Is there a place for one’s religious views in Australian politics, law and public administration?

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It was very prescient of your president James Varghese to invite me to address you on the night before the rolls are closed for the 2007 federal election. You could almost be forgiven for thinking that he arranged things so that I would be given an opportunity to respond to my co-religionist Tony Abbott who earlier this week moved into top election gear, reading the Riot Act to the churches. Speaking with his old mate Paddy McGuiness at the Institute of Public Affairs, Abbott observed that “a political argument is not transformed into a moral argument simply because it’s delivered with an enormous dollop of sanctimony. I do think that if churchmen spent more time encouraging virtue in people and less time demanding virtue from governments we would have ultimately a better society”.¹

Of course, it is not an “either – or” proposition. We can walk and chew gum at the same time. We can always be encouraging virtue in the citizens while also, from time to time, demanding virtue from governments. The combination of virtuous citizens and virtuous government could make for an even more virtuous society.

Having recently published a book entitled *Acting on Conscience*, I am delighted to have the opportunity to address the question: “Is there a place for one’s religious views in Australian politics, law and public administration?” One of the great moral philosophers of our time is Alisdair Macintyre who published his very influential book *After Virtue* in 1981. He wrote:²

> What matters at this stage is the construction of local forms of community within which civility and the intellectual and moral life can be sustained through the new dark ages which are already upon us…This time however the barbarians are not waiting beyond the frontiers; they have already been governing us for quite some time.

I hasten to add that he is not Australian and he wrote these words long before Paul Keating or John Howard was Prime Minister. In quoting him I am not making a party political point but rather a point about our cultural context.

Macintyre has recently published a volume of essays on *Ethics and Politics*. In his essay, “Social Structures and their threats to moral agency”, he considers the case of J, a person like all of us nowadays. He lived an increasingly compartmentalized life. He was a father, a husband, a member of a sports club, a worker in the railways etc. Over the years, he worked hard and was promoted in the railways. “The key moral concepts that education had inculcated in to J were concepts of duty and responsibility”.

Macintyre says, “A philosopher who comes across the likes of J will understand his attitudes as cultural parodies, in part of Plato (conceiving of justice as requiring that ‘each do her or his own work and not meddle with many things’) and in part of Kant (doing one’s duty and not for the sake of any further end), authors who had influenced J’s schoolteachers.”

Early in his career J was curious about what “his” trains were carrying – wheat or pig iron, tourists or commuters. He was told by superiors not to take any notice of such things. He was not to be distracted. He should not be a busybody. He should stick to his last, and just to do his job. Over the years he was promoted and became professionally disinterested and uninterested in what or who his trains were carrying and why. Ultimately his trains were carrying munitions and Jews to extermination camps. When confronted with this dreadful reality after the war, he pleaded: “I did not know. It was not for someone in my position to know. I did my duty. I did not fail in my responsibilities. You cannot charge me with moral failure.”

As moral agents, we are responsible for our intentional acts, for incidental aspects of those actions of which we should be aware, and for at least some of the reasonably predictable effects of those actions.

In our different roles, we acknowledge the authority of evaluative and normative standards embodied in our particular social and cultural order. But as moral agents, espousing the virtues of integrity and constancy across roles and in each of our roles, we also acknowledge standards independent of those embodied in our social and cultural order – standards we can use to critique our social and cultural order.

Macintyre posits an “indispensable moral maxim” for us in the modern world: “Ask about your social and cultural order what it needs you and others not to know”. We must presume J was sincere. Macintyre is adamant that even if J did not know, he and others like him “remained guilty and .. their guilt was not merely individual guilt, but, the guilt of a whole social and cultural order”.

We might debate the extent of J’s guilt, but we cannot seriously question his responsibility – individual and collective. Looking back, J and his associates should be heard asking, “How did we let that happen? How did we contribute to that situation? How could we have avoided that situation, or at least helped to put a stop to it?”

