

Bishops face internal challenges in contraception battle

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Cardinal Timothy Dolan of New York, president of the U.S. Conference of Catholic Bishops, has said talks with the White House over a proposed contraception mandate are "going nowhere." (RNS/Gregory A. Shemitz)

In the weeks since President Barack Obama proposed a compromise on his plan to mandate free contraception coverage, the nation's Catholic bishops have appeared unified and galvanized in their thorough rejection of the accommodation.

For the hierarchy, it's been an invigorating change after years of playing defense during the clergy sexual abuse crisis.

"What (Obama) offered was next to nothing," a confident New York Cardinal Timothy Dolan, president of the U.S. Conference of Catholic Bishops, told Catholic News Service.

Other prominent churchmen were even more derisive. They blasted Obama's olive branch of having insurers -- rather than employers like Catholic hospitals and universities -- pay for birth control coverage under a separate policy as an "accounting gimmick."

Though the White House has convened meetings with USCCB staff and consulted with various bishops in a bid to reach a final compromise, Dolan has accused the administration of negotiating in bad faith and said the talks are "going nowhere."

Yet as the U.S. hierarchy stakes its claim as the first and final arbiter of the Catholic position in this hotly contested battle, the bishops are also facing a number of internal challenges. If not addressed, they could undermine the bishops' position and weaken their future standing if they are seen as losing their face-off with the White House.

Lack of consensus

For all the strong talk from the bishops, the window of opportunity is closing, and the nearly 300 active bishops in the conference are still debating the best approach to the negotiations -- or even whether to negotiate at all.

Some are arguing for a take-it-or-leave-it strategy with the White House. Even if that hard-line approach fails, they say that it will draw such a stark contrast between Obama's agenda and the bishops' interests that Catholics will rally to the church and help to defeat Obama in November.

Others, however, think the bishops should temper their rhetoric and keep a place at the table. That would give the bishops a better chance of securing an acceptable deal -- especially if Obama wins a second term. This pragmatic approach says the hierarchy needs to build bridges to help avert future confrontations and to foster cooperation on shared political goals.

"I don't think at the present time that they have a strategy," said Russell Shaw, a former spokesman for the USCCB who writes frequently about the church and politics.

The main reason for the lack of focus, Shaw said, is the bishops' premium on operating by consensus, and consensus is difficult to achieve when you are dealing with hundreds of individual bishops, many with strong egos and even stronger opinions, who meet together just twice a year.

That's why Shaw believes that next week's (March 13-14) closed-door meeting of the USCCB's administrative committee -- a gathering of about 40 or more leading U.S. bishops -- will be "of crucial importance" in developing a more effective political response, if indeed it's not too late.

Privately, several bishops and church insiders agree.

"We have got to pull together," said one bishop, a self-styled "hard-liner" who requested anonymity to speak candidly about the sensitivity of the USCCB's position. "The real problem is, in between meetings, how do we operate? We are at a disadvantage, there's no question about it."

What do the bishops want? And can they get it?

The bishops also have to figure out what they want. While it seems like an obvious question, there are many answers.

Initially, the bishops signaled they were simply seeking a broader exemption from the contraception mandate for religious institutions. But USCCB leaders have increasingly expressed a desire to roll back the entire regulation.

At the same time, they are also pushing for passage of a bill that would provide broad conscience protections to groups that oppose paying for contraception.

The bishops' top lawyer, Anthony Picarello, went a step further when he proposed passage of what has come to be known as the "Taco Bell rule," arguing that individual business owners also should be exempt because "If I quit this job and opened a Taco Bell, I'd be covered by the mandate."

The problem is none of those options has a realistic chance of getting past Congress or the White House; the Senate already rejected a bill to provide a wider conscience allowance. And the courts are a roll of the dice. Yet the bishops are still pursuing all avenues, and without a clear road map for success.

"In many ways (Obama's Feb. 10 compromise offer) solved little and complicated a lot," as Dolan wrote his fellow bishops in a March 2 letter that reflected the bishops' dilemma as well as their resolve. "We now have more questions than answers, more confusion than clarity."

Fragmented allies

The bishops, however, are not the major stakeholders in this fight. Obama's compromise would mainly affect Catholic hospitals, universities and social service agencies that employ and insure the hundreds of thousands of people covered by the mandate; churches are already exempt.

From the beginning, those Catholic agencies have been far more willing to negotiate. "A welcome step," is how the Rev. John Jenkins, president of the University of Notre Dame, characterized Obama's compromise.

Other Catholic universities echoed that view, and Sister Carol Keehan, head of the Catholic Health Association that represents a sprawling network of Catholic hospitals, also hailed the accommodation.

Without the church's institutional muscle solidly behind them, the bishops are in a much weaker negotiating position.

"If the bishops reject this deal, they don't have a lot of options," Shaw wrote in *Crisis Magazine*, a conservative Catholic outlet. "Closing down thousands of Catholic institutions and programs isn't likely. Remedial legislation pending in Congress has little chance of becoming law with Democrats controlling the Senate and the White House. As for simply refusing to obey the ... rule, it's a last resort."

Falling flat in the pews

Perhaps most importantly, the bishops can't count on even a majority of the nation's 67 million Catholics to support their position -- whatever it turns out to be. Surveys show that U.S. Catholics -- including the most devout -- do not heed the bishops' teachings against artificial birth control, and framing the issue as a threat to religious freedom hasn't moved Catholics to mass opposition.

In reality, the state of the economy, not birth control or religious liberty, is likely to determine the outcome of the election, and that is out of the hierarchy's control.

Caught in the middle of all of this is Dolan. As one of the most visible and influential leaders in this hemisphere, Dolan's natural instincts are to craft a deal, and that's his job as leader of the USCCB. But a fragmented hierarchy and uncertain allies make Dolan's task immeasurably harder.

"In his struggles with the Obama administration, Dolan isn't looking for a war, but he is looking for a win," Catholic columnist Michael Sean Winters wrote in *The Daily Beast*.

A victory may be hard to come by, however, and the bishops may not have the firepower for a war.

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