To Find Common Ground in respect for Life –
Do Not Make the Perfect, the Enemy of the Good or Justice the enemy of love.

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Good evening. It is a pleasure to be back at The Catholic University of America. It is also a pleasure to be in discussion with the Honorable Mary Ann Glendon and with my colleague and friend Professor Robert George.

A Journey Inspired by a Candidate Seeking the healing of Cultural Division

I come to our discussion this evening reflecting upon a recent, very public journey. Some suggest that it is a curious journey. Perhaps, it is, but for me, it is a distinctly Catholic one and it is a journey motivated in large part by the quality of our President to actually seek common ground. One of Barack Obama’s finest features -- beyond his intellect, beyond his capability to articulate great thoughts and to inspire, beyond even his ability to transcend the racial divisions in our country is the fact that he set out from the earliest moment of his primary campaign to win elective office not by dividing or by stirring hate or by reigniting the culture war. Instead, Obama often campaigned in a manner seeking to heal division by finding, or at least exploring in an honest intellectual way, where common ground exists today or might in the future be achieved.

Common Ground and the Truth of the Human Person

Now the pursuit of common ground as Ambassador Glendon implied in the questions she outlined for us in introduction must always be compatible with truth, and of course, that is the great teaching of our faith. A democracy not anchored upon the truth of the human person has gone seriously awry as John Paul II so well taught us in *Veritatis Splendor*. Nevertheless, in this imperfect exile in which we find ourselves we do rely upon the invention of man, the constitutional system of which Professor George and I teach, to resolve most disputed questions of truth. Where democracy and democratic choice do not lead to a consensus answer we turn a limited number of those questions over to the judiciary asking these men and women to identify on a dispassionate basis the values and traditions implicit as we say “in the concept of ordered liberty.”

The initial task as I see it this evening is to explore the boundaries of truth in the pursuit of common ground. Let me therefore begin by saying what I find as a Catholic to
be unacceptable in the pursuit of common ground. I would find it unacceptable to argue that abortion should be morally permissible. I would find it unacceptable as a Catholic to argue that attitudes toward abortion be merely considered as private matters not influencing public policy. I would consider it unacceptable to argue that the conscience and religious practices of others that differ with us on these profound issues of the nature of the human person can be used to excuse us from the understanding of the faith as the Church holds it out to us. And while I agree wholeheartedly as a citizen that majority will tempered by judicial review is the day-to-day operational mechanism by which we agree to live together as a people with many different ideas that in itself can never excuse participation in an intrinsic evil. Now, of course, harmonizing these propositions can be difficult, but thankfully, it has been the subject of the thoughtful leadership of our Church both in Rome and the United States. Most notably with respect to our focus this evening, John Paul II in the Gospel of Life, Evangelium Vitae No. 73 wrote, “That when it is not possible to overturn or completely abrogate a pro-abortion law, an elected official (I emphasize the adjective since while there has been some recent confusion, I believe the better view differentiates judges from legislators) whose absolute personal opposition to procured abortion is well known may implicitly support proposals aimed at limiting the harm done by a law [imperfectly protecting life] and at lessening its negative consequence. Such compromise, such embrace of the reality of life does not, wrote John Paul, represent an illicit cooperation with an unjust law, but rather a legitimate and proper attempt to limit its evil aspects.”

Objective and Subjective Intent

Intent—intent is the key element. Intent was a key element in answering the question, “Can a Catholic Support Him?” To answer the question, “Can a Catholic Support Barack Obama?” one has to think about intent both objectively as well as subjectively. Is it reasonable to believe that the good and the truth would be advanced by his election and is that indeed our subjective intent as well for casting our vote in his direction? Now, later in the discussion I hope to spend time discussing with Professor George and Ambassador Glendon the possible range of ethically acceptable compromises in giving that support in specific, but there is still some significant ground clearing to be done before we can hope to find common ground.

