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Political Obligations, Moral Conscience, and Human Life

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The Catholic Church proclaims the principle that every human being—without regard to race, sex, or ethnicity, and equally without regard to age, size, stage of development, or condition of dependency—is entitled to the full protection of the laws. The Church teaches that human beings at every stage of development—including those at the embryonic and fetal stages—and those in every condition—including those who are mentally retarded or physically disabled, and those who are suffering from severe dementias or other memory and mind-impairing afflictions—possess fundamental human rights. Above all, each of us possesses the right to life.

Now this teaching is disputed by some. There are those, including some Catholics, who deny that human embryos are human beings. They assert that a human embryo is merely “potential” human life, not nascent human life. The trouble with this position is not theological but scientific. It

flies in the face of the established facts of human embryology and developmental biology. A human embryo is not something distinct in kind from a human being—like a rock or potato or alligator. A human embryo is a human being at a particular, very early, stage of development. An embryo, even prior to implantation, is a whole, distinct, living member of the species *Homo sapiens*. The embryonic human being requires only what any human being at any stage of development requires for his or her survival, namely, adequate nutrition and an environment sufficiently hospitable to sustain life.

From the beginning, each human being possesses—actually and not merely potentially—the genetic constitution and epigenetic primordia for self-directed development from the embryonic into and through the fetal, infant, child, and adolescent stages and into adulthood with his or her unity, determinateness, and identity intact. In this crucial respect, the embryo is quite unlike the gametes—that is, the sperm and ovum—whose union brought a new human being into existence. You and I were never sperm or ova; those were genetically and functionally parts of other human beings. But each of us *was* once an embryo, just as each of us was once an adolescent, and before that a child, an infant, a fetus. Of course, in the embryonic, fetal, and infant stages we were highly vulnerable and dependent

creatures, but we were nevertheless complete, distinct human beings. As the leading textbooks in human embryology and developmental biology unanimously attest, we were not mere “clumps of cells,” like moles or tumors. So the basic rights people possess simply by virtue of their humanity—including above all the right to life—we possessed even then.

Another school of thought concedes that human embryos are human beings; however, it denies that all human beings are persons. There are, according to this school of thought, pre-personal and post-personal human beings, as well as severely retarded or damaged human beings who are not, never will be, and never were, persons. Proponents of this view insist that human beings in the embryonic and fetal stages are not yet persons. Indeed, logically consistent and unsentimental proponents say that even human infants are not yet persons, and therefore do not possess a right to life; hence, the willingness of Peter Singer, Michael Tooley, and others to countenance infanticide as well as abortion. Permanently comatose or severely retarded or demented human beings are also denied the status of persons. So euthanasia is said to be justified for human beings in these conditions. Although some who think along these lines will allow that human individuals whom they regard as “not yet persons” deserve a certain limited respect by virtue of the purely biological fact that they are living

members of the human species, they nevertheless insist that “pre-personal” humans do not possess a right to life that precludes them from being killed to benefit others or to advance the interests of society at large. Only those human beings who have achieved and retain what are regarded as the defining attributes of personhood—whether those are considered to be detectable brain function, self-awareness, or immediately exercisable capacities for characteristically human mental functioning—possess a right to life.

The trouble with this position is that it makes nonsense of our political, philosophical, and, for many of us, theological commitment to the principle that all human beings are *equal in fundamental worth and dignity*. It generates puzzles that simply cannot be resolved, such as the puzzle as to why this or that accidental quality which most human beings eventually acquire in the course of normal development but others do not, and which some retain and others lose, and which some have to a greater degree than others, should count as the criterion of “personhood.” The superior position, surely, is that human beings possess equally an intrinsic dignity that is the moral ground of the equal right to life of all. This is a right possessed by every human being simply by virtue of his or her humanity. It does not depend on an individual’s age, or size, or stage of development; nor can it be

erased by an individual's physical or mental infirmity or condition of dependency. It is what makes the life of even a severely retarded child equal in fundamental worth to the life of a Nobel prize-winning scientist. It explains why we may not licitly extract transplantable organs from such a child even to save the life of a brilliant physicist who is afflicted with a life-threatening heart, liver, or kidney ailment.

