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The Embryo Stem Cell Debate

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In this issue

The Senate passed the Research Involving Embryos Bill 2002 on 5th December. It remains to be seen whether the Bill will establish the 'strict regulatory regime' that it promised. In the meantime it is worth reflecting on the debate surrounding the passing of the Bill. The first article in this issue does just that. In the second, Mary Byrne reviews the published version of a series of lectures on the relationship between morality, the law and religion given by Samuel Gregg to the Thomas More Society in 2000.

We wish our subscribers a very happy Christmas and we look forward to our continuing association in 2003.

**ALSO ENCLOSED WITH THIS
ISSUE IS THE 2003 RENEWAL OF
SUBSCRIPTION FORM.**

As we go to press the Senate has passed the Prime Minister's "compromise" bill to allow existing "surplus" human embryos to be used, under reasonably strict conditions, as a source of stem cells. The proposed compromise is, however, doomed to failure because it does not deliver what many scientists actually want – namely freedom to create and/or to clone *new* embryonic stem cells.

Scientists will want stem cells from new sources because they know that cells derived from surplus embryos do not have a therapeutic use, not least because their use would involve the same problems of tissue rejection that currently occur with organ transplants (the source embryo will be genetically unlike the recipient). In the long term, stem cell therapies would have to rely either on a patient's own "adult" stem cells (as is already possible in a few cases) or on stem cells derived from cloned human embryos. In the short term, therefore, the most that experimentation on existing embryos might provide is some general knowledge about stem cell function.

Because the scientists and the commercial ventures working on embryonic stem cells will not be satisfied by the supply of existing

embryos, a new debate over using human embryos from other sources – i.e. embryos specially created for scientific purposes, either by fusing sperm and ovum, or by a cloning technique – is inevitable, and sooner rather than later. In preparation for that debate, and despite the passing of the current legislation, a number of the claims widely made about embryonic stem cells deserve a critical response.

Claim No 1: There is a fundamental distinction between “embryos for implantation” and “surplus IVF embryos”.

This is a distinction without a difference. “Surplus embryos” from IVF programmes and “embryos for implantation” are just embryos. These different designations signal no more than the proposal to select some embryos for implantation and to select others for experimentation. It is socially undesirable, and morally wrong, to promote the idea of two classes of human embryos: (1) those wanted by loving parents and (2) those who are a resource for science – and with no one to speak on their behalf. (Of course, given modern IVF techniques, there should be no “surplus embryos”: they should never have been created.)

Claim No 2: So-called “surplus embryos” are destined for destruction anyway. Since they are going to be destroyed, it would be better to allow them to be used in research.

This claim is based on the assumption that all that matters ethically is the “outcome” of a proposal. That assumption is false. There is a very great difference between, on the one hand, dismembering an embryo for experimental purposes and, on the other,

allowing an embryo to die unviolated. Of course it is true that in each case the embryo will die in the end. But just as there is a significant difference between the death of a person who is deliberately killed and the death of someone who dies from natural causes, so there is a significant difference between an embryo being deliberately dismembered and it dying naturally. The embryos to be experimented upon will most certainly die by dismemberment. Dismembering them, rather than allowing them to succumb unviolated, merely adds insult to the injury of their “surplus” creation and “unwanted” status.

In addition, it is arbitrary and unjust to select one embryo for implantation into a woman, thus giving it a chance to realize its developmental potential, and to select another for death by dismemberment.

Claim No 3: Human embryos in themselves are not the kind of being deserving of a respect which would rule out our using them in research: they are not “persons” (or “human beings” or “human persons” or “people”, or whatever one chooses to call the kind of being which should never be treated merely as a means but always as an end in itself).

