

Confronting Deep Moral Disagreement: The President's Council on Bioethics, Moral Status, and Human Embryos

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The report of the President's Council on Bioethics, *Human Cloning and Human Dignity*, addresses the central ethical, political, and policy issue in human embryonic stem cell research: the moral status of extracorporeal human embryos. The Council members were in sharp disagreement on this issue and essentially failed to adequately engage and respectfully acknowledge each others' deepest moral concerns, despite their stated commitment to do so. This essay provides a detailed critique of the two extreme views on the Council (i.e., embryos have full moral status or they have none at all) and then gives theoretical grounding for our judgment about the intermediate moral status of embryos. It also supplies an account of how to address profound moral disagreements in the public arena, especially by way of constructing a middle ground that deliberately pays sincere respect to the views of those with whom it has deep disagreements.

Human Cloning and Human Dignity, the Report of the President's Council on Bioethics which addressed human reproductive and therapeutic cloning, by and large landed in the political world and the scholarly community with little more than a quiet, awkward thud (President's Council 2002). President Bush had previously made his mind up about therapeutic cloning and stem cell research and set his administration's policy a year before the Report was released to the public (Cohen 2004). Bioethics scholars have not paid it much attention to date either. Consequently, the Report seems to now reside in the scholarly dead-letter office.

However, the Council's Report deserves a better fate, especially in light of the recent production of patient-specific stem cells (Kolata 2005). First, the Council addresses at considerable length the central moral questions in embryonic stem cell research: (a) what is the moral status of extracorporeal human embryos (those outside a woman's body; hereafter EHEs), and (b) is it morally permissible to destroy embryos to obtain stem cells? Second, as a publicly supported national body, the Council embraces a responsibility to conduct public discourse about the ethics of this controversial subject; they suggest that their Report will be a "fair and accurate reflection

of both our views and the state of the question" and that they have tried fully and fairly to articulate our differences . . ." (136). Both these questions and the Council's methodological approach to them deserve further ethical analysis. The Council's related publication, *Monitoring Stem Cell Research*, is not considered here because in it the Council only describes the normative positions it canvasses and takes no normative position itself on the moral status of EHEs (President's Council 2004).

After summarizing the Council's various positions on the moral status of EHEs and the permissibility of destroying them, we argue that most of the Council members—namely, those who give EHEs full moral status as well as those who give them none—are wrong in reaching these opposite conclusions. We contend that the most defensible position recognizes EHEs as having modest moral status, a view we have proposed elsewhere (Meyer and Nelson 2001) and will defend and elaborate below. We call this position the "Third Way"; it is intended to establish a reasonable, principled middle ground between the two extreme positions on the Council. As a form of *principled* compromise, it is not justified simply because it works; it also has an independent moral justification. Such a compromise

Keywords

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has the further advantage of constructing a middle ground that deliberately pays some sincere respect to the views of those who deeply disagree with it.

Finally, we contend that the Council has failed to deliver on its own important promises of offering both a “fair and accurate” account of the state of the moral question and a “full and fair” articulation of its own differing points of view. These failures are especially noticeable when the majority of the Council dismisses the Third Way as “incoherent and self-contradictory” (175). In our view, the Council’s ethical reasoning about the moral status of EHEs does not provide a model of worthy public discourse. Deliberations at the intersection of public policy and ethics conducted by a national public body should model high standards for public discourse and these are noticeably absent from the Council’s Report.

THE COUNCIL’S POSITIONS ON THE MORAL STATUS OF EHEs

The Council members took three distinct positions on the moral status of EHEs and the propriety of destroying them. A majority held that EHEs have moral status equal to that of born persons and hence favored a moratorium or a ban on research resulting in their destruction. The first minority held that EHEs have some moral status but not that of persons, while the second minority denied EHEs any moral status; both opposed a moratorium or ban on such research.

