential to have a robust and effective procedure for their protection.

Recourse against Administrative Decrees in the IBVM has for its purpose the protection of the rights of the faithful, the rights contained in natural law, divine law, canon law or civil law, as well as those regulations that are applicable to recognised positions and roles in the Institute / Church.

The aim of an administrative recourse (Can. 221) is the impugning of an administrative act in order to annul it, revoke it, or modify it and if required to adjudicate reparation of damages suffered. The logical and ordinary procedure for a private person or an inferior authority is to lodge a written complaint with the one who can repair the perceived abuse of power, that is, with the one who caused it, either as the author of the decree or as the superior implementing the proposed CCR dispute settlement outlined in Stage 4 above.

Complainants have the right (Can. 1738) to use advocates or procurators, either their choice or one appointed by the superior if the person does not have one. This provides for the possibility of a better presentation of the case.

Timely notice of the details of the meeting, i.e., the nature of the grievance, relevant documents, date, time and place of the hearing and adequate time to prepare resources is to be provided for the persons concerned.

Aggrieved persons have the right to be informed of relevant information affecting their case, to present their defence orally and/or in writing, to call and question witnesses and to refute adverse accusations.

Ideally conclusions in administrative recourse will provide a reasonable outcome that satisfies the aggrieved and promotes amicable relationships in the community. The issues and outcome of the case, recommendations and possibilities for further remedial initiatives are recorded and signed by both parties.

Failing a satisfactory outcome recourse may be made to the hierarchic superior of the author of the decree (Can. 51), through to the higher levels of ecclesiastical administration.

The Ascending Order of Hierarchic Superiors:

1. Local Superior;
2. Provincial Superior and Council;
3. General Superior and Council;
4. The Prefect of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL);
5. The administrative tribunal of the Second Section of the Apostolic Signatura.

The process addresses administrative decrees of superiors as to:

- a. The legitimacy of the decree;
- b. The merit (i.e., the advisability of such an act in such circumstances);
- c. The possible damages.

The Hierarchic Superior may confirm the decree or declare it null, may rescind it even though it is valid, revoke it or amend it, complete it or change it (Can.1739) as well as making determinations on the question of damages (Can.128).

The person who is allegedly harmed by an administrative decree has ten days from the legal notice of the decree to petition in writing for its revocation or amendment. This petition is understood as a request for the suspension of the decree (Cann. 48-58, 1734).

Thirty days is allowed to the administrator to reply to this petition. If there is no reply within that time, it is to be considered as a negative response (Can. 1735). The complainant, after the thirty-day period has fifteen days in which to have recourse to the hierarchic superior of the person who issued the decree (Can. 1737 §2).

If the petitioner is not satisfied with the response of the hierarchic superiors within the Institute, ultimately the Superior General and Council, recourse may be made within thirty days to the Holy See, represented by The Prefect of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL). Usually, the advocacy of a competent canon lawyer is essential.

Can. 57 requires that CICLSAL provide for the situation within three months. Subsequently within thirty days recourse may be made to the Administrative Tribunal of the Second Section of the Apostolic Signatura (Can. 1445). The case is now in the hands of a tribunal whose competence is the area of administrative justice. There is no possibility of appeal against the final decision of this tribunal which may take 240 days (Can. 1629).

According to flexibility in the *Fatalia Legis*, time limits established by law for extinguishing rights can be extended or shortened when the parties request it. Similarly, the term *Sui Generis (of its own kind)* provides for a special and unique interpretation of a case or authority when found to be necessary.

As a last resort, *Beneficium Novae Audientiae* allows for a gracious recourse to the Pope.

It is to be hoped that grievance processes are rarely needed. The history of the IBVM does reveal that the rights of the members and our associates are better guaranteed when fair, lawful and appropriate means are available. At times from our very beginnings recourse even to the Holy See has been chosen.

1. In 1632, having extricated herself from prison in Munich, Mary Ward walked to Rome, bypassing all hierarchies, to defend herself against the charge of heresy in a direct appeal to Pope Urban VIII in private audience. The Pope reinstated her good name.

As can happen her other direct appeals to the Pope against the suppression of the Institute were unsuccessful.

2. Early in the 20th century Australian IBVM Sisters exercised their right, to have direct access to Rome through the Secretary of State, Cardinal Merry del Val. Their petition that Mary Ward be acknowledged as Foundress was ultimately successful against the Provincial's opposing decree.

At any time, the interior law of love and charity imprinted on the heart by the Holy Spirit supersedes all other laws.

ADMINISTRATIVE RECOURSE

If a resolution is not achieved through the Informal Processes of Conciliation, perceived injustices / grievances may be addressed in writing through Administrative Recourse under the continuing guidance of the CCR. Expeditious time limits apply to both the complainant/s and the hierarchic superior/s. A hierarchic superior's failure to respond is to be understood as confirming the antecedent decree.