Answers to the question who is, or what constitutes, a “person” depend on how one understands the concept of person. That concept is not a scientific or factual one. It is a philosophical one. The common understanding of *person* in our culture has been shaped by modern philosophy’s emphasis on *self-consciousness* as the mark of personhood. If only *conscious beings* can be persons, then – on this modern view – some will begin to wonder whether a severely

demented or a brain-damaged patient is still "a person". A much older understanding of person, however, located personhood in the dignity of a being's *rational nature*, irrespective of whether that being is conscious at a particular phase in his or her life. On this traditional view there is nothing problematic about saying that an unborn child or a persistently unconscious patient is a person, for they are truly our fellow human beings, sharing our rational human nature.

Because of the different ways in which the term "person" is understood in our culture, in addressing the status of human embryos we would do better to focus on what it is to be an *individual human being*. As Pope John Paul II notes in his encyclical *The Gospel of Life*, a human life begins at fertilization, a life that is neither that of the father nor the mother – and so the onus of proof is on anyone who would claim this *new human individual* is not a human person.

The key to understanding what a human embryo is lies in the connection between a human embryo and an adult member of the human species. As Aristotle argued, the question of *what* something is can be interpreted in different ways. At the "material" level, an embryo is simply a group or collection of cells (or, is just one cell – at the point when fertilization is completed). However, this answer does not tell us "formally" what an embryo is because it omits the most important truth about these cells (or about that first cell). These 1 or 2 or 4 ... cells are not simply cells that happen to be contiguous, to be collected in a dish together; these cells *are* a human embryo, they share in a single "act of living" which is that of a new human individual at the very earliest stage of its development. In short, a human embryo in itself is a single, integrated and developing organism with a life and identity of its own.

An embryo is not merely a living, cellular mass (although that's one answer to the question of what it is). More importantly, an embryo is an organised being that normally is in the process of maturing to the next stage

of human development (that's the other, crucial answer to the question of what an embryo is). It is true that there are embryos that are no longer able to mature as a member of the human species (because of some inner defect). But the normal embryo does possess this potential and will, in an appropriate environment, realize this potential. That is to say, "potential" is not just an external way of speaking about the embryo (as "surplus" is); it marks an intrinsic quality of the embryo, its individual human nature, that which explains its characteristic development.

It is this potential that explains why we should accord the embryo a kind of respect that is distinct from what we accord parts of the human body, or pieces of human tissue. It is this potential which makes irrelevant the facts that occasionally an embryo splits into two embryos and occasionally two such embryos recombine: in each circumstance there is an embryo (or more than one embryo) with the developmental potential to become an adult member of the human species. And it is the continuity of the embryo's development according to this potential that makes arbitrary any line drawing between one stage and the next. Embryos are "potential children" in the same sense in which children are "potential adults" – not by the addition of any external factor, but simply by becoming more truly what they already are, human beings.

Claim No 4: We need to do both kinds of research: experimentation involving embryonic stem cells and experimentation involving "adult" stem cells.

Statements of "need" are often no more than statements of desire. It is true that some scientists desire to investigate embryonic stem cells, and it is certainly true that they have orchestrated a public campaign to support

their cause. (Curiously most scientists have been content to allow the politicians whom they have "briefed" to make the overly optimistic claims about imminent medical advances. Privately scientists admit that therapeutic interventions are a very long way off.)

When we say that we "need" to do something, we mean (at least) that the doing of that thing is required in order to achieve some purpose. However, it is not obvious that experimentation on embryos is required for any therapeutic purpose: there are alternative sources of knowledge about human embryos (animal embryos) and alternative sources of knowledge about human stem cells (adult stem cells). Indeed if the purpose of work on embryonic stem cells is said to be the development of medical therapies, then it seems clear that adult stem cells hold out more promise than do embryonic stem cells. Of course there is still much to be learnt before reliable and safe therapies using adult stem cells are developed: but none of this substantiates the claim that we "need" to work with embryonic stem cells.

Current therapeutic successes all involve adult stem cells; "surplus embryos" will certainly not be used to develop therapies in the foreseeable future. The currently proposed experiments on embryos are chiefly for the sake of theoretical knowledge (e.g. in toxicology). In the short term, destructive experimentation on human embryos may lead to some new knowledge becoming available more quickly than would be the case if only adult stem cells were used for research. However, given that any therapeutic benefits directly obtainable from embryonic cells are a long way off (decades, centuries?), there is no reason to think that not allowing experimentation on human embryos will delay the development of therapies in any significant way.

