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Jurist Predicts "Terrible Conflict" Will Endanger U.S. Catholics' Religious Freedom

Washington DC, Jan 21, 2009 (CNA).- Former Supreme Court nominee Judge Robert Bork has predicted that upcoming legal battles will have significant ramifications for religious freedom. He names as issues of major concern the continued freedom of Catholic hospitals to refuse to perform abortions and the likely "terrible conflict" resulting from the advancement of homosexual rights.

Speaking in an interview published Tuesday by Cybercast News Service, Judge Bork discussed the contentious nature of modern politics.

"Everything is up for debate these days. I can't think of anything that isn't," he said.

"You are going to get Catholic hospitals that are going to be required as a matter of law to perform abortions," he claimed.

"We are going to see in the near future a terrible conflict between claimed rights of homosexuals and religious freedom... You are going to get Catholic or other groups' relief services that are going to be required to allow adoption of a child by homosexual couples. We are going to have a real conflict that goes right to the heart of the society."

Asked whether there was a freedom of conscience clause anywhere in the Constitution that might prohibit the U.S. government from compelling a religious hospital to perform abortions, he replied:

"Well, the free exercise of religion clause might fulfill that role."

He agreed with the CNS interviewer, Editor in Chief Terry Jeffrey, that such coercion forces someone to act against their religion and could be construed as a violation of the right to free exercise of religion.

However, Judge Bork was unsure about whether the U.S. Supreme Court would uphold such a right. He predicted the decision would rest with Supreme Court Justice Anthony Kennedy, who in some cases sides with liberals and at other times with "originalists," those who profess to hold a more tradition-minded interpretation of the U.S. Constitution.

"It depends upon Anthony Kennedy," Judge Bork told CNS. "Now, it's a funny situation in which the moral life of a nation is in effect decided by one judge, because you have four solid liberal votes, four solid originalist votes, and one vote you can't predict too accurately in advance."

Though Justice Kennedy is a Catholic, he sided with the majority who upheld the pro-abortion rights Supreme Court decision *Roe v. Wade* in the 1992 case *Planned Parenthood v. Casey*.

Judge Bork said that a decision involving the freedom of Catholic hospitals to refuse to perform abortions would split by a 5-4 vote.

"But I don't know which way," he added.

The Cybercast News interview with the jurist also touched upon the place of religion in public life.

"I don't think the disputants talk much about God anymore," Judge Bork commented. "That's one

of the things that I think is regrettable--and I know liberals have said the same thing, it is not a conservative position particularly--but it is regrettable that religion has dropped out of our public discourse. I think it impoverishes it and makes it more violent.”

He explained that he believed this violence was not armed conflict, but rather “violent language and propaganda.”

Judge Bork said he also thought that America is “now going down a path towards kind of a happy-go-lucky nihilism.”

“A lot of people are nihilists,” he continued. “They don’t think about religion. They don’t think about ultimate questions. They go along. They worry about consumer goods, comfort, and so forth.

“As a matter of fact, the abortion question is largely a question about convenience. If you look at the polls about why people have abortions, 90 percent of it has nothing to do with medical conditions. It’s convenience. And that’s I think an example of the secularization of an issue that ought to have a religious dimension.”

When asked whether a nihilistic society can remain “happy-go-lucky” for long, Judge Bork replied:

“I don’t know. I guess we are going to find out.”

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