

Independent Judicial Review of Actions by a Diocesan Bishop
A VOTF Structural Change Working Group proposal for structural change

Canon 391, particularly section 2, clearly indicates that the Bishop of a Diocese possesses ALL executive, legislative and judicial authority within the diocese.

Can. 391 §1 The diocesan Bishop governs the particular Church entrusted to him with legislative, executive and judicial power, in accordance with the law.

§2 The Bishop exercises legislative power himself. He exercises executive power either personally or through Vicars general or episcopal Vicars, in accordance with the law. He exercises judicial power either personally or through a judicial Vicar and judges, in accordance with the law.

By virtue of this broad and unchecked power of governance, there is no redress for unjust decisions or actions of the diocesan bishop except appeal to the Holy See, and that appeal must be conveyed through the bishop himself.

The current Code of Canon Law was promulgated in 1983 and reflects the theology of the Church, which emerged from the Second Vatican Council. The 1983 Code contains a new section entitled *The People of God* that for the first time in Christian history, provides a “Bill of Rights” for members of the Church. Canon 204 states that “Christ's faithful are those who, since they are incorporated into Christ through baptism, are constituted the people of God. For this reason they participate in their own way in the priestly, prophetic and kingly office of Christ. They are called, each according to his or her particular condition, to exercise the mission which God entrusted to the Church to fulfill in the world.” Rights of the faithful so defined include “the right, indeed at times the duty, in keeping with their knowledge, competence and position, to manifest to the sacred Pastors their views on matters which concern the good of the Church.” (C.212 §3), the right of access to the sacraments (C.213), the right to a Christian education (C.217), and others.

Although the obligations and rights of the members of the Church were defined for the first time in the 1983 Code, no redress is defined in the case that these rights are violated. The Code, as drafted and approved by the Pontifical Commission for the Revision of the Code of Canon Law, authorized Episcopal Conferences to establish in their territory “administrative tribunals” to deal with such grievances, but these canons were deleted before the New Code's promulgation by the Holy See in 1983. Canon law enables the establishment of administrative tribunals, since the tribunals are not prohibited by canon law.

VOTF proposes that the United States Conference of Catholic Bishops establish administrative tribunals within the Episcopal Conference, allowing the laity within a diocese a means of timely redress when actions of their diocesan bishop violate their rights under Canon Law.

[adopted by Structural Change Working Group (SCWG) June 16, 2005]