

1 MEMO

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3 To: Pastors, Deacons, and Lay Leaders of the WV-WMD Synod

4 Fr: Riegel

5 Re: Churchwide Assembly 2019 & Sanctuary

6 Da: 12 August 2019

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10 Various media outlets have reported upon the ELCA Churchwide Assembly 2019 action "To declare
11 the Evangelical Lutheran Church in America a sanctuary church body." By yesterday afternoon, I was
12 receiving messages that some of you were having to field questions from parishioners at morning
13 worship. Others sent me their own questions. Because of my travel and a degree of mental (and some
14 physical) exhaustion, I decided to delay writing to you until today rather than risk sending a
15 communique I might regret later.

16 First and foremost, a complete report of the work of the Churchwide Assembly is required. Most
17 media outlets tend not to report everything, and social media is far worse. I am providing here several
18 resources for you to have a thorough report of the facts of the assembly. Subsequently, I will provide my
19 analysis of those facts. Lastly, I will offer some counsel on what to do about these facts.

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21 Raw Report of the Work

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23 The Memorials Committee received eighty-eight memorials over the course of the triennium. Three
24 memorials dealt with immigration and deportation issues, but only one of these three specifically called
25 for a declaration regarding sanctuary. That memorial was submitted by the Metropolitan New York
26 Synod in 2019. The full text of the memorial may be found beginning on page 24, under Category A9, of
27 the Pre-Assembly Report of the Memorials Committee. All three memorials mentioned above have been
28 attached to this email as the relevant pages of the larger report.

29 Upon reading the memorial, you will note that it is immediately followed by a section titled,
30 "Background." The material in background is drafted by the Churchwide Office staff for the Memorials
31 Committee and then edited, as necessary, in light of the Memorials Committee's deliberations for
32 inclusion in the report to the voting members of the Churchwide Assembly.

33 The Memorials Committee reviewed the memorial from the Metro New York Synod and responded
34 as follows, the response constituting the action recommended to the Churchwide Assembly by the
35 Memorials Committee,

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37 To receive with gratitude the memorial from the Metropolitan New York Synod concerning
38 sanctuary;

39 To reaffirm the long-term and growing commitment of this church to migrants and refugees
40 and to the policy questions involved, as exemplified most recently in the comprehensive
41 strategy Accompanying Migrant Minors with Protection, Advocacy, Representation and
42 Opportunities (AMMPARO);

43 To recognize that the ELCA in congregations, synods and the churchwide organization are
44 already taking the actions requested by this memorial; and

45 To request that appropriate staff on the AMMPARO team and the Domestic Mission, Global
46 Mission, and Mission Advancement units review the existing strategies and practices by the five
47 current sanctuary synods and develop a plan for additional tools that provide for education and
48 discernment around sanctuary.

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In its report, the Memorials Committee included its response to A9 for consideration *en bloc*, i.e., together with several other items. It should be noted that "To declare the Evangelical Lutheran Church in America a sanctuary church body" was *not* part of the recommendation made by the Memorials Committee.

The Memorials Committee received the writ for separate consideration of A9 on Monday accompanied by a request for amendment. On Tuesday morning, Memorials Committee met to consider the requested amendment which asked for the sanctuary designation. The Memorials Committee deliberated on the request and decided to stick with its original recommendation, declining, again, to recommend the sanctuary designation. This deliberation was extensive and involved consultation with AMMPARO staff, Global Mission staff, and General Counsel (legal staff). Though the meeting is open---I was in attendance on another matter---no one attended to testify with regard to the writ to pull from *en bloc* or the amendment proposed.

Recommendation A9 was pulled from *en bloc* for separate consideration. To pull an item from *en bloc* requires a voting member sponsor and ten additional voting member signatures. It was subsequently introduced on the floor as a matter of business during Plenary 4 (Wednesday morning). If you would like to watch the floor debate, you can find it at

<http://www.youtube.com/watch?v=EbOyMdeAqV0&t=69m2s>.

Debate was interrupted by the orders of the day and resumed in Plenary 5. You can watch this at

<http://www.youtube.com/watch?v=a0-QMI5szYU&t=80m20s>.

Watching the debate provides you with an opportunity to hear the arguments made for and against the various amendments and, then, the final form of the main motion. It should be noted that total time for consideration on the floor of the assembly exceeded 57 minutes.

With the recommendation of the Memorials Committee on the floor as the main motion, an amendment was immediately offered to include the declaration of sanctuary,

To amend the motion to add "The Evangelical Lutheran Church in America declares itself a sanctuary church body." as the last clause.

This amendment was debated at some length and was adopted, 718-191. Debate returned to the amended main motion.