Advance Notices for 2003

Intensive Bioethics Course

In conjunction with the Catholic Education Office of Sydney, the Plunkett Centre will hold its annual one-day intensive course on Wednesday 7th May at the Lidcombe Catholic Workmen's Club. The course is addressed to teachers of the NSW Board of Studies 'Studies in Religion' Course. See back page for further details.

Public Seminar on Welfare Ethics

The Plunkett Centre will host a one-day public seminar on the ethics of public welfare at the Australian Museum, Sydney, on Friday 22nd August. Speakers will include Professor Raimond Gaita of Australian Catholic University and Professor Warren Reich of Georgetown University.

Please notes these dates
in
your diary.

Morality, Law and Public Policy

A discussion of the relationship of these themes

Mary Byrne

The Australian Federal government recently debated legislation that would allow the destruction of embryos to facilitate research on embryonic stem cells. The political parties allowed their members a 'conscience' vote. However, some of the politicians who are known to profess a Christian faith were criticised in the media by proponents of stem cell research for looking to their religious belief in forming their conscience. Unfortunately, for most politicians, a conscience vote simply means they are permitted to express their own opinion on the matter. Even more unfortunately the politicians who do identify their faith commitment, and the stances they take because of that commitment, are accused of being unthinking, controlled by the leaders of their church. Both of these positions demonstrate a lack of understanding of the link between faith, morality and a person's act of faith, and the role of conscience. They also demonstrate a perspective on public debate that wishes to exclude some conceptions of life, and how life should be, that derive from a religious perspective. The challenge for these politicians, and for all people of faith, is to know how to participate in the public debate, and to continue fully to participate in such debates, while appealing to a view of the world that is shaped by faith.

In 2000 Samuel Gregg was invited by the Thomas More Society to give the 2000 Jubilee Lecture Series for the New South Wales Bar Association. The focus of the papers was the relationship between religious belief, morality, truth and law. The six papers have recently been published in a book titled *Morality, Law and Public Policy*.¹ In the foreword Gregg describes the two main purposes of his papers (Gregg, 2001, xiii).² The first purpose is to

identify and describe some of the major ideas that are currently shaping, or have the potential to shape, legislation, legal processes and public policy in modern liberal democracies. The second purpose is to describe how Catholics, especially Catholic lawyers, can participate as Catholics in public debate about areas of legislation and public policy. Gregg speaks from the perspective of the Catholic tradition, showing how a person can respond from within that tradition. Hence the major ideas presented derive from the teachings of the Catholic Church. However, many of the ideas will also appeal to others from different Christian traditions and other religious traditions (xiii).

In this article I will explore the ideas and theories that Gregg presents by seeking to apply them to the challenges facing Catholic politicians (and all Catholics who endeavour to participate in public debate). There are two major components to the criticisms faced by Catholic politicians. Firstly, they are criticised for following consciences formed in accord with the teachings of the Church. I will review Gregg's description of conscience to show that such politicians need not be unthinking followers. Secondly, politicians are criticised for presenting arguments and suggestions for legislation or policy that are substantive moral positions derived from the world viewpoint and teachings of the Church. I will review Gregg's arguments supporting a right to religious participation in public debate and his theory of 'perfectionist' law that allows for morally substantive content. A third question arises for ordinary Catholics in public debate. Why speak as a Catholic? In the final section I will also review the guidance Gregg offers for any Catholic seeking to

contribute to public debate. In order to understand Gregg's argument it is important to understand his philosophical basis. I will begin with a description of natural law as he presents it, and then give a short overview of the six papers.

