Opinion
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A view of the dome of St. Peter's Basilica at the Vatican (Unsplash/Dimitrii E.)



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Last Wednesday, my colleague Brian Fraga reported on the decision by Loyola Marymount University's board of trustees to withdraw its previous recognition of the union representing non-tenure track faculty. A Jesuit university busted a union.

The decision went further. According to a letter from Paul Viviano, the chair of the board of trustees, posted on the university website, "LMU will no longer recognize labor unions representing its employees for purposes of the National Labor Relations Act (NLRA) and will not participate in collective bargaining under that statute." A Jesuit university busted all faculty unions.

Viviano said the board based its decision on the Los Angeles school's "constitutionally protected religious exemption from the jurisdiction of the National Labor Relations Board." I wonder what religion that is? Certainly, there is no warrant for union busting in the teachings of the Catholic Church.

The university's mission statement affirms that, among three principal aims, Loyola Marymount seeks to advance "the service of faith and the promotion of justice." About the latter, the statement affirms: "The struggle for justice in ways appropriate to our academic community is a requirement — not simply an option — of biblical faith."

The mission statement insists that Loyola Marymount "is institutionally committed to Roman Catholicism and takes its fundamental inspiration from the combined heritage of the Jesuits, the Religious of the Sacred Heart of Mary, and the Sisters of St. Joseph of Orange. This Catholic identity and religious heritage distinguish LMU from other universities and provide touchstones for understanding our threefold mission."

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St. Pope John Paul II, in his encyclical *Laborem Exercens*, defended explicitly "*the right of association*, that is to form associations for the purpose of defending the vital interests of those employed in the various professions. These associations are called *labour or trade unions*." He said the task of unions "is to defend the existential interests of workers in all sectors in which their rights are concerned. The experience

of history teaches that organizations of this type are an indispensable *element of social life*, especially in modern industrialized societies." He added that unions "are indeed *a mouthpiece for the struggle for social justice*, for the just rights of working people in accordance with their individual professions."

Ignoring this explicit, authoritative teaching, board chair Viviano delivered union busting talking points. He writes that safeguarding the common good "means addressing concerns through direct dialogue and shared governance, rather than through third-party intermediaries who may not share the university's mission or student-centered focus." Who is the third-party intermediary? A union is the workers organized, not some outside agitator. This is classic anti-union nonsense, unworthy of a Catholic institution.

To be clear, we can all agree with the university that it is entitled to a legal exemption from labor laws because of its religious character. Just as a healthy society needs vibrant unions it also needs robust religious liberty protections. No one should want the government telling a church how to manage its own ministerial affairs, and teaching is obviously a ministry. Nor do we want the government pointing out that Viviano and the rest of the board apparently do not understand the teaching of the church as it pertains to the rights of workers.

The workers affected by Loyola Marymount's decision should not seek redress in civil courts. They should hire a canon lawyer and seek redress at an ecclesiastical tribunal. While many Catholic schools have long since divorced themselves from the control of their religious orders in civil law, most continue to be bound to those orders under canon law.

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"If Loyola Marymount was improperly alienated (i.e., the canonical sponsors, the Jesuits and the [founding religious orders of women] did not get Vatican approval), then technically these religious Institutes are still canonically responsible for the actions of their apostolate," said noted canonist Nicholas Cafardi, former dean of the Duquesne University Law School. "They could be held responsible before their religious superior, the Dicastery for Institutes of Consecrated Life in Rome for the apostolate's violation of church teaching, and this would be another line of recourse for their unionized workers."

Cafardi issued a caution however: "Given the confused facts of such an improper alienation before the Dicastery, I would not expect a quick resolution."

Interestingly, there is a similar provision in Jewish law. "The Halacha is clear," Rabbi Yehiel Poupko, a rabbinic scholar in Chicago, told me. "Doctors, nurses, police, firemen, teachers and others who provide service basic to a decent and harmonious society are forbidden to strike as unions often practice. At the same time they are entitled to binding arbitration before a Bet Din, a Rabbinic Court." For Catholics, a canonical tribunal is our Bet Din.

In the early 1970s and early 1980s, when the revised code of canon law was being drafted in Rome, there was an effort to include administrative law provisions into the code. They were left on the cutting room floor. It is time to revisit that decision so that the rights and responsibilities of both employers and employees at Catholic institutions are made clear.

Whether the workers at Loyola Marymount will go to court or not, the Catholic Church needs to come to terms with the fact that many of its colleges, universities, hospitals and other agencies have been entrusted to wealthy people who may not know or care about Catholic social teaching. In hospitals, the exorbitant pay scales for corporate leaders is a scandal. Now, a prominent Catholic university is union busting. There should be a reckoning. There should be administrative law provisions added to the code of canon law. Taking Loyola Marymount University to court might bring justice to the workers and accelerate the need for legal norms that enshrine Catholic teaching in Catholic institutions.