Resolution of conflict to be sought at earliest possible point of the process

Stage 1: If a decree from the local superior is deemed harmful an appeal may be made to the LOCAL SUPERIOR within ten days. The Superior has thirty days to respond.

Stage 2: Result still deemed harmful. Appeal to the PROVINCIAL COUNCIL within fifteen days of the response or non-response. Council to respond within thirty days.

Stage 3: Result still deemed harmful. Recourse within fifteen days from the Stage Two decision or non-decision to the GENERAL COUNCIL. General Council to respond within thirty days.

Stage 4: Result still deemed harmful. Recourse within thirty days from the Stage Three outcome to CICALSAL. Reply from CICALSAL within three months.

Stage 5: Unsatisfactory result. Recourse within thirty days from the Stage Four decision to the SECOND SECTION OF THE APOSTOLIC SIGNATURA. Final Decision within two hundred and forty days. No appeal.

ULTIMATE OPPORTUNITY - GRACIOUS RECOURSE TO THE POPE
BENEFICIUM NOVAE AUDIENTIAE

APPENDIX ONE
OBLIGATIONS AND RIGHTS OF ALL CHRIST'S FAITHFUL (**Can. 208-223, 1389**)

In summary to:

- Can. 208** Recognise and revere the equality of dignity and action based on rebirth in Christ, among all the faithful, each contributing to building up the Body of Christ;
- Can. 209** Preserve communion with both the universal and the local Church with due diligence;
- Can. 210** Lead a holy life, foster the growth and sanctification of the Church;
- Can. 211** Promote the message of salvation;
- Can. 212** Show Christian obedience to authority, represent appropriate needs, and exercise the duty to manifest their views for the good of the Church;
- Can. 213** Benefit from the spiritual riches of the Church;
- Can. 214** Follow their chosen form of spiritual life in individual and communal worship;
- Can. 215** Establish and direct associations for charitable and pious purposes or which foster the Christian vocation;
- Can. 216** In promoting and supporting apostolic action, initiatives of the faithful may be called "Catholic" with the consent of competent church authority;
- Can. 217** Exercise the right to a Christian education;
- Can. 218** Research matters of their expertise in the sacred disciplines and publish the results in accord with the *magisterium* of the Church;
- Can. 219** Choose a state of life free from coercion;
- Can. 220** Avoid harming the good name of another unlawfully or violate another's right to privacy;
- Can. 221** Vindicate and defend their rights before the competent ecclesiastical forum and be judged impartially. Sanctions are to be in accord with canon law;
- Can. 222** Provide for the needs and expenses of the Church, the necessities for divine worship, the support of its ministers, promote apostolic, charitable and social justice causes with a special care to help the poor;
- Can. 223, 1389** Take account of the common good, the rights of others and their own duties to others in accord with the regulations of church authorities.

Book II, Part III of the Code provides further guidance specifically for vowed religious.

APPENDIX TWO

1. PRINCIPLE AND FOUNDATION EX. 23

2. Human beings are created to praise, reverence, and serve God our Lord, and by means of doing this to save their souls.
3. The other things on the face of the earth are created for the human beings, to help them in the pursuit of the end for which they are created.
4. From this it follows that we ought to use these things to the extent that they help us toward our end, and free ourselves from them to the extent that they hinder us from it.
5. To attain this it is necessary to make ourselves indifferent to all created things, in regard to everything which is left to our free will and is not forbidden.
6. Consequently, on our own part we ought not to seek health rather than sickness, wealth rather than poverty, honor rather than dishonor, a long life rather than a short one, and so on in all other matters.

7. Rather, we ought to desire and choose only that which is more conducive to the end for which we are created.

George E. Ganss, S.J., (Trans. & Commentary) *The Spiritual Exercises of Saint Ignatius*, Loyola University Press, Chicago, 1992, p. 32.

APPENDIX THREE: GUIDING PRINCIPLES IN THE CHOICE OF A MISSION OR WAY OF LIFE

Whilst these principles are inherent in the formation of the vowed members of the Institute, they are equally applicable to any follower of Mary Ward.

1. To what extent do the person's spiritual gifts, natural talents, experience, history, education, qualifications, social skills etc. predispose her for the ministry?
2. Does the ministry engage her enthusiasm, commitment? What does she want to do?
3. What is for the greater glory of God?
4. Is there a direct invitation from God with or without a human mediator?
5. What level of clarity and certainty is maintained in periods of alternating consolation and desolation?
6. What is her sense of graced equanimity in a decision reached through weighing the pros and cons?
7. What course of action would she recommend to a stranger facing a parallel need for discernment?
8. Imagining herself at the point of death what decision would she wish she had made at this time?
9. Considering the day, she meets God face to face what would she like to look back on as her choice for now?
10. In the light of parallel and complementary discernment on the part of superiors and others as appropriate what is the mutually acceptable mission?

Further elucidation of these principles occurs within the context of The Spiritual Exercises particularly the Introduction to the Making of an Election (Ex 169 – 189).

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