Natural law

Gregg speaks from the perspective of 'new natural law theory', which he ascribes to John Finnis and Robert George. Natural law, as articulated within the Catholic tradition, begins with several basic premises. God is the creator. Hence, all beings in the universe owe their existence to God. The essence of the person is derived from God and reflects God's eternal thoughts and plans. These thoughts and plans constitute the unchanging truth about good and evil. Part of human dignity is the possession of reason and free will. Because human beings have reason they can seek to understand God's order (truth) and because they have free will they can freely choose to conform to God's order in their actions and lives. Consequently, ethical reasoning is about seeking an ever deeper knowledge of this unchanging truth (33).

Natural law derives originally from the philosophy of Aristotle who claimed that human beings have a purpose that is to be actualised. This purpose is described as human fulfillment and, in Christian terms, is understood in light of God's order and plans. It is within the nature of all beings to move towards actualisation or self-realisation. Self-realisation "comes from *consistently* choosing and acting for moral good" (14). In the 'new natural law' approach human nature is perceived as being constituted by a number of human goods or basic goods, such as the pursuit of knowledge, friendship and beauty. These goods are called "basic" because they give people reasons for acting without requiring any further justification. These goods are intrinsically appealing to human beings and are directed to human fulfillment (14-15). These basic goods are grounded in the nature of the human being. Therefore, it is possible to discover them by reflecting on this nature, on the essence of being human. Since there are various basic goods it is not

possible, or desirable, to attain all of them all of the time. Rather a harmonious balance should be sought dependent on the life of each person. It is also the case that the pursuit of some is incompatible with the pursuit of others and so a person has to choose the appropriate ones for her or his life (77).

Human beings are social and live in communities. In these communities the authorities (the state) determine and implement positive law. This is not just because humans are fallible and limits have to be defined. It is also a part of what natural law requires. Some natural law translates directly into positive law. These positive laws can be deduced from reflection on natural law and on the essence of the human being, e.g. the prohibition against killing another human being. However, other laws are more pragmatic and less directly derived from natural law, e.g. road laws. The road laws are designed to protect life, but no unique method of controlling traffic can be deduced simply from reflection on natural law. Further practical determination, taking into account the local factors, is needed (33-34).

This is the philosophical basis that Gregg uses in all the papers. In the following section I will present an overview of each paper, under the title of the paper.

The Papers

Dignitatis Humanae and Human Rights

The notion of 'rights' has been a part of the Catholic tradition for a long time (2). Appeals are made to rights in much of the public debate about policy and legislation. Gregg addresses the challenge of engaging in public discussion on rights in the first paper. He uses the document from Vatican II *Dignitatis Humanae*³ to present an understanding of rights, using religious liberty as an example. In *Dignitatis Humanae* rights are grounded "*within* the human person" (4). This means that people are the bearer of rights by nature which are directed to realising fulfillment as a person. So, rights are closely aligned with basic goods. It is only possible to discern the rights of the human being by reflecting on the nature of the human being (14).

While Gregg does not discuss it at any length, many Church documents describe the complementarity of rights and duties or obligations. Often the rights derive from these obligations. As it is in the nature of the human being to seek human fulfillment, there is a corresponding obligation to seek the basic goods that constitute such fulfillment and make the appropriate life choices to maintain a harmonious balance of such goods (4). The rights that derive from these kinds of obligations are the rights that will enable people to pursue the basic goods.

Gregg contrasts this articulation of rights with current secular articulations and shows the different "foundational premises" of each position (9). Rights have shifted from being determined by the nature of the human being to being determined by human thought. While the different secular theories claim to allow for religious liberty, they generally restrict it by reducing religious life to the scope of private life (9).

Gregg argues that, despite the confusing use of terminology, the Church should engage in public discussions about the nature of rights. Such participation in the public arena is an opportunity to present a rich understanding of rights in language that is accessible to others. For example, religious liberty can be understood by all who acknowledge that people are seekers of truth and that this is a basic good. Even when people deny the existence, or at least knowledge, of God, it is still available to them to acknowledge that it is in the nature of human beings to seek an ultimate source of meaning and value, and knowledge of the truth (13).

