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## ARTICLES

### Unjust Laws in a Democratic Society: Some Philosophical and Theological Reflections

John Finnis\*

#### I. DEMOCRACY AND "PLURALIST SOCIETY"

Being democratic is not a sufficient condition for a society's being just and worthy of allegiance; some democratic societies have been very evil. But being democratic is indeed, as Aquinas already taught, a necessary condition for its being ordered in the best way.<sup>1</sup> So, though caution is necessary, it is appropriate to use the term "democratic" when summarizing the standards which a society should if possible meet.

"Pluralist" raises more difficult problems. Of course, the plurality and diversity of created things fittingly reflects the richness in being of their uncreated source of being. A plurality and diversity of talents and vocations, in individuals and groups, is appropriate if not necessary to a society's common good. Moreover, the terms "pluralism" and "pluralist(ic) society" have been used by the recent magisterium, especially to claim for Catholics and their institutions the equitable respect given to other persons and institutions in a society divided in fundamental beliefs.<sup>2</sup> Still, there are two reasons for hesitating to speak of "pluralistic society."

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\* Biolchini Professor of Law, University of Notre Dame; Professor of Law & Legal Philosophy, University of Oxford. The basic draft of this paper was prepared in the period between the encyclicals *Veritatis Splendor*, 6 August 1993, and *Evangelium Vitae*, 25 March 1995. I have added, in parentheses, some footnote references to passages in the latter encyclical, together with a few other bibliographical references.

1 Cf. *Summa Theologiae* I-II q. 105 a. 1c:

The government of any city-state or kingdom is best ordered when somebody appointed in virtue of personal excellence (*secundum virtutem*) presides over everyone, with subordinates similarly governing by virtue of and in accordance with their true merits (*secundum virtutem*), and yet rulership belongs to everyone because anyone is eligible to be elected and each ruler is elected by everyone. For that is the best constitution, one well mixed out of monarchy (in as much as one person presides), aristocracy (in as much as the many who rule do so *secundum virtutem*), and democracy, i.e. the power of the people (*democratia, id est potesta[s] populi*) (in as much as those who rule can be chosen from among the ordinary people, and this election of rulers belongs to the people as a whole).

2 Ecclesiastical use of the terms "pluralism" and "pluralistic society" seems to date from the time of Paul VI. On 24 May 1964, Cardinal Cicognani, Secretary of State, wrote that contemporary society is clearly characterized by "growing social pluralism" (*crecente pluralismo sociale*); this was a reference to the multiplicity of groups and initiatives active in society. On 6 August 1964, Paul VI in his encyclical *Ecclesiam Suam* spoke of the *plures significationes* of modern society, but the Vatican translations speak of the "pluralism of its manifestations"; the word "variety" or "diversity" would have been clearer. In his allocation opening the Third Session of the Council on 14 September 1964, addressing particularly the non-Catholic observers, Paul VI referred to the legitimate diversity of practice within the Church, the "usus indulgentia, quam e nostrae aetatis ratione 'pluralismum practicum' appellare Nobis liceat"; here "pluralism" has a sense at once descriptive and normative. On 27 May 1965, an allocation of Paul VI stated that "l'odierno soci-

The first is this. To the extent that there is lack of agreement on *basic issues*, to that extent there is an obstacle to genuine community. This obstacle is in itself a great harm for a society,<sup>3</sup> and so "pluralism" of opinion on matters basic to the common good is a deficiency, an evil, something to be regretted—not something to be held up as a standard.

The second reason for caution is this. In liberal secularist societies, "pluralism" is a term widely used as an ideological instrument of dialectic, to exclude *a priori* the propositions—labelled "authoritarian," "totalitarian," or "illiberal"—that there are truths about the common good and that it is good (and compatible with healthy diversity of talents and vocations) for a society's members to agree and act upon these truths. But these excluded propositions are in fact correct. Indeed, any political theory which denies that there are important truths about human flourishing and human rights and responsibilities, and thus about the common good of a political community, by that very denial undermines—indeed refutes—its own claim to be a normative theory of society and a theory worth arguing for. In denying that there are important substantive truths about the common good, and that agreement on these substantive truths is a great benefit, ideologies of "pluralism" are both mistaken and harmful. In seeking to rule out opposing political theories *in advance*, they are also sophistical, and the sophistry gains plausibility from the word "pluralism."