No Faith, Even Ours, Is Specially Privileged in the Public Square

Having stated our belief in both the knowability of moral reality and objective truth, and having indicated a desire to act according to an objective and subjective desire to advance it, are we as Catholics expected to sit on the sidelines aloof with our truth, talking to among ourselves reinforcing our goodness or are we to engage our fellow citizens and indeed offer these insights of a life well lived as a gift of the truth of the human person in matters of election and matters of public policy? You already know the answer that I would give is the second and the 2008 election was very much a test of our willingness to reach beyond our usual vineyard; to actually propose, rather than impose, in the public square, as my friend the late Father Neuhaus often framed it. Now, of course, it wasn’t the first test of our willingness to address inter-faith dialogue. In 1960, a Catholic running for President was asked by a group of Protestant ministers
whether a Catholic could be an American. The answer then-Senator Kennedy gave in the intensity of that scrutiny and time led to an answer that makes some of us in this room as we read his words today quite uncomfortable. Because it was a rather strict separation that JFK prescribed; a division of the sacred and the secular of such great dimension that it seemed to forfeit one for the other. But the most essential point was not lost upon the Senator, and ultimately first Catholic president, and that was this: it would be wholly inappropriate for any faith tradition, including the Catholic tradition, to assume from the beginning that one’s position would automatically be accepted, applauded and enacted into law. Quite the contrary. We were to come on equal footing, translating our faith tradition into understandable terms and offer it as the embodiment of our best, and most loving, wisdom to our fellow citizens.

President Obama’s Full Life Agenda

Could a Catholic support Barack Obama in 2008? This Catholic believed the answer was unquestionably yes. Barack Obama was, of course, not of our faith and yet he spoke consistently of the importance of organizing society to meet the needs of those who are the least advantaged. In matters of economy, he proposed to work toward a just and family wage in the face of a system of laws and taxes and policies that were no longer well calculated to provide it. He sought to end a war that the leadership of our church pleaded with the former president not to enter. He sought to be a steward of creation, and seeks to be a steward of the environment in ways that address how we have thoughtlessly consumed far too much of the world’s resources when others are in starvation and when the climate is in jeopardy. He seeks to reform the healthcare system to leave no one without care. He seeks to welcome the stranger in terms of immigration. These are all life issues. These all relate to honoring the dignity of men and women and children in community. To even suggest that support for these policies diverges from our faith is to not know our faith. To more commonly ignore these issues as invisible until the abortion question is perfectly resolved (or worse, to ignore these matters in exchange for an alternative political vision that subverts them but gains immunity by the thin promise to overturn Roe v. Wade) is to leave the fullness of our faith tradition behind. And this forfeiture of the fullness of faith is so easy to do because we rationalize that by embracing pro-life rhetoric dressed in the innocence of the unborn that we have somehow undertaken the greater duty.

Abortion & Intimidation

Yet of course there is the question of abortion. How to handle that question? I don’t think the way to handle that question is with intimidation. The denial of communion is intimidation. Let me tell you that to be separated from the body of Christ even once is intimidation. But it’s not just an isolated case of a mistaken priest on one occasion. The zealous prelate with the discipline of the local archbishop wrote a letter of apology which of course was accepted. It is instead that since 2004, it has been the teaching of at least some bishops – well beyond that contemplated by the Holy Father -- that it was their regular calling to render public judgment upon the public officials within their diocese and withdraw the body and blood of our Lord in what can only be described as an intimidating, aggressively policing manner. No bishop; no priest knows
my heart or that of anyone else as well as our Lord does in our approach to His loving sacramental gift. No prelate should indulge the contrary view, especially since the bishops who have done so seem more aligned with partisan, than salvific, interests. Mr. Kerry was told: “don’t come for the sacrament in St. Louis.” Mr. Biden, “if you’re in town in Denver and you’re attending mass, you should think twice about coming to the alter rail.” Kathleen Sibelius -- because we disagree with how you have discharged your governing responsibilities in disapproving legislation that you’ve been advised by your legal counsel is unconstitutional, but we think pro-life regardless of the law—stay away from Communion until you publically confess. I suggest that the use of the Holy Eucharist as a weapon is neither an effective nor a Catholic approach.