Religious Liberty in Secular Societies

Religious liberty is often taken to mean only the liberty a person has personally to hold a particular religious belief and participate in the ritual of that faith without interference. However, current secular beliefs about the relationship between public life and religious belief seriously challenge a believer's ability fully to live her or his faith. In the second paper Gregg presents an understanding of religious liberty within the context of many and varied calls for a 'separation of state and church' (16).

Gregg identifies two prominent threats to religious liberty: 'neutralism' and 'orthodox secularism', but claims that both derive from 'non-rational' beliefs, despite their claims to be rational and vindicated. They should be engaged as doctrines and are not entitled to automatically claim precedence or exclusivity in public debate (25). As an alternative position to neutralism and secularism, Gregg describes an interpretation of religious liberty, showing that it is possible and reasonable to engage with varied world viewpoints in the public domain. He argues that the understanding of religious liberty presented in *Dignitatis Humanae* is much richer than merely freedom from interference and that it represents a new order for church and state (27). It requires the state to promote and protect religion (understood as seeking the Transcendent) (28).

Natural Law, Rule of Law and Conscience

In the third paper Gregg moves to the relationship of natural law and state law and aligns these with a correct understanding of conscience. He uses the example of judges giving rulings that alter or overturn state law because the law contravenes their consciences (32). While some laws can be deduced directly from natural law, other laws require greater practical determination and judgement. Each state determines the shape and role of the judiciary, which is often set out in the state's constitution.

He argues that it is not within the intrinsic nature of the judiciary for members of the judiciary to overturn or newly interpret positive law in individual cases, even when the member of the judiciary is seriously concerned about the law (34-35). An example of this could be a judge who does not support mandatory imprisonment for a certain crime and so seeks not to imprison someone found guilty of that crime. In the second part of this paper Gregg presents an understanding of conscience, demonstrating the relationship between natural law and conscience.

Defining the limits

The Church faces a tension in seeking to influence public policy and participate in the

public forum. When the Church concentrates on the hope of life after death, it is accused of abdicating responsibility for life here on earth. When the Church emphasises temporal affairs, it is accused of forgetting its fundamental orientation which is eternal life and salvation (49). Gregg addresses three questions in the fourth paper: (1) Why speak as Catholics?, (2) Who can speak for the Church?, and (3) What authority can be attached to what different people say?

The primary work of the Church is salvation, looking forward to the Reign of God. However, while the Reign of God is eschatological, it has already begun in Christ and thus has come into the world (*Gaudium et Spes*⁴ 38-40). Living the moral life has to flow into contact with others, as human beings are social beings. Therefore, contributing to the renewal of the social and political orders is a part of the work of the Church (50).

It is important to understand who can speak for the Church and with what authority. Authority on faith and moral matters resides in the Pope and the bishops as the magisterium (61). Some of the teachings presented by the Church have a definitive level of authority while other teachings are a matter of prudential judgement (56). This nuanced position on authority can create public confusion. Gregg offers examples of the confusion that has been present in the public media when different well known Catholics have spoken on issues (62-63). He finishes by challenging Catholics to inform themselves of the degree of authority of different Church statements (65).

Liberalism, the law and morality

Gregg subtitles the fifth paper "Catholic amendments to liberalism" (66). He describes a liberal perspective on law, using the philosophy of Rawls as an example. Gregg classifies such a theory as 'anti-perfectionist' (67). Some of the problems with this theory derive from its insistence that no moral value can be appealed to when making decisions (69).

Gregg offers an alternative 'perfectionist' theory for law based on the work of Aquinas. Law can assist in shaping morally good lives

through proscribing vices and creating conditions that support people making moral choices (75). This theory can take account of pluralist societies, without requiring the acceptance of every conceivable choice (79). Rather the purpose of the law is to support the conditions that are necessary for people to attain the basic goods in a diversity of ways.