Secularism, particularly liberal secularism, is of great importance for any reflection on the theme and topic of this paper. Its importance is twofold.

In the first place, as the denial of the transcendent and of divine revelation has become predominant, societies whose constitutions, laws, and public policies formerly were influenced by Christian faith have gradually lost their former fundamental unity of judgment about reality and the good and the *reasons for* cooperation in political life and action. These societies have had to adjust, as far as possible, to this *plurality of belief* about ultimate truths and principles. Societies afflicted with such disunity, with

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*et à pluralistica*" calls more than ever for a generous openness to the service of the common good—a description at once optimistic and ambiguous. This statement was taken up and quoted in the letter of Cardinal Cicognani dated 5 September 1965, to amplify the statement that modern society is characterized in an ever more obvious way as "pluralistica" in its multiple articulation in various free associations. In October 1965, the amended schema of the Declaration on Christian Education was put before the Council, containing two references to the *pluralismus* which obtains in very many societies today (sec. 6 and sec. 8)—in each case the reference is not merely descriptive, but rather suggests a proper ground or reason for avoiding a state monopoly of education; see also the Relatio of the Archbishop of Antwerp, *Acta Concilii Vaticani II IV* iv p.284. On 15 November 1965, the Relatio to the Textus Recognitus of the Schema for *Gaudium et Spes* points out that there had been introduced into what is now sec. 76 (concerning "the political community and the Church") a new phrase, "especially where a pluralistic society prevails (*praesertim ubi societas pluralistica viget*)"; the Relatio comments that in these words "the notion of pluralistic society is admitted (*notio societatis pluralisticae*)." The amendment had been suggested by the Bishop László of Eisenstadt (Austria), who also happened to be the chairman of the working sub-commission responsible at that time for the relevant sections of the Schema. *Acta Concilii Vaticani II IV* vi p.530. It remains unclear *what* notion of pluralistic society had been admitted. Given the Church-State context, one may conclude that "pluralistic society" here means a society which, as a political community, no longer acknowledges (or never has acknowledged) the truth of the Catholic faith (or of any other particular religion).

3 Cf. Germain Grisez, *The Way of the Lord Jesus*, vol. 2, *Living a Christian Life* (Quincy, Illinois: Franciscan Press, 1993), 841-2.

that plurality, could be called "pluralist" but could equally be called "discordant" or "divided about essentials." The "pluralist society" is also a "deeply divided society."

In the second place, powerful elements in liberal secularism seek to make a virtue out of the evil of deep discordance on essentials. The product and instrument of this effort is precisely an ideology of "pluralism."<sup>4</sup> Its deep, partly submerged roots are in thoughts (entertained with, of course, very varying degrees of explicitness and self-awareness) like the following. Since there are no transcendent sources of being, meaning, value, or normativity, I should get what I want, and do as I please, before death puts an end to all my opportunities. Since there are other people around me proceeding on the same thought, and since we each need assistance in getting what we individually want, we must coexist and collaborate. But I will not get collaboration if I openly declare that collaboration is merely instrumental to my wants. So I need a kind of seeming "common good" to which I can profess commitment to the extent necessary and sufficient to motivate others to cooperate in bringing about my ends. Hence, I can use the language of human dignity, fundamental rights, common good, and so forth—language originating in the pre-secular culture which acknowledged a transcendent source of meaning and value.