The Majority Position

Some disagreement within the Majority may exist on the precise moral status of EHEs (174), but, because the differences are not clearly articulated and don’t seem to matter in the last analysis, we treat the Majority view as unified. The Majority expressly holds that the EHE “is in fact fully ‘one of us’: a human life in process, an equal member of the species *Homo sapiens* in the embryonic stage of his or her natural development” (175). The Majority claims that EHEs are “humanly inviolable” and that this, among other reasons, requires them to oppose “the production and use of cloned embryos” in research and elsewhere (190). Clearly, “humanly inviolable” means that EHEs are “not to be violated . . . not liable or allowed to suffer violence . . . to be kept sacredly free from . . . assault.” For the Majority, because EHEs are human beings and all human beings possess equal basic rights, such as prima facie rights to life and to protection from harm, the moral status

of EHEs does not permit them to be destroyed for any reason.

In support of this conclusion, the Majority asserts that an EHE is “not just a ‘clump of cells’ but an integrated, self-directing developing whole, capable . . . of the continued organic development characteristic of human beings” (174–175). The fact that an EHE lacks, “except in potential, the full range of characteristics that distinguish the human species from others” (presumably characteristics such as rationality, freedom of will, ability to develop complex cultures) is beside the point: “one need not have those characteristics in evidence in order to belong to the species” (174). None of these distinguishing characteristics, often lacking in human beings “early in life, late in life, at any stage of life if severely disabled . . . is itself the human being. That being is, rather, an organism with a continuous history. From zygote to irreversible coma, each human life is a single personal history” (174). In sum, the Majority concludes that EHEs have full moral status because they are living beings with human DNA (they “belong to the species”) and have the potential for further *organic* (not intellectual, personal, or even conscious) development. In a remarkably strong affirmation of this view, President Bush recently claimed that EHEs are among “our society’s most vulnerable members” (Bush 2005).

Minority Position #1

Minority #1 holds that “embryos have a developing and intermediate moral worth, such that the early human embryo has a moral status somewhere between that of ordinary human cells and that of a full human person” (153). EHEs, “certainly in the first fourteen days,” are not “the moral equivalent of a human person, though [they do] command significantly more respect than other human cells” (153). EHEs deserve to be accorded “special respect” (by which they must mean moral respect), but this can be achieved despite their being “used for life-saving or potentially life-saving research.” Minority #1 claims that an EHE lacks *full* moral status because it is not yet a single being, it has no possibility of becoming a child while in vitro, common moral sentiments do not regard it as truly equal to a child, and the moral respect owed early-stage embryos is consistent with their use in serious biomedical research intended to benefit persons who do have full moral status (154–160). In sum, an EHE “command[s] our [moral] respect because of what it is [genetically human and alive] and may

become [a human child if implanted and gestated],” even though it “is not a truly human being, but something different . . . but yet not fully one of us” (158).

Minority Position #2

Minority #2 believes that the use and destruction of EHEs in research “presents no special moral problems” because they “accord no special moral status to the early-stage cloned embryo” (167). Specifically, Minority #2 holds that EHEs have no “moral status greater than human somatic cells in tissue culture,” namely, none at all, because they “lack any trace of a nervous system, [have] no capacity for suffering or conscious experience in any form—the special properties that . . . spell the difference between biological tissue and a human life worthy of respect and rights” (168). Minority #2 also concurs with Minority #1 that EHEs lack any potential that could ground their having full moral status (169).

MORAL THEORY AND THE STATUS OF EHEs

We share with Minority #1 a fundamental conclusion about EHEs: they have a modest moral status and deserve genuine moral respect which should be expressed both in deed and attitude, but lack the full moral status and right to life of human moral agents. However, even though we do not fully endorse their reasoning or the precise articulation of their position (which, for one, they seem to limit to EHEs of 14 days development (153–154)), a detailed analysis of our differences with Minority #1 is beyond the scope and purpose of this paper. Nevertheless, two problems we have with their approach deserve brief mention here. Minority #1 does not fully appreciate the significance of respecting and accounting for the attributions of moral status made by other persons (we discuss this below in more detail when we consider the principle of evaluative respect and accommodation and their admirable, but incidental, use of it). More broadly, Minority #1 fails to ground its view in a general account of moral status, that is, one that can be used to make a considered judgment about the moral status of any entity.