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4 *Ibid* 203
In our increasingly globalised world, we need to be educated into acknowledging the interdependence of our situation with the situation of others who do not enjoy our peace, security and abundance. We need to take a stand in solidarity, overcoming the social isolation imposed by our privileged place of peace, security and abundance. We need to take human rights seriously. A person’s religious views can help them overcome the compartmentalisation of life and the stereotyping of political argument, even in the fray of an election.

We Australians are fortunate to live in one of the world’s freest, most secure, and well endowed countries. We prize the rule of law and we enjoy the benefits of a robust democracy. On the cusp of a tightly fought election, community groups, including churches and other religious groups, are able to organise and call for a reckoning from their candidates. Security and national economic growth are always the big ticket items for the electorate choosing between the major political parties. Some voters see little to separate the major parties on those items and thus look to other issues or reasons to determine their vote. Some other voters prefer to give a higher priority to other questions which do not enjoy the same populist support as security and the economy.

There are some citizens whose religious views motivate them to look beyond their own self interest, class interest and even short term national interest in demanding that their elected representatives be attentive to the rights and claims of all, including the poor, disadvantaged, marginalised and those who are “other”. Some of the hot button issues that command their attention are bills of rights, the death penalty, the Pacific solution and the temporary protection visa, the criteria for choosing refugees, collective bargaining, the treatment of suspected terrorists, the curtailment of civil liberties to counter terrorist threats, and the federal intervention in the Northern Territory including the legislative interference with land rights, welfare rights, and CDEP (the Community Development Employments Projects). On some of these issues, it is nuance rather than light separating the major parties. On others, real differences may be emerging.

Without a national bill of rights, we Australians have often had to rely upon the Senate to keep in check any excesses of Executive power in legislation proposed by the government of the day. Minor parties have added texture to our democratic processes. In the present parliament, the government has controlled the Senate with the result that our main check on Executive power has been idle. There has been little point in putting arguments to Senate committees when the legislative result is a foregone conclusion. Over the past three years, I have not bothered to appear before a Senate committee. There has been no point. Without deliberative debate in the Senate, citizens are left more in doubt whether government has struck the appropriate balance between individual liberty and the national interest. Ironically, this may have harmed government as much as its opponents. We are left more dependent on individual politicians taking a stand in the party room.

Even when the government does not control the Senate, there are times when the major parties agree on policies which over time are seen to work violence to basic human rights. In 2002, while community groups, including the churches, agitated against the long term migration detention instituted by Labor and continued by the Coalition, it was commonplace for the Minister for Immigration to affirm: “Detention
is not arbitrary. It is humane and is not designed to be punitive.” Unvisaed asylum seekers including children were being held in hell holes like Woomera. Health professionals were reporting that “prolonged detention of asylum seekers appears to cause serious psychological harm.” It took another three years for the Migration Amendment (Detention Arrangements) Bill to be passed. The government backbencher Bruce Baird echoed much of the community outrage at mandatory detention of children when he told Parliament: “I am sure that all members from both sides of this chamber would absolutely endorse this as fundamental. Let us never again see children in detention in this country. They should not be behind barbed wire or razor wire. It is an indictment that we have let it happen. Both sides of the House have been involved in that but we are changing this process through the bill. I really stress the importance of these changes.”

There are times when we Australians get the balance between national interest and individual liberty wrong, especially when the individual is a member of a powerless minority. Religious voices have a place when we attempt to correct that balance.

Manning Clark once described Australia as “a society unique in the history of mankind, a society of men holding no firm beliefs on the existence of God or survival after death”. In the public forum, our leaders do not often speak religious thoughts or admit to religious impulses. Thus my own surprise when I attended the mass celebrated by Bishop Carlos Belo in the Dili Cathedral in 2001 giving thanks for Australia’s contribution to the liberation of East Timor. I describe the event in the Epilogue of Acting on Conscience. At the end of the mass, Major General Peter Cosgrove spoke. This big Australian army officer in military dress was accompanied by a translator who was a petite Timorese religious sister in her pure white habit replete with veil. He recalled his first visit to the cathedral three months earlier when he was so moved by the singing that he realised two things: first, the people of East Timor had not abandoned their God despite everything that had happened; second, God had not abandoned the people of East Timor. As he spoke, I was certain that despite the presence of the usual media scrum, not one word of this speech would be reported back in Australia. It was unimaginable that an Australian soldier would give such a speech in Australia. If he were a US general, we would expect it. Here in Australia, the public silence about things religious does not mean that religion does not animate and inspire many of us. It just has a less acknowledged place in the public forum. It marks its presence by the reverence of the silence. That is why we Australians need to be attentive to the responsible mix of law, religion and politics. Each has its place and each must be kept in place for good of us all, and for the good of our Commonwealth.