But the language now has a non-traditional meaning, in which the normative content of human dignity and common good is (at best) subordinated to a source of normativity taken to be more primary and fundamental (if not exclusive): my self-asserting and self-protecting *will*, a will in harness to the emotional demand for self-preference and satisfaction ("my interests").<sup>5</sup> The new, secularized meaning becomes apparent when the question is: *who* is to count? For, on secularist assumptions, the group within which fundamental rights are enjoyed need not accept as subjects equal in dignity all other human individuals in its neighborhood. Only those required for securing the group's survival and satisfaction need be included. Prime candidates for exclusion from the group are human individuals (including the unborn) who cannot yet give meaning and value or those (including the comatose and senile) who can no longer do so. Also candidates for exclusion are those individuals whose experience is unsatisfactory and who have little or no prospect of future "happiness."<sup>6</sup>

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4 I am not suggesting that an ideology of "pluralism" is the only false ideology likely to emerge from loss of belief in the transcendent and revelation. We know that people can pursue a spurious unity of practical belief within the horizons of some arbitrary group aggrandizement or project, as in Nazism or Bolshevism. But the ideology of secular liberal pluralism certainly has potent attractions (and is, perhaps, less immediately prey to the organizational irrationalities which hastened the destruction of those other secular ideologies).

5 See *Veritatis Splendor* 101:

This is the risk of an alliance between democracy and ethical relativism, which would remove any sure moral reference point from political and social life, and on a deeper level make the acknowledgment of truth impossible. Indeed, 'if there is no ultimate truth to guide and direct political activity, then ideas and convictions can easily be manipulated for reasons of power. As history demonstrates, a democracy without values easily turns into open or thinly disguised totalitarianism' [*Centesimus Annus* 46].

6 [See John Finnis, "A Philosophical Case against Euthanasia", "The Fragile Case for Euthanasia: A Reply to John Harris," and "Misunderstanding the Case against Euthanasia: Response to

The unfolding of the social and political implications of secular nihilism and relativism has been restrained, not only (i) by the continued influence of theistic culture and institutions, and (ii) by the secularist's need to seem committed to a common good sufficient to motivate others to cooperation in bringing about his or her ends, but also (iii) by the natural law written on the heart. But these restraining influences are least effective when people's most powerful emotions are engaged in issues bearing on sexual behavior and human life.

These then are some of the most fundamental sources of the injustices which become systemic, built-in, in societies dominated by liberal secularist attitudes. And these injustices are rationalized precisely by an ideology of pluralism. Thus, in the world's wealthiest and most powerful democracy, where the power—especially the judicial power—of the central, national law and government is deployed to prevent the law and government of any lesser, regional state from protecting the unborn child against the mother's choice (for any motive whatever) to destroy it, the rationale for this use of central power—and the refusal even to discuss the question whether the unborn are human beings entitled to the rights of other human beings—is articulated in terms of pluralism.<sup>7</sup>

The same reasoning, one may be confident, will fairly soon be applied, and enforced with state power, in the field of euthanasia. The "liberty," "privacy" and/or "autonomy" right articulated to eliminate all restraints on the availability of contraception, sterilization, and abortion will, of course, be extended to allow assisted suicide (and to require the assistance of relevant professionals) as autonomous self-liberation from burdensome life. But then those handicapped persons who cannot now (and in many cases *never* did or could) give their consent to being killed must not (it will be said) be deprived of their equal liberty, privacy, or autonomy right to liberation from burdensome life. The "right" will be exercised "on their behalf" by someone who will choose for them the death which, it will be presumed,

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Harris's first Reply" in John Keown (ed.), *Euthanasia Examined: Ethical, Clinical, and Legal Perspectives* (Cambridge U.P., 1995), pp. 23-35, 46-55, 62-71.]

7 The plainest articulation is in the judgment of the Supreme Court of the United States in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 850-52 (1992):

Men and women of good conscience can disagree, and we suppose some always shall disagree, about the profound moral and spiritual implications of terminating a pregnancy, even in its earliest stage. Some of us as individuals find abortion offensive to our most basic principles of morality, but that cannot control our decision. Our obligation is to define the liberty of all, not to mandate our own moral code. The underlying constitutional issue is whether the State can resolve these philosophic questions in such a definitive way that a woman lacks all choice in the matter . . .

At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life . . .