In any event, the position that all human beings equally possess fundamental human rights, including the right to life, is the definitively settled teaching of the Catholic Church. It is on this basis that the Church proclaims that the taking of human life in abortion, infanticide, embryo-destructive research, euthanasia, and terrorism are always and everywhere gravely wrong.

And there is more. For the Church also teaches that it is the solemn obligation of legislators and other public officials, as servants of the common good, to honor and protect the rights of all. The principle of equality demands as a matter of strict justice that protection against lethal violence be extended by every political community to all who are within its jurisdiction. Those to whom the care of the community is entrusted—above all those who participate in making the community's laws—have primary responsibility for ensuring that the right to life is embodied in the laws and

effectively protected in practice. Notice, by the way, that the obligation of the public official is not to “enforce the teaching of the Catholic Church,” it is, rather, to fulfill the demands of justice and the common good in light of the principle of the inherent and equal dignity of every member of the human family.

Yet, today many Catholic politicians, including the Democratic leaders of both houses of the United States Congress and the Republican governor of New York and the former Republican governor of Pennsylvania, are staunch supporters of what they describe as a “woman’s right to abortion.” Most of these politicians also support the creation and government funding of an industry that would produce tens of thousands of human embryos by cloning for use in biomedical research in which these embryonic human beings would be destroyed.

Catholic politicians in the United States and in other nations who support abortion and embryo-destructive research typically claim to be “personally opposed” to these practices but respectful of the rights of others who disagree to act on their own judgments of conscience without legal interference. Former New York Governor Mario Cuomo famously articulated and defended this view in a speech at the University of Notre Dame in 1984. Recently, Cuomo revisited the issue, speaking in

Washington at a Forum on Politics and Faith in America. He offered an argument which, if successful, not only justifies Catholic politicians in supporting legal abortion and embryo-destructive research, but requires them to respect a right of people to engage in these practices despite their admitted moral wrongfulness.

Cuomo asserted that holders of public office—including Catholic office-holders—have a responsibility “to create conditions under which all citizens are reasonably free to act according to their own religious beliefs, even when those acts conflict with Roman Catholic dogma regarding divorce, birth control, abortion, stem cell research, and even the existence of God.” According to Cuomo, Catholics should support legalized abortion and embryo-destructive research, as he himself does, because in guaranteeing these rights to others, they guarantee their own right “to reject abortions, and to refuse to participate in or contribute to removing stem cells from embryos.” But Cuomo’s idea that the right “to reject” abortion and embryo-destructive experimentation entails a right of others, as a matter of religious liberty, to engage in these practices is simply, if spectacularly, fallacious. The fallacy comes into focus immediately if one considers whether the right of a Catholic (or Baptist, or Jew, or member of any other faith) to reject infanticide, slavery, and the exploitation of labor entails a

right of others who happen not to share these “religious” convictions to kill, enslave, and exploit.

By the expedient of classifying pro-life convictions about abortion and embryo-destructive experimentation as “Roman Catholic dogmas,” Cuomo smuggles into the premises of his argument the controversial conclusion he is trying to prove. If pro-life principles were indeed merely dogmatic teachings—such as the teaching that Jesus of Nazareth is the only begotten Son of God—then according to the Church herself (not to mention American constitutional law and the law of many other republics) they could not legitimately be enforced by the coercive power of the State. The trouble for Cuomo is that pro-life principles are not mere matters of “dogma,” nor are they understood as such by the Catholic Church, whose beliefs Cuomo claims to affirm, or by pro-life citizens, whether they happen to be Catholics, Protestants, Jews, Muslims, Hindus, Buddhists, agnostics, or atheists. Rather, pro-life citizens understand these principles and propose them to their fellow citizens *as fundamental norms of justice and human rights that can be understood and affirmed even apart from claims of revelation and religious authority.*

It will not do to suggest, as Cuomo seems to suggest, that the sheer fact that the Catholic Church (or some other religious body) has a teaching

against these practices, and that some or even many people reject this teaching, means that laws prohibiting the killing of human beings in the embryonic and fetal stages violate the right to freedom of religion of those who do not accept the teaching. If that were anything other than a fallacy, then laws against killing infants, owning slaves, exploiting workers, and many other grave forms of injustice really would be violations of religious freedom. Surely Cuomo would not wish to endorse that conclusion.