Ordered liberty

In the final paper Gregg explores the connection between truth and freedom, offering a philosophical position that is an alternative to current secular theories about truth and freedom. An example of the secular theorists is Hume, an English philosopher. Hume claimed that reason is the slave of passion. Reason exists as an instrument to be used in responding to that which we desire. This philosophy has difficulty explaining the existence of free choice. Free choice is not evident if a person is motivated by desires (84).

The Church claims that truth and freedom are linked. Anyone may choose to live in accord with God's moral order because human beings possess free choice. However, it is not simply choosing in a vacuum. Free choice is the choice between good and evil and so it is freely choosing "what one ought to do in the light of truth" (94). In a pluralistic society, holding a place for free choice should mean allowing people scope to choose, even when they make disordered choices (96). It need not mean, however, that commitment to freedom also has to be an endorsement of disordered choices. People should not be restrained from acknowledging and proclaiming the truth about the disordered nature of such choices. To be the voice for truth is a further part of the challenge for Catholics in today's society.

Comment

A 'conscience' vote

The papers presented by Gregg are addressed to lawyers. However, he has offered much that is also useful for Catholic politicians and some that is useful for any Catholic who wishes to engage in public debate.

Gregg presents a rich understanding of conscience. The concept of conscience is rooted in Judeo-Christian thought. It has been described as an inner voice or an inner repugnance to evil and attraction to truth. It is an inner voice that is intrinsically linked to the law of God. Conscience does not establish law – rather it is a practical judgement shaped by the law written by God. It is a practical reason that is oriented to doing the good and avoiding evil. Some modern presentations of conscience have sought to cleave it from the truth by allowing conscience (which then represents inner experience or the human mind) to be the determinant of the truth. This is really a way of asserting human self-will (38). This is a misunderstanding. Conscience is not above truth – it has to be linked to our responsibility to know and live in the truth (37). This contrasts sharply with the view of many people who understand conscience as a synonym for personal opinion. It also challenges those people who insist that conscience votes cannot be derived from religious belief or other comprehensive worldviews. Conscience is not a content-independent arbiter of decisions. It has to be informed by the truth.

The Church declares the primacy of conscience. However, conscience is not an infallible element of each person. It has to be trained. Conscience can be erroneous, especially when human beings seek to know the law of God. We are culpably ignorant if we have let ourselves become incapable of knowing what is true and good from an indifference to seeking the truth or from a habit of a sin (46). In further response to the critics, Gregg's work shows that conscience does not intrinsically know what is good and right. Each person has a responsibility to form her or his conscience, which consists in developing the habit of seeking the truth and being informed by the truth.

For a person who professes the Catholic faith, conscience cannot be separated from the act of faith. The basis of faith in the Catholic church is an act of faith in Jesus Christ and in the reception of God's revelation by the Apostles and hence in the tradition of transmission through history by the Church. It is only possible nowadays to know about the teachings and life of Jesus from Scripture

and tradition. Therefore, there is a reliance on judgements made centuries ago that particular texts and teachings were and are true. So the Church, which has faithfully transmitted those early judgements and the further tradition, can also make definitive judgements regarding the meaning of the Scriptures and definitive judgements on matters not explicitly covered in the Scriptures and the early teachings. Conscience is inextricably linked to this act of faith (42-43).

Using this understanding of conscience that Gregg presents, it can be seen that voting according to conscience, which has been formed under the guidance of definitive teachings of the Church, is not a mindless deference to religious authorities. It is the result of a free, informed and reasoned act of faith. Furthermore, the politicians who do not profess a religious faith do not approach issues from a "tradition-independent" or neutral perspective (25). In discussing 'neutralism' and 'orthodox secularism', Gregg shows that both appeal to substantial world viewpoints and philosophical theories (21-25). Hence, it should be possible to ask others the basis of the decisions they make according to conscience. The challenge for all is to take conscience votes seriously in the true sense of a conscience formed in accordance with the truth.

