

Editorial: Bishops overreach in HHS conflict

NCR Editorial Staff | Jun. 6, 2012

Early this year, *NCR* called out the Obama administration for overstepping a boundary by issuing through the department of Health and Human Services a mandate that required insurance coverage for contraceptives, with a too narrow exemption for religious institutions. We took this stance based on the principle that government should not define what a religious institution is and what religious ministry is.

The principle we sought to defend was clear: "Our faith is not confined to a building. Aiding the poor and marginalized, educating people, taking care of the sick are not add-ons to our religious convictions. They are core religious activities; they are who we are as Catholics."

Our stance was not popular with a good number of *NCR* readers because many construed defense of the principle to mean agreement with another issue to which it had become inextricably linked -- contraception.

We have heard from our readers their deeper concern with the religious freedom battle: that so many employees of Catholic institutions, many of whom are non-Catholic, will be deprived of their right to adequate health care because of the church's teaching. The same denial of rights would apply to the many girls and women who are trafficked as sex slaves: If the bishops had their way, these girls and women would be denied sex education and contraceptives if they were being treated by a Catholic agency. This is a justice issue that must be addressed.

Every time that we have editorialized on this topic this year, we have lamented and found regrettable that the issue of religious liberty has to be discussed in the context of whether a Catholic institution should be compelled to provide insurance coverage for contraception and sterilization. In January we wrote: "The teaching [on artificial contraceptives] has been consistently rejected inside the church for more than 50 years." But we also noted that this is "an internal Catholic squabble" and that Catholics should settle it. *NCR* will -- as it has since the issuance of *Humanae Vitae* in 1968 -- push for a revision of the outdated science and stagnated thinking that has stalled an evolution of this teaching.

In February President Barack Obama announced "accommodations" to the HHS mandate and promised to work with religious leaders for compromises that would respect the spirit of expanded health care coverage and religious sentiments. We took the president at his word, and urged the U.S. bishops to do the same. You won, we and others from a broad swath of Catholic opinion told the bishops. You forced a president to modify the original draft mandate language. Now was the time to work quietly and deliberately with the president and his administration to forge a compromise all could live with.

Not working for a compromise, we warned, "will only result in another unnecessary defeat in the public arena and further division in the community."

Rather than take the win and work toward a compromise, the most extreme wing of the U.S. Conference of Catholic Bishops and its staff decided to make a political fight of it. They first pushed for legislative solutions, which had no chance of becoming law and were roundly defeated. Because the bills they lent support to were so partisan in nature, the bishops' religious liberty efforts were forever tainted as part of the anti-Obama in 2012

campaign and on the side of those who would scrap health care reform.

Instead of working quietly with the coalition of Catholic supporters who had come together in January to push the administration on compromises, a long, tedious process, but customary in the creation of new federal regulations and laws, the bishops went public quickly and with uncharacteristically vituperative criticism of the administration's bungling of the negotiation process -- and Obama's people have bungled this process repeatedly. In that regard, it is still puzzling why the administration would decide to move away from language already in the federal code that could have been used in the instance of health care mandates to define religious organizations.

Perhaps the bishops and their team thought that making their dissatisfaction public would elicit sympathy and public support, but instead they looked sullen and politically unsophisticated. The public perceived them, perhaps wrongly, as withdrawing from the respectful dialogue and civility. And again, they looked more partisan than principled.

Now some 43 lawsuits have been filed in 12 federal districts. That may seem like a large group, but it represents a small fraction of the nation's dioceses and Catholic organizations and it doesn't approach the broad coalition that the bishops had back in January. The Catholic Health Association, a key ally for the bishops earlier this winter, "was not made aware that lawsuits were being filed," said Michael Rodgers, association senior vice president for public affairs and advocacy. According to Bishop Stephen Blaire of Stockton, Calif., the lawsuits came precipitously and without as broad a consultation as the California bishops had hoped for.

Whether or not the bishops win their court cases, the litigation may prove significant for First Amendment jurisprudence. But we worry that the bishops may not have fully weighed the consequences if they lose in court, as the California bishops experienced ([see story](#) [1]).

Blaire was also concerned, he said, that some groups "very far to the right" are trying to use the conflict as "an anti-Obama campaign."

The divisions inside the Catholic community are wider than ever, and now have been politicized to such an extent that healing cannot happen this election season. The bishops may have finally divided the national conference irreparably. The U.S. Catholic church has lost its forum for bringing reason and faith to bear on national discussion. The bishops' overreach on the HHS regulations is one more reason the church no longer has a credible voice in the public square.

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