Can the Bishops Be Faithful to their Faithful Citizenship Teaching?

Nor is it a Catholic approach as the bishop’s own teaching document (Faithful Citizenship) indicates for the Church to endorse candidates, and yet with flagrant disregard of their own instruction, particular bishops went ahead and explicitly endorsed candidates – on television campaign advertisements no less. Nor is it the approach of the church to allow materials in its vestibule that basically proclaim it to be a sin of the highest order to cast a vote for the Democratic candidate Barack Obama. The bishops’ teaching document was well crafted to inform the private and public conscience, and it should have been followed, and when it wasn’t, should there not be a corporate obligation for charitable correction, and not indifference or silence the only response?

In 2008, it was entirely appropriate for Catholic voters to have proportionate reasons to approve of a candidate who while not pro life in the narrow sense, was pro-life in the abundant sense of the fullness of the faith described above. Yes, of course, there are qualitative differences among issues and no restructuring of the economy, for example, can ever justify the taking of human life. But let’s be honest, that wasn’t the calculus. Our nation had launched an unjustified course in Iraq. While war is not an intrinsic evil, it is a great one taking thousands of Iraqi and American lives. What’s more, Barack Obama’s opponent had committed himself to a military course of action that for all practical purposes was going to stay the course and thereby eliminate prudential judgment. What’s more, the intrinsic evil of abortion was imperfectly addressed by either candidate; Senator Obama devoting his attention to reducing the economic cause of abortion; Senator McCain promising to overturn a Supreme Court opinion which had resisted change for over three decades, and in any event, even if reversed would have not protected life but only restored the discretion of the states to choose for or against life as it saw fit. Yes, as some bishops pointed out it would be entirely permissible for Catholics to decide to sit the election out, but frankly, that hardly seems responsible to our duty to be both Catholic and American. And importantly, a Catholic could vote with a clear conscience. So long as the Catholic voter did not have an active intent to advance the intrinsic evil of abortion or to vote for a candidate for the purpose of advancing that intrinsic evil it was not morally illicit for a Catholic to cast a ballot in that fashion. Now all of this was, it seems to me, well understood by the American Catholic public who voted. 54% of us voted for President
Obama. Now, some would dismiss that as saying those Catholic voters are the ones who come only once a year; you know the parishioners we greet at Easter time. In truth, the Pew Research Foundation has found that the balloting was, in fact, made up far more significantly of traditional and regular worshippers.

**Notre Dame: The 2008 Election Redux**

This issue, even after having been decided so overwhelmingly in the election, nevertheless returned again at Notre Dame. Father Jenkins courageously stood for the tradition of reason and faith as collaborators; courageously stood for a Catholic faith not afraid to challenge the secular presuppositions of the age; courageously stood capable of applauding the great achievement of the new president as well as having the honesty to state plainly our basis for disagreement with him. It was Father Jenkins who pursued with distinction and civility the image of the Catholic university so well articulated by Father Ted Hesburgh -- the crossroads and the lighthouse -- as President Obama himself would make reference to the graduates on what turned out to be a very happy and un-disrupted occasion, notwithstanding the boycott of the local ordinary and those who were bused into town to, as they said in their animus, to make a circus of this happy day.