Catholic morals in public debates

A second criticism of Catholic politicians (along with some other politicians) is the presentation of arguments and suggestions for legislation and public policy that derive from religious world viewpoints and teachings. Gregg offers a reasoned, philosophical basis to support the claim that both public debate and legislation or policy should be open to perspectives derived from comprehensive world viewpoints (including religious belief). Gregg begins by showing that religion is a basic good. Human beings are impelled by their very nature to seek the truth. It is intrinsic to human beings (4). Religion is seeking the truth about the Transcendent (understood as God or as the ultimate source of meaning) (28). If people do discover this Transcendent meaning, then there is an obligation to live an ordered or good life that is in harmony with what is known (13). This is the basis for the

claim that religion (as the seeking of the Transcendent) is a basic good, i.e. people have a reason to seek the truth and order their lives to it with no further justification needed for such action. As religion is a basic good, people have a right to pursue it.

However, religion also goes beyond a private matter intrinsic to a person's fulfillment. It is an aspect of society's common good. In the Vatican II document *Gaudium et Spes* it is claimed that the political community exists for the common good (*Gaudium et Spes* 74). The 'common good' can be understood to mean the flourishing and perfection or fulfillment of all human beings, whereby the conditions of life within the community should be ordered to support and promote this. If religion is an aspect of human fulfillment, then the state has both a positive and a negative basis for concerning itself with religion. From the negative perspective, the state should not coerce people into religious practice. From the positive perspective, the state has a responsibility to enable and encourage participation in various forms of religious practice and reflection (29). As religion is an aspect of human fulfillment, enabling religious participation in public debate has to be a component of the state's positive support.

However, demonstrating that the state has an obligation to enable and encourage religious participation in public aspects of life is only the first step in supporting the claim that Catholic politicians can have morally substantive positions incorporated in legislation and public policy. Gregg notes that the dominant secular theories, such as neutralism and secularism, are not "tradition-independent". They, too, rely on substantive philosophical 'beliefs' and should not be considered neutral. Hence, they have no claim to precedence in public debate (24-25). To support a claim that morally substantive positions can be enshrined in legislation, Gregg proposes a 'perfectionist' theory of law, which is contrasted with 'anti-perfectionist' theories. Liberal theories (as an example of what Gregg labels 'anti-perfectionist' theories) often advocate a role for law that excludes addressing the moral status of individual or private activities by insisting that the law not restrict a person's liberty to undertake such

activities (unless there is the risk of harm to others). This liberty is to be protected regardless of the moral judgement that could be made of any such activities (67). The problem with this approach is that no intrinsic value can be given to any particular conception of good. However, it is hard to explain how there is no intrinsic basis for making a choice between knowledge and error, or health and disease, or life and death. In reality, favouring the basic goods is not being 'biased'; rather such decisions arise from a rational practical judgement that is grounded in human nature and enables the recognition of intrinsic goods. Furthermore, these are the goods that will enable the fulfillment of human beings (69).

Gregg claims that law can have a role in making people moral although it is not law alone that will do so. This is not to deny that it is only the person freely choosing to do what is good for the right reasons who is truly moral. However, law, through proscribing vices, can help people attain a moral life. This can happen by preventing bad examples, educating people and creating an environment that supports the person who wishes to act morally (75). This is the perfectionist theory of law, which is plausible even in a pluralist society. There is a diversity of morally good choices, some of which are incompatible with others (e.g. celibacy and marriage). All of them have good reasons for being chosen, but it is not possible for any one person to attain all of them (77). Hence, diversity is important. However, acceptance of pluralism does not have to mean acceptance of every conceivable choice. There are some life choices people may wish to make that simply cannot be conceived of as being directed to human fulfillment. It is reasonable to argue that the law can and should discourage people from choosing morally unworthy actions. The argument for this is that "liberty and pluralism should be regarded as *instrumental* goods" rather than basic goods. They are the conditions that enable the attainment of the basic goods (79). Furthermore, the basic goods are directed to human fulfillment, and the common good is that set of conditions needed in society, including legislation, for all people to attain fulfillment.