Abortion . . . is an act fraught with consequences for others: for the woman who must live with the implications of her decision; for the persons who perform and assist in the procedure; for the spouse, family, and society which must confront the knowledge that these procedures exist [!], procedures some deem nothing short of an act of violence against innocent human life; and, depending on one's beliefs, for the life or potential life that is aborted. . . . [The woman's] suffering is too intimate and personal for the State to insist, without more, upon its own vision of the woman's role, however dominant that vision has been in the course of our history and our culture. The destiny of the woman must be shaped to a large extent on her own conception of her spiritual imperatives and her place in society.

they would have (or should have) chosen had they been capable of choice. To object that this is murder will be said to be "mandat[ing] our own moral code"<sup>8</sup> and incompatible with "liberty for all" in a pluralistic society. So the community will be freed from many whose life is deemed by others to be "not worth living" (*Lebensunwerten Lebens*, as it has been expressed elsewhere).<sup>9</sup>

Thus, largely rejecting Christian faith and every other recognition of human dependence upon transcendent intelligence and will, our societies are *diverging further and further* from every type of Christian commonwealth or "civilization of love." In such a situation, one must ask whether Christians involved in politics can have a reasonable expectation of shaping the main lines of public policy and law. Can they expect to do any more than, sometimes, help limit the damage and, always, bear witness to the faith and to the moral truths which are taught by faith?<sup>10</sup>

## II. PARTICIPATION IN MAKING AND AMENDING UNJUST LAWS

To the extent that our societies are firmly and increasingly committed to the radical injustice of asserting that some people do not *count*, the classic presumption that laws are just and create serious obligations of compliance becomes increasingly weak and defeasible. The classic theology—indeed the doctrine—of Christian conformity to human law remains unchanged, but the facts in which it must find its application are in some significant ways radically new.

But it is very difficult to work out the implications of that thought. So I turn instead to consider some less difficult issues. Throughout, I shall consider them from the standpoint of conscience (a conscience which intends to be Catholic and correct); the question in issue will never be whether or to what extent somebody else is guilty; it will always be: "What should I think and do?"<sup>11</sup>

First, then, the position of legislators. For these purposes, "legislators" includes members of a legislative body, but also persons responsible for the drafting (and thus for settling the precise content) of legislative proposals, the Head of State insofar as involved in the process of enactment, and judges and advocates-general in courts responsible for making interpretations of constitutional, statutory, and/or common law.

The meaning and content of the relevant choices and actions of legislators is conditioned by the procedural context. Consider an example. Suppose that, at stage B in a legislative process, the only legislators who can

8 See the quotation from *Casey* in note 7 above.

9 The concept central to the argument for euthanasia in Germany in the 1920s and employed in the title of the key tract by Karl Binding (a reputable non-Nazi jurist) and Alfred Hoche, *Die Freigabe der Vernichtung 'Lebensunwerten Lebens'* ('The granting of permission to destroy life that is not worth living') (2<sup>nd</sup> ed., Leipzig, 1922).

10 Those are, of course, truths which are accessible to reason when it is not crippled by refusal to follow reasoning to its proper conclusion in the affirmation of an uncaused cause. [On "accessibility to reason," see John Finnis, "Liberalism and Natural Law Theory," *Mercer Law Review* 45 (1994) 687 at 701-704.]

11 Cf. *Veritatis Splendor* 78: "[i]t is therefore necessary to place oneself in the perspective of the acting person . . . ."

move a reconsideration of a proposal are those who voted *for* that proposal at stage A in the process. In such a context, it may sometimes be the case that the only way in which a legislator can defeat a proposal at the decisive stage B is by voting *for* it at the preliminary stage A. In such a situation a vote for the proposal at stage A could be an effective way of preventing the proposal becoming law. This example shows that a general, universally applicable or *per se* specification of a legislator's responsibilities cannot be adequately stated in terms of "voting." Rather, the morally relevant matter for choice and moral judgment is: *helping to make a proposal part of the law* (or helping to retain an existing part of the law against proposals for change). To describe that morally relevant matter I shall use the term "support." (Normally, of course, to vote for a proposal is indeed to support it, whatever one's attitudes or further intentions or hopes. But sometimes, as I have suggested, the *procedural context* establishes that an affirmative vote is not necessarily an act of support.)