Another amendment was offered to add ", LIRS" in the fourth paragraph after "AMMPARO team." This amendment was adopted by show of hands with little debate. Debate returned to the main motion as now amended twice.

An amendment was offered with the stated intent of the mover to add as the last resolve,

"To request the ELCA Church Council, in consultation with the appropriate churchwide units and offices, provide guidance for the three expressions of this church about what it means to be a sanctuary church body and provide a report to the 2022 Churchwide Assembly."

This was debated and adopted by show of hands.

Debate returned to the main motion as now amended three times, such that the main motion read,

96 To receive with gratitude the memorial from the Metropolitan New York Synod concerning
97 sanctuary;

98 To reaffirm the long-term and growing commitment of this church to migrants and refugees
99 and to the policy questions involved, as exemplified most recently in the comprehensive
100 strategy “Accompanying Migrant Minors with Protection, Advocacy, Representation and
101 Opportunities” (AMMPARO);

102 To recognize that the ELCA in congregations, synods and the churchwide organization are
103 already taking the actions requested by this memorial; and

104 To request that appropriate staff on the AMMPARO team, LIRS, and the Domestic Mission,
105 Global Mission, and Mission Advancement units review the existing strategies and practices by
106 the five current sanctuary synods and develop a plan for additional tools that provide for
107 education and discernment around sanctuary;

108 To declare the Evangelical Lutheran Church in America a sanctuary church body; and

109 To request the ELCA Church Council, in consultation with the appropriate churchwide units
110 and offices, provide guidance for the three expressions of this church about what it means to be
111 a sanctuary church body and provide a report to the 2022 Churchwide Assembly.

112 113 Analysis

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115 As you can see from the debate, the final form of the action adopted was not something designed
116 by the Churchwide staff or the Memorials Committee. Indeed, the memorial from Metro New York
117 Synod had called for a declaration of sanctuary, but this did not survive the Memorials Committee’s
118 work. The declaration of sanctuary was introduced by a voting member on the floor as an amendment.
119 This distinction is, I think, important. We often talk about Churchwide as driving these matters, and by
120 “Churchwide” we mean the officers and staff that work at 8765 W. Higgins Road. I’ve done so too, but
121 this is a pretty clear case of the HQ staff and officers not driving the issue. Indeed, General Counsel
122 advised against declaration on Sanctuary, citing the lack of legal definition and general clarity about
123 what it means. Neither AMMPARO nor Global Mission pressed for it, and the heart of the advocacy work
124 is already being conducted without the declaration of sanctuary. As confirmed by the Secretary of the
125 ELCA, the Churchwide Assembly may declare such things, but they are in no way binding upon
126 congregations or synods. So, this amendment should be seen as it really is, an amendment offered by a
127 voting member on the floor and not the work of ELCA officers or staff.

128 That the amendment could be made from the floor by the voting member is a feature of our
129 participatory polity. Consider for a moment the criteria for voting membership in the Churchwide
130 Assembly:

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- 132 • Voting member of a congregation of the ELCA. Of course, to be a voting member of a
133 congregation of the ELCA requires that one is a confirmed member of the congregation who
134 “during the current or preceding calendar year, shall have communed in this congregation and
135 shall have made a contribution of record to this congregation.”
 - 136 • Elected by the Synod Assembly with which the congregation is affiliated.
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138 That’s it. So, when someone asks, “who makes these decisions?” the answer is, a collection of voting
139 members just like yourself who happen to get elected by their synods to attend the Churchwide
140 Assembly. There is no test for legal, parliamentary, constitutional, or theological competency. Given the
141 difficulty with which the Synod Nominations Committee recruits folks for even Churchwide Assembly
142 seats, I am not overly sympathetic when it comes to complaints about the quality of the voting members

143 of the Churchwide Assembly when made by those who have refused (actively or passively) to stand for
144 election.

145 As we get into the weeds of the amendments, the video of the assembly is something I commend to
146 you. We may be asked, "Why was this done?" The debate, while not a scientific poll of the assembly,
147 presents the arguments made by various people. There are often more than two sides in these
148 assemblies, and, frequently, the outcome of a vote is a matter of a constellation of differing opinions
149 that align closely enough to marshal the required majority. As with anything, some will be fully
150 supportive of the final piece of legislation, others only mostly supportive. The amendment to include
151 sanctuary had 191 opposed. There were not, by my estimation, that many opposed in the final adoption.
152 Some may have been convinced to support sanctuary during the course of the debate. Others may have
153 not supported sanctuary but were willing to accept it for the sake of the other provisions.

154 It should also be noted that a majority of the assembly supported the inclusion of the last
155 amendment. This I find rather fascinating as the last amendment is tantamount to an admission, on the
156 part of the assembly, that it wasn't entirely clear on what exactly was meant by sanctuary (or, at least,
157 was admitting that the term would be ambiguous for many) and what sanctuary meant for each of the
158 three expressions of the church. With this amendment adopted, did the assembly vote to declare itself
159 something and admit, at the same time, that it wasn't sure what that something was and what its
160 implications were? Seems like it to me.