Grounding claims about the moral status of a particular entity in a general theory exposes the assumptions and arguments, both ethical and metaphysical, upon which such claims rest. In addition, it offers a way of thinking about moral status that is principled and rationally defensible, while helping avoid the risk of idiosyncratic or biased justifications of a particular attribution of moral status

(Goodpaster 1978; Regan 1985). Using a general theory for justifying the attribution of moral status to anything makes this fundamental kind of moral judgment more transparent and provides a reasonable point of comparison when assessing conflicting attributions.

Consequently, we submit that claims about the moral status of EHEs which are grounded in a principled, reasonable, and comprehensive theory of moral status are more compelling than those that are not. Indeed, the burden of persuasion is squarely on those who make claims about the moral status of EHEs which are *not* grounded in a general account of moral status when others are. In arguing against claims about moral status which are grounded in a general account, opponents should provide either an alternative general account or at least address in some detail how the general account fails to provide adequate justification in the instance at hand. The entire Council—Minority #1 as well as the Majority and Minority #2—fails to recognize these considerations.

Our general theory of moral status contains four central principles: 1) *Moral agents*: Moral agents have the highest degree of moral status and possess full and equal fundamental rights, including prima facie rights to life and liberty (corollary 1.1: *Evaluative respect and accommodation*: To a reasonable extent and in concert with the other principles, moral agents should honor one another's sincerely made attributions of moral status out of respect for each other), 2) *Human community*: Born human beings who lack moral agency have the same fundamental moral status as moral agents; 3) *Life and sentience*: Living entities, especially those with sentience, have some degree of moral status (though probably quite low) and should not be destroyed or harmed without sufficient reason; and 4) *Ecological importance*: Entities (living and nonliving) have some moral status due to their relative importance to the ecosystem. As our theory is very similar to that of Mary Anne Warren (1997), we endorse much of the defense she offers for her theory (especially her convincing critique of single principle accounts) and believe that her largely successful defense supports our theory as well.

Of course, we acknowledge that, however desirable this would be, we cannot possibly offer an adequate defense of our entire theory in a short paper such as this. Nevertheless, even in the absence of a defense, our claims about the superiority of attributions of moral status grounded in a general theory still have weight. The moral community will make, at best, faltering progress in sorting out competing

claims about the moral status of entities such as EHEs, and the duties owed to them, until these claims are placed within a general theory of what gives any entity moral considerability.

Applying our theory, EHEs have some moral status in virtue of both corollary 1.1 and principle 3. First, EHEs are in fact valued in a variety of ways by moral agents and some (like the Council's Majority) value them very highly. Moral agents commonly attribute moral status to entities lacking the inherent properties that would independently ground their moral considerability, and persons routinely respect the value attributed by others to entities like the bones of an ancestor. In our view, an aspect of respecting moral agents themselves is respecting, at least to some extent, the entities they sincerely and genuinely value. We provide a fuller explanation and defense of the corollary of evaluative respect and accommodation below.

Second, living entities, like EHEs, should (and very often do) engender in us some sense of wonder and appreciation for the beauty, mystery, and intricacy of life itself. Living entities also have goals, however primitive, and so have a good of their own related to these goals that can be thwarted by moral agents. It is this good, modest though it may be, that is deserving of at least some consideration from moral agents and is relevant to an all-things-considered assessment of its possession of moral status. Furthermore, sentient entities can suffer, and suffering is typically contrary to the interests of such entities just as it is for sentient humans. For these reasons, sentient entities are deserving of some, though perhaps minimal, moral consideration, and gratuitous harm to or destruction of them is *prima facie* morally problematic.

This preliminary application of our theory provides an outline of the theoretical justification for the Third Way. Further defense of the Third Way is called for because of the Majority's serious—indeed devastating if true—charge that this view is incoherent and internally inconsistent.

THE INCOHERENCE OF THE THIRD WAY?

The Majority declares that the Third Way “is incoherent and self-contradictory” (175). The single reason given is that the Majority holds one cannot possibly have moral respect for EHEs and simultaneously endorse “research that requires the creation, use, and destruction of these organisms, *especially when done routinely and on a large scale*” (175; emphasis in original). This criticism, however rhetorically attractive, is mistaken.