Gregg offers a strong philosophical basis, grounded in the natural law theory he describes, showing why Catholics can be confident in taking the substantive teachings on morals proposed by the Church into the public sphere and in seeking to have them incorporated into law and public policy. It is based on the recognition that religion is a basic good. The political and social orders are a part of the common good. Hence, they should be ordered or shaped to provide the conditions and support necessary for all members of society to reach fulfillment. Legislation, as a component of the political order, should have a role in guiding the moral life. Therefore, Catholic politicians have a basis for seeking to introduce legislation preventing the destruction of embryos and for appealing to the relevant teachings proposed by the Church as justification.

Why speak as a Catholic?

Another debate that is continuing in the Federal parliament concerns Australia's role in supporting possible military action against Iraq (either under the direction of the United Nations or the United States). Unlike the embryonic stem cell debate, there is no authoritative teaching offered by the Church on this issue. In the fourth paper Gregg explains authoritative teachings in the Church. The only people who can speak with magisterial or teaching authority are the Pope or the bishops with the Pope when in council. This authority only relates to matters of faith and morals (61). Some teachings, particularly those directly deducible from natural law, are strongly binding. Others are a matter of prudential judgement where Catholics may agree or disagree with the statements the Church offers (56). An example of the former is the teaching on abortion (60). An example of the latter is the documents prepared by various Bishops' conferences on economic policy (57). Earlier in the paper Gregg argues that the Gospel demands are not restricted to private life. Therefore the moral commandments also hold for the social and political order (50). While the primary work of the Church is salvation, the work of the Church also has to include renewal of the whole temporal order. This is why members of the Church should speak as Catholics (53).

In the debate over embryonic stem cells the moral position the Church has taken on the status of the embryo and the Church's definitive teaching on any offence against the life of another human being translate fairly easily into a particular stance on embryonic stem cell research. This stance is identifiable within the community as the position of the Church and is more easily knowable by all members of the Church. When considering potential military action the Church has previously appealed to 'just war' theory. While this theory offers guidance in determining whether certain action is justifiable or not, it does not easily translate into a definitive proposal. People may appeal to the just war theory and derive different conclusions. Hence, while the Church may well offer prudential statements on the issue of military conflict for the guidance of the members of the Church they will only have a prudential guidance level of authority.

Catholic politicians, and others who join the public debate on embryonic stem cell research, contribute to both the witness of the Church and the work of the Church by acknowledging their reliance on, and support of, the teachings of the Church. However, it is not so clear why a person should speak as a Catholic in the debate over military action in Iraq. Identifying oneself as a Catholic when offering a consideration in the public arena may simply signal one's commitment to reflecting in light of the faith that is held. It will not add anything more to the thoughts that are offered. Furthermore, if other members of the Church publicly offer divergent positions the general public may well end up confused. This confusion may lead to a questioning of the authority of any statement of the Church. Gregg does not address the ramifications of these differing levels of authority for Catholics who happen to also have a public voice, other than to suggest that Catholics need to understand the distinction between definitive teachings and prudential statements.

While this book offers a substantial philosophical basis supporting Catholic lawyers (and politicians) who have to engage with legislation and policy, it does not offer as much guidance for many other Catholics who would wish to engage in the public

debate. However, at the end of paper four Gregg does offer a point of reflection that, while not resolving the difficulties of participating in the ever increasing moral challenges of current life, does remind believers of the call to keep going each day. It comes from the Second Vatican Council. "[E]very reasonable human undertaking, every actualisation of and participation in the basic moral goods, *will* be taken up as material useable by God in the building of that new world which is discontinuous but also mysteriously continuous with this one" (*Gaudium et Spes* 39, cited at p. 65.)

Endnotes

1 Gregg, S. *Morality, Law and Public Policy* The St Thomas More Society: Sydney, 2001.

2 Future references to the main text will be simply the page number in brackets. All other references will include the author.

3 Vatican II, *Dignitatis Humanae* (Declaration on Religious Liberty) 7th December, 1965.

4 Vatican II, *Gaudium et Spes* (Pastoral Constitution on the Church in the Modern World) 7th December, 1965.

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