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'Freedom of Choice Act' nightmare for bishops, pro-lifers

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Baltimore
America?s Catholic bishops have been talking about abortion and politics at least since the 1973 Roe v. Wade decision, but their discussion this week in Baltimore had a special sense of urgency ? driven by what many bishops and their pro-life advisors regard as a looming nightmare scenario under the new Obama administration in the ?Freedom of Choice Act,? or FOCA.

Candidate Obama pledged to support the Freedom of Choice Act, which was first introduced in congress in 2004 but to date has not made it out of the committee stage. It acknowledges a ?fundamental right? to abortion during the first trimester of pregnancy and at subsequent stages for health reasons. It would also bar discrimination in the exercise of the right ?in the regulation or provision of benefits, facilities, services or information.?

In effect, FOCA could undo most, or even all, of the existing restrictions on abortion under a patchwork of state and federal laws. Experts say that around the country there are currently some 300 such restrictions, including parental notification laws, waiting periods, requirements of full disclosure of the physical and emotional risks inherent in abortion, and limits on partial birth abortion.

Supporters say the measure would simply ensure that existing abortion rights are not eroded piecemeal; critics call FOCA a massive expansion of abortion rights, which could, among other things, force Catholic hospitals to choose between providing abortions or closing their doors. Opponents also say that FOCA would effectively repeal the Hyde Amendment, which restricts the use of federal funding for abortions, though some legal scholars dispute that view.

Obama was not an original co-sponsor of FOCA in the Senate, but in a 2007 speech to the Planned Parenthood Action Fund, Obama reportedly said that signing the act would be ?the first thing I?d do as president.?

One measure of the anxiety among the bishops is that when Cardinal Francis George of Chicago, president of the conference, floated some ?talking points? on Tuesday for a statement on politics under Obama, he alluded to FOCA but did not mention it by name. Several bishops, including Cardinal Edward Egan of New York and Archbishop Joseph Naumann of Kansas City-Kansas, insisted that FOCA be explicitly denounced in the text, and in the end George followed their lead.

?FOCA would have lethal consequences for prenatal human life,? says the statement released by George, in the name of all the bishops, on Wednesday.

?It would be an evil law that would further divide our country, and the church should be intent on opposing evil.?

The U.S. bishops gathered for their regular fall meeting Nov. 10-13 in Baltimore, their first meeting since the election of Barak Obama to the presidency.

In September, Cardinal Justin Rigali of Philadelphia, chair of the Committee on Pro-Life Activities of the U.S. bishops, sent a letter to every member of congress asserting that under FOCA, ?For the first time, abortion on demand would be a national entitlement that government must condone and promote in all public programs affecting pregnant women.?

Opponents of FOCA worry that it would make abortion as a fundamental right in American law, which could end up pressuring Catholic hospitals and other faith-based providers to provide abortion services in violation of their religious beliefs.

During floor debate in Baltimore, Auxiliary Bishop Thomas Paprocki of Chicago sounded this alarm most clearly.

?It could mean discontinuing obstetrics in our hospitals, and we may need to consider taking the drastic step of closing our catholic hospitals entirely,? Paprocki said. ?It would not be sufficient to withdraw our sponsorship or to sell them to someone who would perform abortions. That would be a morally unacceptable cooperation in evil.?

In a news conference yesterday in Baltimore, George called such fears are ?well-founded,? because ?once something is enshrined as a right in law, then I have no authority to deny it to someone.?

Even voices in the conference typically seen as ?moderates? on most political and theological issues seemed to regard FOCA as a bridge too far.

Archbishop George Niederauer of San Francisco, for example, said that the Catholic church needs to make the case against the measure ?early and often, both with members of congress and with the new administration.?

Niederauer suggested that it would be a mistake to interpret Obama?s victory as an endorsement of the Freedom of Choice Act, known as FOCA.

?If you look at exit polls, you will not find very many people who came out of the polling place and said their vote for either candidate was based on FOCA,? Niederauer said. ?Many wouldn?t know what it is.?

On the basis of their discussions in Baltimore, it seems clear that the U.S. bishops are gearing up for a major fight with the new administration should it choose to move forward with FOCA.

The Obama transition team has already indicated that the new president intends to sign executive orders lifting restrictions on federal funding for embryonic stem cell research, as well as reversing the ?Mexico City Policy? which prohibits government-funded NGOs from counseling women on abortion. Those acts, largely predictable with any Democratic administration, will draw protest from the bishops? conference and from the pro-life community.

Judging by the discussion in Baltimore, however, it would seem that FOCA would draw more than the pro

forma round of press releases and statements. It could unleash a bitter struggle between the new administration and the leadership of the Catholic church ? leadership which, for once, seems remarkably compact, at least on this particular bill.

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