Those who have recently held the highest political office in the land have had occasion to tell religious people, and not just Sheikh Taj el-Din Al Hilaly, to butt out. At the height of the 1998 Wik debate, Paul Keating said, “Talk about Meddling priests! When Aborigines see Brennan, Harradine and other professional Catholics coming they should tell them to clear out.” John Howard when questioned about his Workchoices legislation prior to the addition of the fairness test, in light of the interventions by the likes of Cardinal Pell, Archbishop Jensen, Archbishop Aspinall

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5 Hansard, 21 June 2005, p. 91
and Bishop Manning, said: “If we are to have a sensible debate on the merits of this legislation, my advice to every person on this side of the House is: let’s leave out of the debate indications by the clergy to either side of the argument.”  Perhaps if they had listened to some of the clergy back then they may have introduced the fairness test much earlier and avoided some of the political problems with the sale of Workchoices.

When politicians start referring to a group of citizens as the mob or a crowd, you know you are in desperate tabloid territory. This week Tony Abbott said: 

What the Catholic Social Justice crowd are really saying is that according to their criteria of morality, no individual could be worse off in order to make any other individual better off. If for argument’s sake it might under certain circumstances be considered just to say to someone with two overcoats we’re going to take one of your overcoats away so that someone with no overcoat can have one, why couldn’t you, at least hypothetically, say justly to someone earning a high wage that we will somewhat reduce your wage so that another person can be employed?

Bishop Manning, the Bishop of Parramatta which includes all the western suburbs of Sydney where ozzie battlers abound has been a long time critic of industrial laws which deny workers the right to collective bargaining. He thinks Abbott sounds like “someone who is panicking”.  Considering the substance of Abbott’s concerns, who are those who have had to forego a fair wage so that others might simply work? Abbott says, “The challenge for Christian critics of the Government’s industrial relations policy is to explain how 10.9 per cent unemployment under the former government is more fair and more just than 4.2 per cent under this Government”.

10.9% unemployment is not more fair and more just than 4.2% unemployment. But those who are employed in a low unemployment market should still be paid a fair wage and should be employed on fair conditions. The debate is about determining what is fair for the low paid, insecure workers. We need to find the appropriate point on the spectrum between job insecurity and low pay that suits the employer who might not be otherwise minded to employ so many people and job security and higher pay which may serve as a disincentive for the employer to employ that many people. The test should still be one of fairness. It is not answered by simply comparing unemployment rates without also considering the conditions of employment. The political issue for resolution at the polls is: has this government gone too far in placing an undue burden on those in the job market who are low paid and insecure? Citizens with religious views are as entitled as anyone else to express a view, and they are entitled to invoke their religious tradition and teaching to support their perspective. One letter writer to The Australian this morning observed, “Unskilled workers are the ones who will end up giving away their coats while the wardrobes of the more powerful continue to expand.”

There is one matter that no major political party wants to talk about: the need for a return to greater parity between all levels of the wages scale. We are enjoying boom times but the distribution of the benefits is

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6 Hansard, Question Time, 8 August 2006, p. 12
7 ABC PM 11 October 2007
8 The Age, 12 October 2007
9 Quoted in The Age, 12 October 2007
more inequitable than ever. Kim Beazley in his farewell speech from parliament quoted the US figures and presumably the trend is the same here:\footnote{\textit{Hansard}, 20 September 2007, p. 41}

\textit{In 1972 the average CEO earned 30 times that of the average operative. In 1997 it had risen to 116 times that earned by the average operative, and last year it was 300 times that earned by the average operative.}

There is a place for unelected citizens with religious views to express their concerns about wage justice in season and out of season.