The question *what* one is choosing to support (or not support, or oppose) is also conditioned by context, namely by the existing legal situation. For example: a *law* of the form "Abortion is lawful up to 16 weeks" is an unjust law. But a *bill* of the form "Abortion is lawful up to 16 weeks" might either (i) be proposed precisely as introducing a permission of abortions hitherto prohibited, or (ii) be proposed precisely as prohibiting abortions hitherto permitted between 16 and 24 weeks. The choice to support the bill in situation (i) is a substantially different choice from the choice to support the bill in situation (ii). For what is being chosen—the object of the act of supporting the bill—is different in the two cases. In case (i) it is supporting the permission of abortion. In case (ii) it is supporting the prohibition of abortions, indeed of all the abortions which (let us suppose) that legislator at that moment has the opportunity of effectively helping to prohibit.

To say this is not to embrace "situation ethics" or proportionalism or any other theory which denies that there are intrinsically evil acts incapable of being justified by circumstances and/or intentions or ends. On the contrary, I take for granted that *supporting the making of legal permission of abortion (at any stage of pregnancy) a part of the law* and *supporting the retaining of such permission as part of the law* are intrinsically evil acts incapable of being justified by circumstances and/or intentions or ends or "proportionate reasons," even "to reduce the total number of abortions."<sup>12</sup> I have been ad-

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12 ["While public authority can sometimes choose not to put a stop to something which—were it prohibited—would cause more serious harm (cf. St Thomas Aquinas, *Summa Theologiae* I-II q. 96 a. 2), it can never presume to legitimise as a right of individuals—even if they are the majority of the members of society—an offence against other persons caused by the disregard of so fundamental a right as the right to life": *Evangelium Vitae* 71. "[L]aws which legitimise the direct killing of innocent human beings through abortion or euthanasia are in complete opposition to the inviolable right to life proper to every individual; they thus deny the equality of everyone before the law": *ibid.*, 72. "In the case of an intrinsically unjust law, such as a law permitting abortion or euthanasia, it is therefore never licit to obey it, or to 'take part in a propaganda campaign in favour of such a law, or vote for it' (Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion* (18 November 1974), no. 22)": *Evangelium Vitae* 73.]

dressing the prior questions: What is *support*? What is *making permission a part of the law (or retaining it as part of the law)*?<sup>13</sup>

The analysis shows, I believe, that in a state in which abortion is legally permitted up to (say) 24 weeks gestation, it is not necessarily unjust for a legislator to support a proposal to enact a bill of the form "Abortion is permissible up to 16 weeks." For it is possible to support such a proposal precisely as a proposal to extend legal protection to the life of unborn children after the 16th week. That is the proposal whose adoption a legislator of upright conscience may rightly support. Such support is formal cooperation in making a just change in the law, but not in the retaining of the unjust denial of legal protection to unborn children up to 16 weeks. (One cooperates "formally" with A's action X just to the extent that one intends or chooses—not merely accepts as a side-effect—that A shall accomplish something that A intends or chooses in choosing to do X.)<sup>14</sup>

Now of course, such a legislator's support for the bill is also *material cooperation*<sup>15</sup> in something unjust, namely the legislative act of continuing the existing unjust legal permission of abortion *up to* the 16th week, i.e. the abandonment of such children to the power and desire and unjust choice of their mother and others. The one piece of behavior—say, voting for the bill at its final stage—is chosen by the upright legislator *as* an act of *making a just change in the law*, accepting as a bad side-effect the simultaneous *continuation of unjust law*. Can such material cooperation in very serious injustice be justified?

There are serious reasons for considering it unjustified. *Behaviorally*, the support for the bill (e.g. the vote for it) is indistinguishable from the support given by a legislator who thinks unborn children have no rights or that their destruction is the lesser evil or that sacrificing some to save others is justified. Many people who observe the upright legislator's vote may misunderstand what he is doing, and think that he is supporting the permission of abortion up to 16 weeks for one or more of those or other bad reasons. Many of these people, in turn, may be persuaded by his example to think that one or all of those bad reasons for acting are in fact good reasons for acting. In other words, there is a serious risk of grave *scandal*,

13 For: "*The morality of the human act depends primarily and fundamentally on the 'object' rationally chosen by the deliberate will*, as is borne out by the insightful analysis, still valid today, made by Saint Thomas [Summa Theologiae I-II q.18 a. 6]. In order to be able to grasp the object of an act which specifies that act morally, it is therefore necessary to place oneself *in the perspective of the acting person*. . . . By the object of a given moral act, then, one cannot mean a process or an event of the merely physical order, to be assessed on the basis of its ability to bring about a given state of affairs in the outside world. Rather, that object is the proximate end of a deliberate decision which determines the act of willing on the part of the acting person." *Veritatis Splendor* 78 (emphasis in the original).

