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Options facing LCWR stark, canon lawyers say

Joshua J. McElwee | Apr. 19, 2012

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Women religious and others attend a 40th anniversary event for Network, the national Catholic social justice lobby, April 14 at Trinity University in Washington. The Vatican's doctrinal congregation has called into question the relationship between the Leadership Conference of Women Religious and Network. (CNS photo/Nancy Phelan Wiechec)

As the largest leadership organization for U.S. women religious begins to discern what steps to take following news Wednesday that the Vatican has ordered it to reform and to place itself under the authority of an archbishop, experts say the options available to the group are stark.

Ultimately, several canon lawyers told *NCR*, the Leadership Conference of Women Religious has two choices: Either comply with the order or face ouster as a Vatican-recognized representative of sisters in the United States.

What?s more, the lawyers say, LCWR has no recourse for appeal of the decision, which the U.S. bishops' conference announced Wednesday in a press release. That release stated that, following a three-year "doctrinal assessment" by the Vatican?s Congregation for the Doctrine of the Faith, Seattle Archbishop Peter Sartain had been appointed to review and potentially revise the organization's policies.

One prominent canon lawyer, Oblate Fr. Frank Morrisey, summed up the situation facing LCWR in one sentence: ?If they want to continue as a recognized conference, they?re going to have to work with this.?

Another, Jesuit Fr. Ladislas Orsy, also put it succinctly: ?It?s not very complicated. The Vatican is taking control. They are taking control ... and they hope that in five years, they will put [LCWR] on a different track.?

While other canon lawyers contacted by *NCR* generally confirmed Orsy and Morrisey?s analysis, they declined to speak on the record, citing the sensitivity of the situation. A short press release from the LCWR on Thursday morning said the group was preparing to meet with its national board members ?within the coming month to review the mandate and prepare a response.?

In its document explaining the move, the Vatican congregation said Sartain was to have authority over the LCWR in five areas, including:

- Revising LCWR statutes;
- Reviewing LCWR plans and programs;
- Creating new programs for the organization;
- Reviewing and offering guidance on the application of liturgical texts; and
- Reviewing LCWR's affiliations with other organizations, citing specifically NETWORK and the

Resource Center for Religious Institutes.

That authority, the document said, is granted under two specific canons in the Code of Canon Law that deal with the establishment and work of conferences that represent major superiors of religious orders in different countries.

The language of one of those canons, said Morrisey, a professor of canon law at St. Paul University in Ottawa, Canada, is ?particularly important? to consider when evaluating the options open to LCWR.

That canon, No. 708 in the code, states that ?major superiors can be associated usefully in conferences or councils so that by common efforts they work to achieve more fully the purpose of the individual institutes.?

The key words there, Morrisey said, is the phrase ?can be associated usefully.? Important to recognize, he said, is the fact that the canon does not say that major superiors ?must? meet. That means the Vatican ?can always, at any time, just remove the recognition of a conference. It certainly has the right to do that,? he said.

That power, Morrisey said, is also recognized in another section of the code that refers to the organization of ?public associations of the Christian faithful.? In that section, canon 320 states tersely that ?only the Holy See can suppress associations it has erected.?

That means, Morrisey said, that ?the bishops in the States or any other country couldn?t suppress the conference themselves. They could ask the Holy See to do it, but they couldn?t force it.?

In terms of whether LCWR would have any ability to appeal the decision, Orsy said flatly: ?There is no recourse here. None whatsoever.?

Orsy, who is currently a visiting professor at Georgetown University Law Center but has taught at five institutions, including the Gregorian University in Rome, compared the canon law allowing the move to U.S. civil laws, which grant the U.S. president authority to set up new federal agencies without approval from Congress.

In terms of how issues like the appointment of Sartain are addressed in practice at the Vatican, he said it?s considered ?simply an administrative decision.?

Morrisey said part of the problem regarding the question of whether the sisters can appeal the decision is the fact that, when a decision comes from the Vatican?s Congregation for the Doctrine of the Faith, ?there?s no appeal except to the Doctrine of Faith itself.?

While Morrisey said the LCWR ?could always ask? the congregation to reconsider its own decision, he doubted the congregation would be willing to re-evaluate, considering the number of the meetings that have already been held on the matter since announcement of the investigation in 2009.

The situation regarding the chances of appeal is so dim, Orsy said, that no canon lawyer would advise LCWR to spend time even trying to prepare a case to present.

?I have no doubt that [the congregation] checked out everything at the very highest level,? he said. ?I think it would be incorrect to tell [LCWR] anything else and let them have an illusion ... [or] give them the idea that they can appeal and they begin to work on it and all that.

?It comes nowhere,? he said. ?A responsible lawyer would not do that.?

According to Wednesday's letter from the congregation, Sartain's mandate runs for "up to five years, as deemed

necessary." Sartain is also expected to set up an advisory team that includes clergy and women religious to "work collaboratively" with LCWR officers and to "report on the progress of this work to the Holy See."

According to the U.S. bishops' release, Bishop Leonard Blair of Toledo, Ohio, and Bishop Thomas John Paprocki of Springfield, Ill., will work with Sartain.

The Vatican congregation's doctrinal assessment of LCWR started shortly after the Vatican's Congregation for Institutes of Consecrated Life and Societies of Apostolic Life announced a separate apostolic visitation of U.S. women religious orders. The results of that study were submitted to Rome in January.

In his letter Wednesday, Levada writes that Sartain's appointment is "aimed at fostering a patient and collaborative renewal of this conference of major superiors in order to provide a stronger doctrinal foundation for its many laudable initiatives and activities."

The document from the congregation re-emphasizes the reason for the doctrinal assessment, writing that Levada told LCWR leadership in 2008 that the congregation had three major areas of concern with the group:

- The content of speakers' addresses at the annual LCWR assemblies;
- "Corporate dissent" in the congregation regarding the church's sexual teachings; and
- "A prevalence of certain radical feminist themes incompatible with the Catholic faith" present in some of the organizations programs and presentations.

While Wednesday?s document referred to some specific concerns the congregation has with the group and referenced the meetings it has had with the sisters, it did not provide minutes of those meetings or release other documents.

Orsy said any further examination of the congregation?s decision is hampered by that fact.

?We are all handicapped because the evidence has not been published,? Orsy said. ?And like any kind of decision, you measure the decision in relationship to the evidence. But the evidence has not been published, except in very general terms. Therefore, you cannot argue with a decision unless you get the evidence on which it was based.?

Morrisey said his hope in the coming days was that ?nobody will take rash decisions.?

?This is something that needs to be thought out,? he said. ?It might be a good moment for mid-course correction.?

[Joshua J. McElwee is an *NCR* staff writer. His email address is jmcelwee@ncronline.org.]

For the full copy of the Congregation for the Doctrine of the Faith's letter, **click here** [1]. For the full copy of Levada's letter, **click here** [2].

Previous reporting from *NCR* on the Vatican's investigation of LCWR:

- **Vatican investigates U.S. women religious leadership** **[3]**, April, 2009
- **Women religious meet Vatican accusers in Rome** **[4]**, April, 2009
- **LCWR seeks full disclosure of Vatican visitation** **[5]**, August, 2009
- **LCWR leaders meet with Midwest bishops** **[6]**, May, 2010
- **Vatican officials, US women religious meet** **[7]**, July, 2010
- **Vatican orders LCWR to revise, appoints archbishop to oversee group** **[8]**, April 18, 2012

- **LCWR 'stunned' by Vatican's latest move** **[9]**, April 19, 2012
- **Options facing LCWR stark, say canon lawyers** [10], April 19, 2012

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