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Obama administration went too far with contraception ruling

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Vice President Joe Biden, left, and House Speaker John Boehner of Ohio, right, watch as President Barack Obama delivers his State of the Union address to a joint session of Congress on Capitol Hill in Washington in January. (CNS/Reuters/Saul Loeb)

It is time for the Obama administration to admit it overstepped a boundary when it issued a mandate requiring coverage for contraceptives under its health care reform measures with only a narrow exception granted for religious institutions.

At stake primarily is the moral issue tied up with the right of religious groups to refrain from acts they deem morally questionable. That point is inextricably linked to the politics of the moment -- the survival of this presidency, and with it, the health care reform that is set to provide coverage beginning in 2014 for the 42 million people who are currently uninsured.

The mandate, approved by the Department of Health and Human Services in January, requires that all health plans cover contraceptives and sterilization free of charge. A narrow exception was made for religious organizations that teach that contraception or voluntary sterilization is sinful, but only if they employ primarily or exclusively members of their own faith, exist primarily for the inculcation of religious values and provide their services primarily to members of their own faith.

The mandate takes effect in August. Religiously run institutions such as schools, hospitals, and charitable and social service agencies have an extra year to prepare for the change.

The bishops have made their position regarding the mandate clear. The past weeks have seen something of an unprecedented and coordinated response across the nation. At press time, more than 160 bishops have issued letters condemning the mandate, and many have ordered the letters be read at every Sunday Mass in their diocese.

Catholics of all stripes have also voiced deep concerns. The opposition to the decision runs across all the usual divides. Left and right, conservative and liberal, orthodox and progressive, all have made it clear: We might disagree with our bishops and each other over the issue of contraception, but this ruling seeks to force our church to violate its conscience on a serious matter. Some of the voices that spoke the strongest words and risked the most in advocating for health care reform now see a threat to the church inherent in the rollout of the reform.

We've made it clear on this page earlier that, like many, we regret that contraception is the issue over which the principle of conscience is being debated. It is unfortunate for two reasons: First, the bishops have been unable to convince the vast majority of Catholics of the validity of the church's teaching on birth control, and, second,

once again public discussion of Catholic conscience concerns is restricted to a narrow area of sexual activity.

Republican presidential candidates have wasted no time in using the issue to label the president anti-Catholic and, more broadly, anti-religious. The charges are bizarre, but bizarre has become the norm in this presidential election cycle.

Those realities notwithstanding, it becomes clear in this discussion that conscience, not contraception, is the essential issue. Should the official Catholic voice be silenced on birth control, it is logical to worry that it will be silenced on a range of other issues that invoke questions of conscience.

The list of moral questions that present themselves to our era is staggering. A bill working its way through the Washington state legislature with substantial support would require all health care plans in the state -- without exception -- to cover abortion services. Similar bills regarding the wider use of controversial stem cell lines, exploitation of the human genome and the legality of euthanasia are also likely to be seen in coming years. And as our nation continues to exert itself on the international stage, the question of the continuing use of our military abroad -- the outrageous sums that all are forced to pay for weapons systems long condemned by a string of popes, the growing use of unmanned drones -- will only loom larger as issues of conscience for Catholics.

Considering the possible trajectory of these questions, protection of religious exemptions and the preservation of the Catholic voice at the table becomes clearly crucial.

To the president, we say that this is something that should be fixed quickly. Don't mistake the vitriol of some Catholics, including bishops, who would be loathe to give you credit for any initiative, for the quiet anger of others who have supported the administration but find this a galling and unnecessary affront to their church.

A quick fix should not be difficult for a president naturally disposed toward finding common ground and consensus. Experts abound who say that precedent exists, both at the state level and in definitions of religious organizations already extant in the federal code, that could provide a quick path to revision of a requirement that doesn't go into effect for another year.

Indeed, the tax code already defines religious organizations far more broadly than the Health and Human Services mandate, and if used would incorporate the colleges, universities, hospitals and other institutions that make up the rather formidable Catholic presence in U.S. culture. The risk of jeopardizing the awesome amount of good work that issues daily from those Catholic institutions should be enough incentive to seek a change.

It is time to bring together a group of people to straighten out this mess. And the sooner the better. HHS Secretary Kathleen Sebelius, representatives of the Catholic community and other religious groups, those who understand clinical aspects of health care, and insurance experts should be called together soon and given a deadline for rectifying a bad decision.

[*This editorial appears in the Feb. 17-March 1 issue of the print edition of* NCR *along with other coverage of the Department of Health and Human Services mandate regarding coverage of contraception in health care plans.*]

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