Yet he provides no reason to distinguish those acts and practices putatively falling within the category of religious freedom from those falling outside it. So we must ask: If abortion is immunized against legal restriction on the ground that it is a matter of religious belief, how can it be that slavery is not similarly immunized? If today abortion cannot be prohibited without violating the right to religious freedom of people whose religions do not object to abortion, how can Cuomo say that the prohibition of slavery by the Thirteenth Amendment to the United States Constitution in 1866 did not violate the right to religious freedom of those in the nineteenth century whose religions did not condemn slaveholding? Cuomo says that the Catholic Church “understands that our public morality depends on a consensus view of right and wrong,” but it would be scandalous to argue that Catholics should have opposed a

constitutional amendment abolishing slavery in the nineteenth century, or legislation protecting the civil rights of the oppressed descendants of slaves in the mid-twentieth century, on the ground that “prudence” or “realism” requires respect for “moral pluralism” where there is no “consensus” on questions of right and wrong.

At one point at the forum on Politics and Faith, Cuomo suggested that laws against abortion and embryo-destructive research would force people who do not object to such things to practice the religion of people who do. But this is another fallacy. No one imagines that the constitutional prohibition of slavery forced those who believed in slaveholding to practice the religion of those who did not. Would Cuomo have us suppose that laws protecting workers against what he, in line with the solemn teaching of every pope from Leo XIII to Benedict XVI, considers to be exploitation and abuse have the effect of forcing non-Catholic factory owners to practice Catholicism?

At another point, in denying that there was any inconsistency between his willingness as governor to act on his anti-death penalty views but not on his antiabortion views, Cuomo denied ever having spoken against the death penalty as “a moral issue.” He claimed, in fact, that he “seldom talk[s] in terms of moral issues” and that, when he speaks of the death penalty, he

never suggests that he considers it a moral issue. Then, in the very next sentence, he condemned the death penalty in the most explicitly, indeed flamboyantly, moralistic terms: “I am against the death penalty because I think it is bad and unfair. It is debasing. It is degenerate. It kills innocent people.” He did not pause to consider that these are precisely the claims made by pro-life citizens against the policy of legal abortion and its public funding—a policy that Cuomo defends in the name of religious liberty.

The fact is that Catholics and others who oppose abortion and embryo-destructive research oppose these practices for the same reason we oppose postnatal homicide. Pro-life citizens of every faith oppose these practices because they involve the deliberate killing of innocent human beings. Our ground for supporting the legal prohibition of abortion and embryo-destructive research is the same ground on which we support the legal prohibition of infanticide, for example, or the principle of noncombatant immunity even in justified wars. We subscribe to the proposition that all human beings are equal in worth and dignity and cannot be denied the right to protection against killing on the basis of age, size, stage of development, or condition of dependency.

One cannot with moral integrity be “personally opposed” to abortion or embryo-destructive research yet support the legal permission of these

practices and even, their public funding as so many Catholic politicians do, including most Catholic Democrats and some Catholic Republicans in the United States. For by supporting abortion and embryo-destructive research they unavoidably implicate themselves in the grave injustice of these practices.