If the Majority is asserting that it is “incoherent” and “contradictory” to claim that the “routine and large scale” destruction of EHEs can be done with “special respect,” this is simply not true (175). “Special respect” is best understood here as *moral* respect, by contrast with various kinds of non-moral respect (Meyer and Nelson 2001). It is only if “special respect” is *already* understood to mean the highest level of moral respect (i.e., the respect due to moral agents because they have full moral status) that this criticism has real force. But this, of course, begs the question. The Majority simply cannot assume that EHEs have full moral status and deserve the highest level of respect (which would surely be violated by their routine destruction) because it is their obligation to defend that very conclusion. (We argue below why the Majority's justification for attributing full moral status to EHEs is unpersuasive.)

But perhaps the Majority's reason for rejecting the Third Way should be interpreted differently. They may instead believe that the routine and large scale destruction of an entity is incompatible with *any* type of moral respect for it. Were this true, it would justify their claim that the Third Way is self-contradictory, and even incoherent. However, the claim at the heart of this second interpretation of the Majority's argument is also not true. Destroying an entity, even if done routinely and on a large scale, can be consistent with giving it genuine moral respect.

First, take the example of human cadavers. They are routinely destroyed for training students on a very large scale in institutions all across the nation, indeed around the world. Yet no one, including presumably the Council's Majority, objects to this destruction as morally disrespectful and calls for its prohibition. Of course, such respectful destruction does not happen without thoughtful education of students. Those who regularly destroy human remains should put considerable effort into genuinely having and displaying moral respect for cadavers.

Second, consider laboratory animals. They are “routinely and on a large scale” destroyed in the course of conducting legitimate medical and scientific research. Yet surely every researcher should behave as if these animals have some moral status and are *at least* entitled to the moral respect of not being unnecessarily destroyed, pointlessly subjected to pain or suffering, or housed in unhealthy, filthy conditions. These two common examples demonstrate that the Majority is wrong to argue that the practice of widespread and routine destruction of that which has moral status is necessarily inconsistent with it being shown any moral respect.

A final interpretation of the Majority's argument that the Third Way is "self-contradictory and incoherent" rests on the same grounds that the Majority advances for its conclusion that EHEs have full moral status and are inviolable: from conception to death it is always wrong to kill or use any innocent living human being. However, the Majority's argument for this stronger claim cannot withstand careful scrutiny either.

THE MORAL STATUS OF EHEs

The central argument advanced by the Majority against the Third Way is that EHEs should never be intentionally destroyed because, as noted above, the EHE "is in fact fully 'one of us': a human life in process, an equal member of the species *Homo sapiens* in the embryonic stage of his or her natural development" (175); it is "capable . . . of the continued organic development characteristic of human beings" (174). There are two distinct but related types of problems, one conceptual and the other moral, which arise for the Majority's application of this idea of potentiality to the unique case of the *extracorporeal* human embryo.

The conceptual problem is evident in the Majority's unstated but crucial assumption that the potentiality of a human embryo in an *in vitro* environment is *identical* to its potentiality *in vivo*. Such an *identification* assumes the availability of a woman's womb for every EHE as well as the means to place it there. As the assumption that *in vivo* environments will always exist for every EHE is not obviously true, the potentiality of these two groups of human embryos are not identical.

The potential of an entity with the possibility for further growth and development *in the absence of the environment necessary for that development* differs from that of the same entity already well-positioned within that environment. As any gardener knows, it is not true that the lettuce seeds sealed in the packet have a potential *identical* to those seeds already planted in a well-tended garden. Put otherwise, the potential for continued organic development already situated within a normal and productive environment differs critically from an otherwise similar potentiality that is environmentally dispossessed. The point here is not that the seed without the garden has no potentiality whatsoever to develop, but only that this potentiality genuinely differs from the seed in a nurturing environment.

The conceptual problem with the potentiality of EHEs outlined above is never even considered by the Majority. Contrary to the Majority's claim

then, EHEs are not necessarily "capable . . . of the continued organic development characteristic of human beings" (174). Furthermore, this conceptual problem leads ineluctably to an even deeper type of problem.