We Australians are used to politicians, public intellectuals and media figures who have little time for religion in their own lives or in the public forum. Mark Latham put such views on public display when he published his diaries detailing his “first law of the church”: “the greater the degree of fanaticism in so-called faith, the greater the degree of escapism either from addiction (alcohol, drugs, gambling or sex) or from personal tragedy…..Organised religion: just another form of conservative command and control in our society.”

My book \textit{Acting on Conscience} is a plea for a rightly circumscribed place at the table for religion in public deliberation about law and policy. I hope I have set out rules for engagement which apply equally to me, Sheikh Hillal y and Archbishop Aspinall, the Anglican Primate who did the Queensland launch of the book here at St John’s Cathedral. When Kevin Rudd did the national launch at Parliament House in Canberra he observed, “Some have called (Frank) a “meddling priest”. I have always seen him, less prosaically, as an ethical burr in the nation’s saddle.” Rudd’s Bonhoeffer lecture established his credentials as a politician who takes religion seriously in the political process. \textit{The Australian} newspaper asserted that Kevin went “a step too far when he effectively invite(d) the churches to sign on to the Labor cause.” He did no such thing. He rightly said, “For too long in this country, there’s been an assumption that if you have private faith your natural destination is one of the conservative parties.” He invited individual Christians to respond to the political challenges of the day in light of their faith. He also endorsed the role of church leaders who have spoken out on issues such as the new IR laws. Why shouldn’t they? Church leaders do have a contribution to make to political debate when they confine themselves to statements of principle consistent with their religious teachings and when they scrutinise laws and policies in light of those principles.

Some citizens have religious beliefs which sustain, inform and drive their social commitments and comprehensive view of the ultimate significance of human existence. Those views are entitled to a place at the table of deliberative democracy, just as are the views of the secular humanist. The secular humanist cannot say, “You believe life is a transcendent mystery. I don’t. Therefore we should for the purposes of good civic life simply assume that there is no transcendent mystery to life, and anything you think, feel or desire should be translated into a message comprehensible to me.”

The utilitarianism of pragmatic Australia has always required an ethical corrective which has often been informed by religious sentiment, whether the issue of the day be the dispossession of Aborigines, refugee children in detention, our commitment to the Iraq War for unjustified, wrong reasons, or the wanton corruption of AWB and HIH -
the corporate culmination of the “whatever it takes” mindset. Religious citizens have a role in calling a halt to the pragmatism and insisting that some things are wrong in themselves regardless of the practical consequences for others in the short term. I am not suggesting that it is only religious citizens who call for such a halt, nor that it is only non-religious citizens or state officials who commit the abuses in the name of national interest or profit.

The state needs to respect the inherent dignity of every person and this requires due acknowledgement of the person who acts with a formed and informed conscience about what is right for him and for others. The state is entitled to constrain a person who acts in a manner contrary to the fundamental human rights of other citizens or contrary to the public interest, given that the public interest includes optimal freedom for all persons. The person who occupies an office of trust in any of the three arms of government is required to discharge that trust consistent with the terms of the office.

Religious leaders are free to proclaim the formal teaching of their faith communities, not only to their members but to all members of society. As citizens, they are entitled to agitate for laws or policies consistent with their formal teaching. It is not only folly but it is wrong for religious leaders to represent to the world that all members of their faith communities think and act in a way fully consistent with the formal church teaching, or that most of their members think law and policy should reflect their formal church teaching.

When people like me agitate for native title or refugees, politicians tend to treat us as if we are trendy lefties, spared the need to be elected. But when I, hoping to apply a consistent ethic for the protection of the vulnerable, raise ethical quandaries about legislation on things like embryonic stem cell research, I am labelled a conservative Catholic. Last year I was in the office of Senator Connie Fierravanti Wells. Connie was on the speaker phone to the lovable Queensland Senator Ron Boswell and said she was meeting with me. Ron said, “I hope he’s not here about native title or refugees.” I was able to still his fears and reply, “No Ron, just stem cells.” On that we were comrades in arms.