Of course, it is possible for a person wielding public power to use that power to establish or preserve a legal right to abortion, for example, while at the same time *hoping* that no one will exercise the right. But this does not get such a person off the moral hook. For someone who acts to protect legal abortion necessarily *wills* that abortion's unborn victims be denied the elementary legal protections against deliberate homicide that one favors for oneself and those whom one considers to be worthy of the law's protection. Thus one violates the most basic precept of normative social and political theory, the Golden Rule. One divides humanity into two classes: those whom one is willing to admit to the community of the commonly protected and those whom one wills to be excluded from it. By exposing members of the disfavored class to lethal violence, one deeply implicates oneself in the injustice of killing them—even if one sincerely hopes that no woman will act on her right to choose abortion. The goodness of what one *hopes* for does

not redeem the evil—the grave injustice—of what one *wills*. To suppose otherwise is to commit yet another fallacy.

If my analysis so far is correct, the question arises: What should the leaders of the Church do about people like Cuomo and his successor as New York's Governor, Republican George Pataki who evidently takes the same position? What should they do about those who claim to be in full communion with the Church yet promote gravely unjust and scandalous policies that expose the unborn to the violence and injustice of abortion?

In the run up to the last election, St. Louis Archbishop Raymond Burke offered an answer. He declared that public officials who support abortion and other unjust attacks against innocent human life may not be admitted to Holy Communion, the preeminent sacrament of unity.

Pro-life citizens of every religious persuasion applauded the Archbishop's stand. Critics, however, were quick to condemn Archbishop Burke. They denounced him for "crossing the line" separating church and state.

But this is silly. In acting on his authority as a bishop to discipline members of his flock, who commit what the Church teaches are grave injustices against innocent human beings, Archbishop Burke is exercising his own constitutional right to the free exercise of religion; he is not

depriving others of their rights. Freedom is a two way street. No one is compelled by law to accept ecclesiastical authority. But Archbishop Burke—and anyone else in the United States of America or other freedom-respecting nations—has every right to exercise spiritual authority over anyone who chooses to accept it. There is a name for people who do accept the authority of Catholic bishops. They are called “Catholics.”

In many cases, the charge that Archbishop Burke and other bishops who adopt the policy of excluding pro-abortion politicians from Communion “are crossing the line separating church and state” is also hypocritical. A good example of this hypocrisy comes from the *Bergen Record*, a prominent newspaper in my home state of New Jersey. John Smith, the Bishop of Trenton, did not go as far as Raymond Burke had gone in forbidding pro-abortion Catholic politicians from receiving communion. Bishop Smith did, however, in the words of the *Bergen Record*, “publicly lash” Governor James McGreevey, a pro-abortion Catholic, for his support of abortion and embryo-destructive research. For criticizing the Governor on these grounds, the *Record* lashed the Bishop in an April 25th editorial. The paper accused him of jeopardizing the delicate “balance” of our constitutional structure, contrasting Bishop Smith’s position unfavorably with President John F. Kennedy’s assurance to a group of Protestant ministers in Houston in 1960

that he, as a Catholic, would not govern the nation by appeal to his Catholic religious beliefs. Since the *Record* had seen fit to take us back to 1960 for guidance, I thought I would invite its editors to consider a case that had arisen only a few years earlier than that. In a letter to the editor, I proposed a question that would enable readers to determine immediately whether the editors of the *Bergen Record* were persons of strict principle or mere hypocrites.

I reminded readers that in the 1950s, in the midst of the political conflict over segregation, Archbishop Joseph Rummel of New Orleans publicly informed Catholics that support for racial segregation was incompatible with Catholic teaching on the inherent dignity and equal rights of all human beings. Archbishop Rummel said that “racial segregation is morally wrong and sinful because it is a denial of the unity and solidarity of the human race as conceived by God in the creation of Adam and Eve.” He warned Catholic public officials that support for segregation placed their souls in peril. Indeed, Rummel took the step of publicly excommunicating Leander Perez, one of the most powerful political bosses in Louisiana, and two others who promoted legislation designed to impede desegregation of diocesan schools. So I asked the editors of the *Bergen Record*: Was Archbishop Rummel wrong? Or do Catholic bishops “cross the line” and

jeopardize the delicate constitutional balance, only when their rebukes to politicians contradict the views of the editors of the *Record*? To their credit, the editors published my letter—but I am still waiting for them to reply to my question.