The second type of problem is moral and has two manifestations. First of all, to successfully grapple with the conceptual problem noted above, the Majority must assume that women *should* make their wombs and their lives available in order to make the potential of every EHE identical to that of gestating embryos. They must also assume that to even make it possible to grant them a moral status equivalent to that of human agents. Although it should go without saying, women are *not* embryo incubators but rather persons whose consent must be obtained prior to the implantation of any EHE into their wombs. The Majority, however, at best begs the moral question here; at worst, they are dismissive of the importance of women in the process of prenatal human development.

Furthermore, in treating EHEs as a morally equal stage in a "single personal history" (174), the Majority has made the same ethically objectionable assumption about the women necessary to gestate the EHEs in question—for without gestation provided by an individual woman, no EHE has any history. At minimum the Majority must assume there will be a sufficient number of individual women willing to bring all EHEs to full term. In the predictable absence of this (a recent inventory has found some 400,000 frozen human embryos in the United States alone (Hoffman 2003)), the Majority must hold that women have a moral obligation to do so. Such a claim is surely not obviously true and indeed is subject to compelling ethical objections.

Consider a second dimension of this type of ethical problem. Elsewhere we have made a case for the special moral relationship between EHEs and their genetic progenitors (Meyer and Nelson 2001). Basically our claim is that the progenitors have a special metaphysical, biological, and moral relationship with the EHEs made out of their genetic material which in turn invests them with the *prima facie* right to direct the disposition of their EHEs in any manner consistent with the moral status all EHEs possess. In the absence of an argument to the contrary—and the Majority supplies none—this claim of special relationship is surely reasonable. Yet this claim gives rise to further serious ethical concerns with the Majority's view. For one, many of the progenitors of EHEs now in cold storage are surely not willing to allow them to be gestated,

especially by strangers. This predictable unwillingness, as well as the equally predictable disagreements among couples about what to do with their EHEs, undermines the Majority's position that any given EHE has a "single personal history" and is truly "capable . . . of . . . continued organic development" (174).

Even in the unlikely case that the defenders of the Majority view could surmount the ethical concerns raised by the assumption that women in sufficient numbers would, or should, be available to realize the potential of every EHE, the consent of *both* progenitors to the gestation of their genetic material would also have to be obtained in every case. The force of this principle is considerable. Indeed, it is morally dubious for the Majority to contemplate developing a person's genetic material into a new human being without (even worse, against) his or her consent. And while the Majority does not expressly endorse this practice, it remains altogether unclear just what, if anything, they could say against it. Moreover, in the absence of endorsing the ethical legitimacy of "saving" EHEs by developing their potential regardless of the consent of the progenitors and gestational mothers, it is unclear how the Majority can maintain EHEs are "in fact fully 'one of us'" and "humanly inviolable" (174, 190).

Although we have found the Majority's reasons for rejecting the Third Way—and for attributing full moral status to EHEs—extremely unconvincing, we are equally critical of the opposing extreme position taken by the members of Minority #2 who reject the Third Way by concluding that EHEs, just like "human somatic cells in tissue culture," have *no moral status whatsoever*. Minority #2 claims that the "difference between biological tissue and a human life worthy of respect and rights" lies in the "special properties" of having the "capacity for suffering or conscious experience in any form" (168). That is, being sentient is necessary to possess any moral status. They also argue both that early-stage embryos ought not to be "identified with a unique individual person" because two of them may fuse to form a single organism or a single embryo may split into twins and that the potential to become someone is "hardly the same as *being* . . . someone . . . any more than a pile of building materials is the same as a house" (168–169).

Minority #2 makes here the untenable assumption that an entity must be a sentient individual in order to have any moral status whatsoever. A variety of philosophers have argued persuasively and in considerable detail that moral status ought to

be attributed to nonsentient entities like living things (Taylor 1986; Varner 2002), species (Kemp-ton et al. 1995; Rolston 1989), and ecosystems (Callicott 1989; Leopold 1949). Our general theory of moral status outlined above borrows from this collection of arguments in order to ground and motivate principles 3 (life and sentience) and 4 (ecological importance).