14 ["Indeed, from the moral standpoint, it is never licit to cooperate formally in evil. Such cooperation occurs when an action, either by its very nature or by the form it takes in a concrete situation, can be defined as a direct participation in an act against innocent human life or a sharing in the immoral intention of the person committing it. This cooperation can never be justified either by invoking respect for the freedom of others or by appealing to the fact that civil law permits it or requires it. Each individual in fact has moral responsibility for the acts which he personally performs; no one can be exempted from this responsibility, and on the basis of it everyone will be judged by God himself (cf. Rom 2:6; 14:12)": *Evangelium Vitae* 74.]

15 "Material cooperation" with action X is any cooperation (participation, assistance, etc.) which does not constitute formal cooperation as defined in the text at note 14 above.



of leading people into serious sins, at least of thought and quite likely of deed. Everyone has the serious obligations (i) never to choose to give such scandal and (ii) to avoid giving such scandal as a side-effect of some other choice save where accepting it is just and reasonable. (A bishop, for example, has a particularly strong responsibility not to allow the Church's teaching on abortion to be clouded by misunderstanding of this sort.)

But it seems to me that the choice to cooperate in saving the lives of unborn children between (say) 16 and 24 weeks is a good choice in relation to which it *can* be fair and reasonable to accept the bad side-effects (a) of continuing the unjust permission of abortion under 16 weeks and (b) of giving scandal, provided that one has taken all steps reasonably open to one to avoid those bad side-effects. Such steps will surely include, so far as possible, real attempts to persuade the legislature to reject the unjust permission of pre-16-week abortion, and clear and firm public statements that the legal permission of pre-16-week abortion is seriously wrong, in a self-styled "pluralist" society as much as in any other. The upright legislator must also do his best to explain that, in voting for the bill when, despite his best efforts, there is no other available means of protecting the 16-to-24-week babies, he is not choosing to abandon the pre-16 week babies, nor trading them off as the price of saving the post-16 week babies (or as the price of his being re-elected), but rather is doing all that at that moment he can to save the latter. That is to say, he must make a serious and public effort, so far as possible, to explain the distinctions which I have been trying to articulate here.<sup>16</sup> And it is possible to provide such explanations because, although they are subtle, the subtlety is not contrary to common sense.

### III. VOTING IN ELECTIONS, AND PAYING ONE'S TAXES

The same distinctions and forms of argumentation are applicable to the act of casting one's vote in an election to a regional or national legislative assembly. The vast majority of candidates, and all or almost all the candidates who have a realistic prospect of winning, will be supporters of one or more gravely immoral policies, policies in which it would be immoral to cooperate "formally." Nevertheless, some candidates are worse than others, in the sense that candidates A and B support policies more immoral than the policies supported by C, or support not only the immoral policies supported by C but also some other immoral policies, or support the same immoral policies as C but are more likely than C to damage the common good in other ways by incompetence, criminality, treason, and so forth. In such a situation, it is possible and reasonable to vote for C, not

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16 ["A particular problem of conscience can arise in cases where a legislative vote would be decisive for the passage of a more restrictive law, aimed at limiting the number of authorized abortions, in place of a more permissive law already passed or ready to be voted on . . . In a case like the one just mentioned, when it is not possible to overturn or completely abrogate a pro-abortion law, an elected official, whose absolute personal opposition to procured abortion was well-known, could licitly support proposals aimed at *limiting the harm* done by such a law and at lessening its negative consequences at the level of general opinion and public morality. This does not in fact represent an illicit cooperation with an unjust law, but rather a legitimate and proper attempt to limit its evil aspects": *Evangelium Vitae* 73.]

intending to give one's support to his immoral policies, but intending to do what one can to prevent the election of A or B. In doing so, one is cooperating materially but not formally in the promotion of C's immoral policies and actions.

