NATIONAL CATHOLIC REPORTER
Published on *National Catholic Reporter* (http://ncronline.org)

Some see bishops in danger of overplaying their hand

Michael Sean Winters | Feb. 28, 2012

U.S. bishops gather for Mass at the start of their annual fall meeting in Baltimore Nov. 14. (CNS/Nancy Phelan Wiechec)

ANALYSIS

In the three weeks between President Barack Obama?s Jan. 20 announcement that there would be no expansion of the conscience exemptions regarding Department of Health and Human Services mandates for contraceptives and his Feb. 10 announcement of an ?accommodation? that effectively does expand those exemptions, the U.S. bishops enjoyed a rare moment of public support from many progressive Catholics.

Groups like the Catholic social justice lobby NETWORK and the Catholic Health Association, as well as prominent liberal Catholics like E.J. Dionne and Chris Matthews, joined the bishops in calling for broader exemptions for Catholic colleges, charities and hospitals.

When the president announced his accommodation, it was clearly a win for the bishops. The president had set a one-year timetable to address religious concerns, but the firestorm he had ignited required him to address the issue more quickly than planned.

Instead of taking a victory lap, though, the bishops declared themselves unsatisfied with the accommodation and shifted the goalposts of the debate.

To be sure, there remain problems with Obama?s accommodation. It did not address religious institutions that self-insure. And it keeps in place a troublesome precedent, drawing a distinction between houses of worship and the universities, charities and hospitals that are, for Catholics at least, integral to what is meant by ?church.?

As Dionne wrote, ?For liberals who sided with the church in this controversy, the most vexing problem with the original exemption on contraception is that it defined ?religious? so narrowly that the reality that these organizations go out of their way to serve non-Catholics was held against them. Their Gospel-inspired work was defined as non-religious. This violated the very essence of Christian charity and the church?s social justice imperatives.?

The bishops could have worked with the president to address these concerns. Instead, however, the bishops? conference highlighted a new argument into the debate, insisting that private, secular employers should also have the right to be exempt from the mandate. With that, the bishops are losing the support they earlier gained.

?People will go to the mat to protect the Catholic church and its institutions, but they will not go to the mat to protect Taco Bell and other businessmen if they want to deny contraceptives to their women employees,? said Jesuit Fr. Thomas Reese of the Woodstock Theological Center at Georgetown University in Washington. The ?Taco Bell? reference comes from the bishops? general counsel, Anthony Picarello, who said that private employers -- even owners of places like Taco Bell -- should be allowed a religious exemption from the Health and Human Services mandate.

Reese added, ?As long as the fight over the HHS mandate was seen as a fight to protect religious institutions from government interference, there was wide support for the bishops. Once it became a fight over contraceptives, the bishops lost almost all their support.?

The real danger in the bishops? shift from a defense of religious institutions to a defense of the conscience rights of individual employers and corporations, however, is one to which conservatives, and especially the bishops, should be highly attuned. It reinforces the idea that religion is essentially a private matter, between one?s conscience and God. There is no room for the magisterium in such a view and it aligns neatly with the views of some non-Catholic liberal scholars. ?I am all for religious liberty,? Boston College?s Alan Wolfe said. ?But in my view it is human beings that deserve liberty, not institutions. Indeed, when institutions gain liberty, people lose it.? Reinforcing the idea that conscience and religion are essentially individualistic things is surely not something the bishops want to reinforce in America?s highly anti-authoritarian and uber-individualistic culture.

The bishops have thrown their weight behind the Respect for Rights of Conscience Act, introduced by Congressman Jeff Fortenberry, R-Neb., a year ago. This GOP-led effort would permit all employers to exempt themselves from the mandates of the Affordable Care Act. The bill is unlikely to get very far. The Democrats see it as an effort to undermine health care reform. The bishops are already in an odd position vis-à-vis health care reform: They opposed the bill in 2010 but have failed to join calls for its repeal.

The political influence of the bishops? conference is difficult to gauge. On the one hand, it has been at the forefront of efforts to overturn legalized abortion since 1973, but abortion remains legal. In the early 1980s, the conference issued two provocative pastoral letters, one on war and peace and the other on the economy, and while the first did change the views of many Catholics on the morality of war, the economic pastoral changed few hearts or minds.

On the other hand, last year, working mostly under the radar, the conference almost single-handedly formed an interreligious group, the ?Circle of Protection,? that has successfully advocated for programs that assist the poor. Amid the highly contentious partisan wrangling during last summer?s debt-ceiling debate, the bishops secured agreements from the GOP-led House and the Obama administration that any across-the-board budget cuts would not affect programs like food stamps and Medicaid.

?It seems to me that to get their mojo back, the bishops need to recalibrate their understanding of the place of religion, their religion, in the American public square,? said Mark Silk of Trinity College in Hartford, Conn. ?In exchange for robust religious liberty protections, you?ve got to be prepared to accept that society?s norms are not yours. That?s hard for a lot of bishops these days, but secular types are a whole lot more willing to acquiesce in religious exception when they don?t feel like those who get the exceptions want to inflict them on everyone else. Same-sex marriage is the big case in point now.?

Indeed, the bishops? positions do not fit neatly into either political party. ?The ideological chasm in American

public life puts Catholics in a tricky spot,? Stephen Schneck of The Catholic University of America in Washington. ?On one hand, the left champions concern for the poor, for the immigrant, for universal access to health care, for protecting the environment, and has a more traditional understanding of the common good. The right, on the other hand, opposes access to abortion, opposes stem cell research and opposes same-sex marriage -- but leans toward a libertarian dismissal of social justice. As a result, it often seems to Catholics that we?re forced in one way or another to be only half-Catholic.?

This inability to fit into either political party is about to play out in spades in Maryland, where two contentious issues -- the DREAM Act, giving the children of undocumented workers in-state tuition costs at Maryland?s public colleges, and same-sex marriage -- are both headed for referendums in November. ?In our minds,? said Mary Ellen Russell, executive director of Maryland?s Catholic Conference, ?while it presents an extraordinary challenge to be involved in two ballot initiatives, it is also an opportunity for the church to shine. Our positions result from something deeper and richer than party platforms.?

The U.S. bishops, then, must tread carefully in the public square. Even though they got the president to modify his position on the conscience exemptions with great alacrity, they could easily overplay their hand. ?People are sympathetic to the bishops when they are trying to protect religious institutions, but when they push their public policy agenda, whether it be against gay marriage or for immigration reform, they are treated as just another voice in the public square,? Reese said. ?If people agree with their arguments, they follow them. If they don?t, they don?t.?

[Michael Sean Winters writes about religion and politics on his Distinctly Catholic blog on the *NCR* website, at NCRonline.org/blogs/distinctly-catholic.]

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