161 As a matter of polity, it is clear that this particular declaration of sanctuary has no binding authority
162 on a congregation or a synod. For those unfamiliar with our *Constitutions, Bylaws, and Continuing*
163 *Resolutions*, this is baffling. Without getting into a prolix exposition of the ELCA's constitutional
164 economy, let me say that the Commission for a New Lutheran Church drafted governing documents that
165 skewed toward congregationalism. The Secretary made it clear to the assembly that congregations and
166 synods are not required to declare themselves sanctuaries or even to act on any of the operatives of the
167 recommendation. We are not as hierarchical as some think (and some desire).

168 What the Secretary did not make clear is that Churchwide Assembly actions can be binding upon the
169 Churchwide organization. I raised this point in floor debate. If sanctuary means, among other things,
170 housing people, which was included in the original memorial from Metro New York Synod, then 8765 W.
171 Higgins Road is not an appropriate facility.

172 So, did the inclusion of the sanctuary declaration add anything to the action proposed by the
173 Memorials Committee? Let's take this question in parts. First, the substantive work with immigrants,
174 including those most threatened with deportation, identified in the Metro New York Synod memorial is
175 already being executed by various offices of the ELCA, by various affiliated agencies, and by
176 congregations on the front lines. The sanctuary declaration added nothing substantive to the work. Did
177 it provide a political "optic?" Of course, it did. This is already evident in both commercial and social
178 media, and, as with all things in these charged and divisive times, both praise and condemnation
179 abound. Of course, we live in days when substance seems less important than appearance.

180 Some expressed concern that a declaration by the Churchwide Assembly was false advertising,
181 saying that someone responding positively to the declaration would be disappointed to find the local
182 Lutheran congregation he/she decided to visit had not opted in.

183 My greatest concern is the harm that we have put migrants at increased risk. Consider: Did Harriet
184 Tubman or Corrie ten Boom advertise the locations of their safe houses? If I were sheltering people,
185 now that the Churchwide Assembly has made this declaration, I would be moving them to another
186 location as quickly as possible. Why should ICE not start raiding our churches? I am not concerned for
187 our property: broken doors can be fixed. I am not concerned for us: we are going to be tried, probably
188 convicted, and most likely fined, but we have the protections of the Constitution. I am concerned for
189 those we would shelter. I would be fined (maybe jailed for a brief period of time), but that immigrant is
190 getting deported. We may call this prophetic action and engage in civil disobedience, but, when we do

191 so, we need to make sure that we bear the risk and suffer the consequences. It is unethical to engage in
192 civil disobedience that puts our weakest neighbors at greater risk than ourselves. Perhaps there are
193 those who want to force a showdown. I have some admiration for such thinking. I have no admiration
194 for those who force a showdown without regard to collateral damage.

195 In short, I am of the opinion that the Churchwide Assembly acted unwisely. It has opted for political
196 kabuki, and the vast majority of those who were voting in the assembly have no skin in this dangerous
197 game. Yes, that's a mixed metaphor, but I can't think of a better way to put it. Based upon the last two
198 operatives, I am not convinced that the Churchwide Assembly understood what sanctuary entails. The
199 Churchwide Assembly has created a quagmire for the church that was unnecessary. The work already
200 undertaken is not advanced by this declaration and may be hampered by it.

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202 Reiterations

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204 The declaration of sanctuary by the Churchwide Assembly is only binding upon the Churchwide
205 organization.

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207 A congregation is not obligated to make a declaration of sanctuary. In fact, it would take an action for a
208 congregation to do so. If no action is taken, a congregation is not part of the declaration of sanctuary.
209 So, it is not necessary to declare that one is not declaring sanctuary---plus, doing so would be bad
210 parliamentary form.

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212 I advise congregations not to make a declaration of sanctuary.

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214 If a congregation should decide to make a declaration of sanctuary, it should do so in good order, within
215 the processes outlined in our governing documents and parliamentary authority. It should also seek
216 competent legal counsel prior to doing so.

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218 Until ordered otherwise by the Synod Council or the Synod Assembly, the Synod will not underwrite
219 legal services for congregations acting one way or the other in this matter. It is standard practice that
220 the Synod does not underwrite legal services for congregations in any situation.

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222 The synod has not made a declaration of sanctuary. Of course, neither Synod Council nor Synod
223 Assembly has met since the Churchwide Assembly. I will not propose such a declaration and will speak
224 against it.

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226 I will meet with any congregation that desires to discuss this matter in greater detail.