Now, some good and sincere people have expressed concern that Archbishop Burke and bishops of similar mind are guilty of a double standard when it comes to demanding of politicians fidelity to Catholic teaching on justice and the common good. They point out that the bishops who would deny communion to those who publicly support abortion and embryo-destructive research do not take the same stand against politicians who support the death penalty, which Pope John Paul II condemned in all but the rarest of circumstances, and the U.S. invasions of Iraq, of which the Pope and many other Vatican officials were sharply critical.

The Catechism of the Catholic Church indeed teaches that the death penalty should not be used, except in circumstances so rare these days as to be, in words of the late pope, "practically non-existent." However, two points must be borne in mind in considering the obligations of Catholics and the question whether Catholic politicians who support the death penalty have in fact broken faith and communion with the Church. First, neither the Pope nor the *Catechism* places the death penalty on a par with abortion and other

forms of direct killing of the innocent. (Indeed, the Church will probably never equate the death penalty with these forms of homicide, even if it eventually issues a definitive condemnation of the practice.) Second, the status of the teaching differs from the status of the teaching on abortion. As John Paul II made clear in the great encyclical *Evangelium Vitae*, the teaching on abortion (as well as on euthanasia and all forms of direct killing of the innocent) is infallibly proposed by the ordinary and universal magisterium of the Church pursuant to the criteria of *Lumen Gentium* 25. The same is plainly not true of the developing teaching on the death penalty. Moreover, Cardinal Avery Dulles and others have interpreted the teaching against the death penalty as essentially a prudential judgment about its advisability, not a moral prohibition following from the application of a strict principle. As it happens, I don't agree with their analysis, but no one will be able to say with confidence from a Catholic point of view which side in this debate is right until the *magisterium* clarifies the teaching. So, it cannot be said that supporters of the death penalty are “obstinately persisting in manifest grave sin,” and may or should be denied Holy Communion pursuant to Canon 915 of the *Code of Canon Law*. No one can legitimately claim for opposition to the death penalty the status of a definitively settled moral teaching of the Church. (Nor can one claim that the Church teaches or

will ever teach that the death penalty—except in cases where it is *applied* unjustly—involves the grave intrinsic injustice attaching to any act involving the direct killing of the innocent.)

Regarding the question of the U.S. invasions of Iraq, it is important to understand the precise terms of Catholic teaching on just and unjust warfare. These terms are set forth with clarity and precision in the *Catechism*. In line with the Church's historic teaching on the subject, neither Pope John Paul II nor Pope Benedict XVI has asserted that opposition to the war is binding on the consciences of Catholics. John Paul II's statements opposing the use of force in the run up to both invasions plainly questioned the *prudential judgments* of political leaders who, in the end, had and have the right and responsibility (according to the *Catechism* and the entire tradition of Catholic teaching on war and peace)) to make judgments as to whether force is in fact necessary. That is why the Pope and the bishops have not said, and will not say, that Catholic soldiers may not participate in the war. This contrasts with their clear teaching that Catholics may not participate in abortions or other forms of embryo-killing or support the use of taxpayer monies for activities involving the deliberate killing of innocent human beings.

I wish to close with a word to those in politics and the media—

Catholics and non-Catholics alike—who have expressed anger, even outrage, at the world’s Catholic bishops for teaching that the faithful must never implicate themselves in unjust killing by supporting legal abortion and embryo-destructive research.

In scolding the bishops, the editors of the *New York Times*, for example, have insisted that “separation of church and state” means that *no* religious leader may presume to tell public officials what their positions may and may not be on matters of public policy. But if we shift the focus from abortion to, say, genocide, slavery, the exploitation of labor, or racial segregation we see how implausible such a view is. When Archbishop Rummel excommunicated the segregationist politicians in the 1950s, far from condemning the Archbishop, the editors of the *New York Times* praised him. They were right then; they are wrong now.