Imams should have the same liberty as the rest of us to ventilate their views. But they should also be guided by the same rules of political morality which is more than the expedient assessment of what works in the marketplace of ideas. Public figures who represent a religious tradition have a social obligation to respect the sensibilities of the community, while cogently stating policy options consistent with their religious tradition. There is nothing prophetic or religious in claims that demean the weak or the vulnerable. Without media oxygen, such claims can rightly wither.

When considering the Church’s voice in the public square, we need to distinguish questions of principle, prudence and pastoral solicitude. On an issue such as embryonic stem cell research, a church leader is surely entitled to take a stand on principle, informed by his religious tradition, opposing legislation aimed at permitting scientists to create human life for destructive experimentation. We move from questions of principle to issues of pastoral solicitude when a church leader chooses publicly to give hints of sanctions against co-religionist legislators as Cardinal Pell and Archbishop Hickey did in June this year. Some pastors, myself included, think such suggestions should take the form of private advice rather than public hints; and public hints should always be preceded by private dialogue. There is also the pastoral consideration to be paid to those legislators and scientists who, in good faith, do not
share our theological and philosophical presuppositions. There are good pastoral reasons for not classing them as “anti-lifers” and for avoiding analogies between a church and a political party, suggesting, as Cardinal Pell did, that “just as members of a political party who cross the floor on critical issues don’t expect to be rewarded and might be penalised, so it is in the church” 12.

Then there is the prudential side of every such public dispute. Media attention is more assured if one simplifies the protagonist’s position as Cardinal Pell did when speaking of “today’s fashionable notion of the primacy of conscience, which is, of course secular relativism with a religious face.” 13 But is it prudent to so simplify the protagonist’s position as to caricature it? Is it prudent to hint in the public square at internal church sanctions when that could distract from, and even drown out, the coherent church statements of principle addressing a legislative or policy proposal? Church leaders and religious spokesmen need to learn lessons of political prudence when it reaches the stage that a government minister sees fit to inform the Parliament, “As a Catholic I am saddened by the published stance of Cardinal Pell and I make it clear that my decision to vote against the bill should in no way be interpreted as an endorsement of the Cardinal’s statements earlier this week.” 14 In the public square, church authorities are armed only with public argument informed by and consistent with their religious tradition. Cardinal Pell is surely right when he says, “What we have to do is to try to establish rational principles that will be recognised as such by people of little religion, no religion or plenty of religion.” 15 Persuasion by argument, not coercion by authority, should be our religious hallmark in the public square. Greater ecumenical co-operation usually ensures that our message in the public square is more marked by persuasion than coercion.

There must always be room for diverse viewpoints on pastoral solicitude and prudent political action, even when there is unanimity within a religious tradition on questions of moral principle. To adapt slightly the words of Cardinal Pell in his interview on national radio after the New South Wales parliament’s stem cells debate: Our role as pastors and teachers in the public domain “is to state what is the Catholic position and to explain the rational basis for that position so that people of no religion, or a lot of religion, or a little religion can at least understand what (we are) saying and potentially agree with (us).” 16 Greater dialogue within and amongst churches and faith communities could only enhance the prospects of our message being heard and taken up beyond the confines of our own pews.

We might continue to debate the parameters for the expression of religious views in Australian politics, law and public administration. But let’s abandon once and for all the notion that society would be the better if religious views had no role or place at the table of public deliberation on contested policy questions. A plurality of religious and secular views allows you more readily as members of the polity to “Ask about your social and cultural order what it needs you and others not to know”.

12 G. Pell, Sydney Morning Herald, 8 June 2007
13 Ibid.
14 Kevin Greene, Minister for Community Services, Hansard, NSW Legislative Assembly, 6 June 2007, p. 951
15 G. Pell, Interview with Monica Attard, ABC Radio, 17 June 2007
16 Ibid.