

Judicial Administration

In every association of human beings there needs to be a way of resolving disputes and differences of opinion concerning guilt or innocence and varying interpretations of basic law. Like the United States has a separation of powers with an independent judiciary, the United Methodist Church has an independent judiciary to provide an important democratic safeguard for all its members.

The Judicial Council

The “Supreme Court” of the UMC. Nine members, male and female, clergy and lay, elected for eight-year terms (not for life), and receive no pay for their work. Elected by the General Conference from a slate of nominees submitted by the Council of Bishops. Slate contains 3X the number to be elected. Nominations can also be made from floor of General Conference. Six lay alternates and six clergy alternates also elected. The five to four ratio of clergy and laity shifts each quadrennium. Members of Judicial Council cannot be members of the General or a jurisdictional conference or any of the general/jurisdictional board/agency or do any administrative work in any connectional office. Membership in district or annual conference office or administrator is okay.

Judicial Council does not receive questions in the same manner as the US Supreme Court. Supreme Court hears cases coming from lower courts and does not decide general questions of law. A very small percentage of Judicial Council’s work is appeals from lower “courts” of the Church. Most of its work is deciding questions of law and constitutionality that are posed to it by a variety of bodies within the Church. More of an administrative tribunal than it is a “court” in civil law terms.

Two routes for a hearing: (1) an appeal (more adversarial nature) requiring as few as 1/5 of the members of a body to bring to the Council; (2) a request for declaratory decision in which bodies from the annual conference on up may request a ruling as to the constitutionality, meaning, application, or effect of the *Discipline* or other acts of the General Conference. Council automatically reviews all decisions of law made by bishops in the various conferences.

Former decisions of the Judicial Council of the UMC and of the former Methodist Church are considered “persuasive as precedents” in the decisions of present cases. Judicial Council decisions are final. It reports any findings of unconstitutionality immediately to the General Conference so that the General Conference can take remedial action at its session (remember that General Conference meets only once every four years). Decisions are published regularly through the UM Publishing House and on the web (at http://archives.umc.org/interior_judicial.asp?mid=263 as of February 2006).

Trial Procedures

Church trials are an expedient of last resort. A church dedicated to the process of reconciliation surely ought to find other ways to resolve its differences. However, sometimes an impasse develops that can only be resolved by a trial. Sometimes it is better to have the trial than “sweep the matter under the rug”.

Chargeable offenses for clergypersons or diaconal ministers:

1. Immorality, including but not limited to not being celibate in singleness or not faithful in a heterosexual marriage.
2. Practices declared by the UMC to be incompatible with Christian teachings, including but not limited to: being a self-avowed practicing homosexual, or conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies.
3. Crime.
4. Failure to perform the work of ministry.
5. Disobedience to the Order and Discipline of the UMC.
6. Dissemination of doctrines contrary to the established standards of doctrine of the UMC.
7. Relationships and/or behavior that undermines the ministry of another pastor.
8. Child abuse.
9. Sexual abuse.
10. Sexual misconduct.
11. Harassment, including but not limited to racial and/or sexual harassment.
12. Racial or gender discrimination.

Chargeable offenses for laity:

1. Immorality.
2. Crime.
3. Disobedience to the Order and Discipline of the UMC.
4. Dissemination of doctrines contrary to the established standards of doctrine of the UMC.
5. Racial harassment.
6. Sexual abuse.
7. Sexual misconduct.
8. Sexual harassment.
9. Child abuse.

Accused is entitled to counsel who is to be clergy in the case of a bishop or elder, or a layperson in the case of laity. Elaborate details concerning trial procedures in the *Discipline*. A trial court has 13 members and the agreement of nine members are needed to convict someone. Most drastic punishment is expulsion from the Church. Provisions for appeal in all cases up to Judicial Council (its decisions are final).

Procedure for trials is more of a protection for the individual than it is a weapon of the Church. General Conference cannot do away with right of trial and appeal for anyone in the Church. Unfortunately, there has been an increasing number of trials in the past decade, reflecting that our church's way of dealing with conflicts is based more on our society's criminal justice system than on biblical truth and understanding.

Conclusion

The UMC seems like an immensely complicated mechanism but it is not a machine. A *mechanism* is simply a way of doing something, a device for getting a job done. A *machine* suggests a cold, hard meshing of gears, the impersonal grinding out of certain results according to a predetermined pattern. Our Church is not a machine but a group of flesh and blood humans relating to each other and working together in prayer to determine the best way to carry out the Church's mission in a highly corporate and technological society.

Although people hate bureaucracy, they all feel that the particular part of the organization in which they are involved is doing a great job! Are there alternatives to all of the bureaucracy?

1. **Quit doing all the things it is doing.** In order to quit doing some of the things we could do without, we need to get General Conference to agree on which things we should eliminate. Any real cutback in the program of the church would be a desertion of the basic mission that is the reasons for the church's existence. The UMC is a "doing" church, never content unless it is doing the gospel.
2. **Decentralize the work.** Simply spreads the bureaucracy out to other levels. Some tasks are necessarily general in scope. The most pressing Christian social concerns are national and international in impact. In some cases it is cheaper to have one central agency doing a particular task.
3. **Streamlining the structure.** If we want more coordination of effort among the agencies, we would group them into 3 or 4 superboards, but that adds another layer of administration. Reducing administrative personnel will likely lead to cutting back on coordinating efforts in the process and that may lead to an increase in overlapping efforts. Keep these problems in mind as we seek to streamline things, but don't think that this will remove the problems of bureaucracy for our Church. The problems are an inevitable part of what it means to be in mission in the church in today's society.

The General Conference is our instrument that can make even bigness and bureaucracies servants to our mission. The General Conference meets every four years, a democratically elected body that has kept abreast of changes in the Church and the society around it. Sometimes the General Conference has been timid being more a captive of the structure instead of molding it.

Our time calls for bold action. Will we respond out of fear and timidity or will we respond based on the promptings of the Holy Spirit? We need to discover anew what the Church is and what its function is and then devise structures that will undergird and enhance that function. However, do remember that *form* is never simply neutral, but speaks a language of its own. ("Form follows function" but also "the medium *is* the message".) But is "the Church what it does"? Most Christians hold the view that the Church *is* something, or at least God intended it to *be* something, and what it *is* ought to determine what it *does*—"function follows form".

Paradoxical views that give us clues to the constant tension involved in the task of structuring, the body of Christ—a body intensely human and mysteriously divine.