

Lawyer: Christians united in opposition to HHS contraceptive mandate

Andy Telli Catholic News Service | Mar. 7, 2012



David French, senior counsel for the American Center for Law and Justice, gestures during a Feb. 28 panel discussion on "Current Threats to Religious Liberty: The Right of Conscience Under Attack" at Aquinas College in Nashville, Tenn. (CNS photo/Andy Telli, Tennessee Register)

NASHVILLE, Tenn. -- The new federal mandate that employers provide free insurance coverage for contraceptives that can be abortifacients, sterilizations and other services has united Christians across denominational lines, said a lawyer for the American Center for Law and Justice during a panel discussion at Aquinas College in Nashville.

"They understand it's not about contraceptives but religious liberty and abortion," said David French, senior counsel for the center who lives in Columbia, south of Nashville.

Although Catholic bishops have been fighting increasing attacks on religious freedom for a while, "it is heartening to see the outrage with which the Protestant community has met the mandate," French said. "The unanimity of the bishops has given the Protestant community a spinal transplant."

French was joined in the discussion Feb. 28 by Richard Land, president of the Southern Baptist Convention's Ethics and Religious Liberty Commission since 1988, and Geoffrey Surtees and Francis J. Manion, both Catholics living in Bardstown, Ky., and serving as staff attorneys for the center.

The Washington-based center, founded in 1990 by the Rev. Pat Robertson, focuses on pro-life and religious liberty issues.

The discussion on "Current Threats to Religious Liberty: The Right of Conscience Under Attack" was part of Aquinas College's spring lecture series.

The threat to religious freedom represented by the contraceptive mandate "is as serious as any threat we've faced in my lifetime," said Land. "This regulation ... is just the first swing of the club."

"It's compulsory participation in the sexual revolution ... one that in many ways will trump the original American Revolution" and the religious freedoms enshrined in the U.S. Constitution, French said.

The mandate includes an exemption for religious institutions but the U.S. bishops have said it is so narrowly written that it would not include Catholic schools, hospitals or social service agencies.

Employers who don't provide the mandated coverage would be subject to substantial fines, Surtees noted. "The mandate requires religious institutions and others to pay the government to follow their conscience," he said. The nation's founders "would be aghast."

Although the mandate is part of the Patient Protection and Affordable Care Act, the health care reform law, Manion warned against broadening the attack against the mandate to an attack on health care reform.

The contraceptive mandate "is not a necessary result of health care reform," said Manion, who noted that the U.S. bishops have supported comprehensive health care reform for decades. Even before the Obama administration won passage of its health care reform, the bishops have consistently made the argument that the country can have health care that includes conscience protections for those who have moral and religious objections to some medical procedures, Manion said.

Objections to the mandate are not about limiting access to contraceptives, Manion said. "We're simply saying don't make us pay this."

Manion noted that even Catholics who have supported President Barack Obama in the past raised objections to the contraceptive mandate and its impact on Catholic institutions. "I don't want to see this mandate become completely politicized," he said, because conservative and liberal Catholics need to be united in their opposition to stop it.

"What we have to fear is a divide-and-conquer strategy" by the mandate's supporters, French said.

In the face of rising objections to the mandate, Obama announced an accommodation for employers who objected to providing the coverage on religious or moral grounds by shifting the requirement to pay for the services from the employer to their insurance carrier.

Land called the accommodation "a difference without a distinction," noting that many religious institutions, including several associated with the Southern Baptist Convention, are self-insured.

French called the mandate the "poisonous fruit" of two political and societal trends: the separation of church and state and "the explosive growth of the regulatory state." The result, he said, is that religious institutions must subordinate their beliefs to the dictates of the state or cede the field to the government.

If the regulations forces religious institutions to stop providing services, Surtees asked, what will become of people who depend on those services?

The mandate was a political miscalculation by the Obama administration, Land said. The president and his advisers saw polls that show many Catholics have used artificial birth control despite church teaching against it, he said, and thought they could drive a wedge between the laity and the bishops.

"They didn't understand that even if (laypeople) disagree with the bishops they don't want the government to tell the bishops what to do," Land said. "They didn't listen to the Catholics in the White House," he said, noting that several Catholic advisers to the president, including Vice President Joe Biden and former White House Chief of Staff William Daley, argued strongly against the mandate.

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