The University of Notre Dame truly is a place where Catholics come to do their thinking. Father Jenkins it seems to me illustrated brilliantly what it means to be a Catholic institution of integrity, engaged with the public discussion openly and respectfully disagreeing with the President of the United States on his policies on abortion and stem cell research, and nevertheless, strongly applauding his efforts to address poverty, the fairness of the economic system, the care of the environment, the unjust war and other life issues of great importance. And the good father president of the University pointed out something that in our assuredness of our own correctness had been overlooked in the weeks of threatened and actual disruption of university operations leading up to the commencement. The narrow perspective convinced of its own self-righteousness could see only the invitation as controversial or difficult, whereas the hand of charity would have also readily perceived the difficulty for the President of acceptance. The President, after all, for some considerable period of time had been making an effort at common ground only to have his offerings seemingly mocked and rebuffed. Less gracious public leaders less interested in actually securing the dignity of the human person might well have turned away. That was not the course chosen by Barack Obama. Instead, with gracious eloquence, President Obama said what he had consistently said in the campaign: namely that he would pursue economic and social improvements to address those most vulnerable: those most likely to choose an abortion -- women in poverty, women facing life without shelter, without food often without a spouse almost entirely without insurance. His purpose in providing that additional assistance would be to reduce what he calls, and what all of us in this room would call, a moral tragedy. And he was not finished. To allay specious claims that he would disregard the ethical boundaries of medical practitioners, he indicated that he would indeed observe a sensible conscience clause, and that he would recognize competing moral claims in the context of embryonic stem cell research, and for that
reason, he intended to not lend federal support for the creation of embryos for research
having already placed off limits federal support for reproductive cloning.

**Stem Cell Research**

On the topic of stem cell research, President Obama has already illustrated in the NIH
draft regulations that he’s listening to the Catholic voice. Now, listening won't always mean
100% agreement with us, and it doesn't in the present context. Nevertheless, contrary to the
doom and gloom of some members of the Catholic hierarchy, it does mean significant funding
for adult stem cell research that had not been previously indicated. It means, as I said, banning
reproductive cloning which the President proclaimed to be ethically out of bounds in his original
announcement. For many Americans who are not Catholic, the status of an embryo created in a
petri dish for research purposes that is unseen by the unaided eye and never intended for
implantation is not readily understood to have the same status as an embryo implanted in the
womb that by its own self directed means would reach the fullness of life. Science does not,
contrary to some occasional claims made by our church, proclaim such artificially created
research embryos to have the dignity of the human person, especially as the preparation of such
research embryos holds the potential for the possible cure or amelioration of prevalent and fatal
disease. Nevertheless, out of sensitivity for the Catholic point of view, President Obama focused
the federal research effort upon embryos created for purposes of in vitro fertilization that would
otherwise be unneeded, and frequently, discarded. Of course, as Catholics, we see ethical
boundaries here as well in the church’s respect for the natural conjugal act over IVF. Again,
finding common ground does not mean aligning in perfect agreement. It does mean
understanding each other’s perspective, about which I suggest Barack Obama has been most
circumspect. Have we?

**The Lessons of Life and Love**

What are the lessons of the election and the first hundred days or so of the
Obama administration? One lesson has to be that the church is not a political party.
And it must be on guard never finding itself captured by either political party. It is not
Republican. It is not Democratic. The universal Church transcends in its purpose all of
the earthly considerations of partisanship -- or at least it should. Indeed as Tocqueville
reminded us, the Church should not trade the greater for the trivial. It should not align
with the popular because at the moment that that popularity ceases, the insight of faith
by association will be dimmed for people as well.

The intimidation and hardheartedness of the last election and the outrageous
behavior of some nominally pro-life elements in advance of the Notre Dame
commencement, also teaches the importance of the leadership of the church being
perceived as, and truly being, loving shepherds, not scorekeeping precinct captains. If
we are to act toward each other in the way Jesus taught us in the Sermon on the Mount,
we ought not deploy mechanisms of intimidation whether they be in pamphlets or on
blogs or in the hand over the ciborium that turns us away from the body and blood of
Christ.
We must be careful to observe the proposition that it is wrong to make the perfect the enemy of the good. And because the true defense of the sanctity of life is love, it is wrong to make justice the enemy of love and quite frankly it is wrong not to recognize the possibilities for the genuinely greater respect for life that resides in the good heart of President Obama who by happenstance and life experience comes from a point of view that is not necessarily the one that we ourselves have indulged in the past.