Similarly, one could publicly campaign for C without intending, or formally cooperating in, his immoral policies. But since it is unlikely that one could campaign effectively if one were at the same time taking care (a) to dissociate oneself, publicly and audibly, from those policies, and (b) to make it clear that one supports C only as blocking the election of A or B, it will usually be wrong to campaign for C—wrong because obscuring and damaging Christian witness to the truth which C denies or flouts.

*Taxes.* The analysis of intention and formal cooperation follows similar lines when the question is whether one may pay taxes to a government which, while not altogether vicious or corrupt, misuses public funds by giving financial support to gravely unjust activities such as abortion or destructive embryo experimentation. Taxes are paid into a consolidated fund; no payment is earmarked for expenditure on any particular governmental purpose; citizens cannot designate the purposes for which their tax payments will be used. Therefore, non-payment will withhold support from the good uses of public funds, uses which a citizen has a moral obligation, in justice, to support. So, to avoid damage to those good causes, and also to avoid harming fellow citizens of modest means who cannot evade taxes and who would be more heavily taxed to "compensate" for one's non-payment, one may and indeed usually should pay one's taxes in full, intending thereby—not to support the bad causes to which the government's tax revenues will in part be devoted—but to improve the lot of the poor and contribute in other ways to the common good.

*Supporting the Budget.* Reflection on the case of paying one's taxes can assist in showing also that a legislator may support an omnibus budget bill for the financing of the whole or a large and mixed part of public expenditure, and may give this support without intending or cooperating formally in any wrongful act, even when the bill contains some clauses authorizing gravely immoral expenditures. The decent legislator should do what he reasonably can to amend the budget by eliminating the immoral expenditures, and to make public his rejection and denunciation of the immoral expenditures. But in a final vote, where his options have narrowed to supporting or (in effect) opposing the whole Budget, support for the general bill can be intended only to fund good causes and merely accept as a side-effect (material cooperation) the use of public money for funding immoral activities.

Such a vote is of a different moral species from voting in favor of funding abortions or embryo experimentation or in vitro fertilization and embryo transfer, for some reason such as to give poor mothers the same advantages as rich mothers, or infertile women the same benefits or opportunities as fertile women. A vote of the latter kinds involves an immoral intention: e.g. that poor women should have abortions (in circumstances where rich women could do so), or that infertile women give birth to children conceived as objects of human artifice.

Still an important question remains. Is it right to give material cooperation to grave wrongdoing by voting for a Budget that includes amongst its many good provisions the wicked provision for the funding of abortions? Could it be right to vote for a Budget that funded the purchase of gas ovens for the extermination of Jews? Could that be fair to the Jews, and to the people who will be led to think that extermination is sometimes justifiable? Is the case of abortion really different?

#### IV. FURTHER QUESTIONS

There are a considerable number of other issues and considerations relevant to this general topic. There is civil disobedience—overt violation of laws which are perhaps themselves just laws, for the purpose of expressing one's protest against some other law or public policy which is closely associated with the law broken and is unjust.<sup>17</sup> There is the covert violation of laws which, though generally just, protect and indirectly promote unjust activities unjustly permitted or promoted by law or public policy—e.g. laws about trespass or damage to property, in their application to extermination camps or abatoria or embryo banks or nuclear missile bases.<sup>18</sup> There is the private use of preventative force (*légitime défense*) in circumstances where public officials unjustly refuse to use it. There is revolutionary activity and the use of force to overthrow governments which persist in upholding gravely unjust violations of human rights. There are uses of force to suppress revolutionary activity which is being undertaken with just cause but without reasonable prospect of success and therefore unjustifiably. And there are other questions which will become ever more evident and urgent matters for Christian and philosophical reflection and judgment as our democratic societies become more and more unjust under the color of right and the impulse of passions unleashed by secularism.

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<sup>17</sup> See Finnis, Boyle, and Grisez, *Nuclear Deterrence, Morality, and Realism* (Oxford University Press, 1987) 354-7; Grisez, *Living a Christian Life*, *supra* n. 3, 883-4.

<sup>18</sup> See Grisez, *Living a Christian Life* 884-5.