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# Canon lawyers: Vatican's role ambiguous in Bourgeois' removal

Joshua J. McElwee | Nov. 20, 2012
Roy Bourgeois

The circumstances surrounding the Vatican's removal of longtime peace activist and priest Roy Bourgeois from the Maryknoll Fathers and Brothers are unclear, several canon lawyers say.

Additionally, it is ambiguous under what authority the Vatican's Congregation for the Doctrine of the Faith was able to dismiss the priest, the lawyers say.

Bourgeois, a member of Maryknoll for 45 years who had come under scrutiny for his support of women's ordination, was dismissed from the order by the Vatican's doctrinal congregation in October, the Maryknoll Fathers and Brothers announced [1] in a press release Monday.

Central questions about the dismissal include whether Bourgeois was dismissed both from the order and the priesthood; if there are any options for appeal; and why his dismissal came from the doctrinal congregation and not the Vatican congregation that deals with religious orders.

In a statement responding to the Vatican's move Tuesday, Bourgeois said his expulsion from Maryknoll "is very difficult and painful." [2]

The Maryknoll Fathers and Brothers did not immediately respond to requests for comment and a copy of the letter Tuesday.

It's "hard to say" what is meant with Maryknoll's announcement of Bourgeois' dismissal without seeing the whole text of the letter from the Vatican congregation, said Oblate Fr. Francis Morrisey, a professor of canon law at Ottawa's Roman Catholic University of Saint Paul.

One abnormality in the decision is the involvement of the Vatican's doctrinal congregation and not the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, Morrisey said.

The doctrinal congregation might have gotten involved because of a norm the Vatican approved [3] in May 2010 that called the ordination of a woman a "grave delict" and left judgment on such matters to the doctrinal congregation.

But "it's not normal," Morrisey said. "This is probably the first case of somebody being kicked out not because of doing the ordination, but just being part in it."

Bouregois' concelebrated the ordination liturgy of Roman Catholic Womanpriest Janice Sevre-Duszynska in August 2008.

Another canon lawyer, who asked not to be named because of the sensitivity of the matter, said the doctrinal congregation's reason for involvement could stem from Pope John Paul II's 1994 apostolic letter *Ordinatio Sacerdotalis*.

That letter, which claimed the church "has no authority whatsoever to confer priestly ordination on women" and said that position "is to be definitively held by all the Church's faithful," has been the subject of debate among many canon lawyers and academics who have questioned whether the document had the power to permanently close off discussion on the matter.

The Vatican congregation may have also decided to act on its own in Bourgeois' case, said the anonymous canon lawyer, because of questions surrounding Maryknoll's own vote on the priest's dismissal.

Maryknoll's leadership took a vote on removing Bourgeois from the order in the spring [4]. While the order would confirm at the time that a vote had taken place, it would not comment on its outcome.

Doyle told *NCR* at the time that Maryknoll Fr. Mike Duggan, the U.S. regional superior of the order, informed Bourgeois of the vote, which was a split decision. Doyle said Duggan told him two council members voted in favor of dismissal and three members abstained.

There is no provision in canon law for abstentions by members of religious congregations when voting on dismissal of one of their members, the canon lawyer said.

"In my opinion, they can't abstain," the canon lawyer said. "My guess is that they're abstaining because they don't like the idea. And they don't want to say no because that would be an offense to the Holy See."

Those abstentions, the canon lawyer said, might be treated by the Vatican congregation as an "invalid vote," akin to "turning in a blank ballot."

"It seems to me that you can make a case that those who did their job by voting up or down did so unanimously," the canon lawyer said. "I think [the Vatican congregation] could make an argument that they got a positive vote from the institute."

It's unclear from Maryknoll's statement whether Bourgeois is allowed appeal or recourse on the matter, or if the decision is "definitive," Morrisey said.

"There might have been some canonical nuances in the text," he said. Without a copy of the actual letter, "I just don't know."

Jesuit Fr. Ladislas Orsy, a widely cited canon law expert, said Bourgeois likely has no appeal in this case.

"The problem is that in these cases, you really have no court of appeal because the congregation normally acts with the backing of the pope," said Orsy, currently a visiting professor or law at Georgetown Law School.

Orsy also said the Vatican congregation may have acted because it is "extremely sensitive" on the matter of women's ordination, fearing a "spreading effect" when women are ordained.

"There is a kind of wave effect of the whole action," Orsy said. "Therefore, there would be great sensitivity that, for instance, somebody will receive the Eucharist from this woman, but this is unjust to the person because it is not the real Eucharist."

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