A final reason to reject Minority #2's claim that sentience is a necessary condition for having any moral status is provided by our corollary 1.1, evaluative respect and accommodation. This is an important factor in determining moral status as well as underwriting a worthy kind of public discourse, further explanation of which follows below. We find the conjunction of these points (any one of which is sufficient) to be a very powerful reason to reject Minority #2's insistence that nonsentient entities, like EHEs, can have no moral status whatsoever. Minority #2's undefended assumption, that sentience is a necessary condition for moral status, and their unwarranted conclusion, that EHEs are morally worthless, are regrettable consequences of working without a general account of moral status.

EHEs, DEEP MORAL DISAGREEMENT, AND PUBLIC DISCOURSE

The disagreement within the Council on the moral status of EHE could hardly be more profound. While the Majority holds that EHEs are owed a level of moral respect equivalent to that of full-fledged persons and can never be legitimately destroyed, Minority #2 holds that EHEs are due absolutely no respect whatsoever and can legitimately be destroyed at will. The starkness of this divergence calls for each group to carefully respond to the arguments of the other in a deliberate effort both to cleanly identify and to clearly illuminate the sources of the disagreement for the benefit of the public, lawmakers, and the authors of government policy. Nevertheless, Minority #2 does not even attempt to *directly* respond to (much less try to refute) the Majority's arguments about the moral status of EHEs, although it does offer some general defense of its views. In turn, the Majority devotes just one brief paragraph in response to Minority #2's position (175).

With this insubstantial effort at directly addressing and responding to each other's reasons for their starkly incompatible positions, the Council both betrays its expressed hope that the Report "will prove a worthy contribution to public understanding of [the] momentous question [of human

cloning]” and damages the credibility of its claim that “We have . . . sought rather to illuminate [the differences among us] . . .” (xxv, xxvi). This near absence of serious and sustained ethical *exchange* among the Council’s two polar positions on the moral status of EHEs also belies its presentation of the Report “as a fair and accurate reflection . . . of the state of the question” (xxx) and as presenting “the disagreements in their fullness and richness” (xix). No one should expect complete substantive ethical agreement among the Council members. Nevertheless, the public who underwrites its work, and the policy makers who seek ethical and policy insight from their deliberations, deserve better than this.

The beginning of any meaningful and enduring resolution—or even better and deeper understanding—of the kind of fundamental moral disagreement on moral status evidenced in the Council’s Report must be found by means of worthy public discourse. To be worthy, public discourse must at least be responsive to the concerns of opponents, something necessary for fairly governing a pluralistic society and valuable in itself. Public bodies like the Council should be devoted to intellectual ethical inquiry that is not driven by narrow political or ideological concerns. Instead of the high quality of intellectual discussion the Council promises (“the state of the question”), the readers of the Report are left with a hopeless standoff. Independent confirmation of the standoff was provided by Council member Robert George when he said that “unbridgeable divisions within the council” on the moral status of embryos made it difficult for the Council to make recommendations in its report on stem cell research (Russo 2004).

The standoff the Report leaves us with is evident when we take a closer look at how the different factions on the Council interact. First of all, the position of Minority #2 fails a very basic characteristic of worthy public discourse—namely, to respond directly to the reasons given by opponents. Put in the Council’s own terms, this characteristic of public discourse gives rise to a promise “to respect and *respond* to the legitimate moral concerns of the other side and to indicate how it means *to do them justice*” (137; emphasis added). Minority #2 provides little responsive counter argument to the views of the Majority, and no account whatsoever of how it means to do them justice. While Minority #2 sets out their own arguments in light of this concern for public discourse by offering public “reasons” (roughly, providing reasons accessible to all parties with a stake in the discourse (Rawls 1999)), they fail

to address any reasonable, and now quite standard, objections to those arguments. Specifically, they say nothing at all about the objections to their position on the moral status of EHEs posed by the Third Way and Minority #1. In short, while Minority #2 provides public reasons, they fail to engage in worthy public discourse. They thereby break faith with the Council’s crucial promise to respect and respond to their opponents’ legitimate moral concerns.

One might, however, reply to this criticism about the absence of adequate public discourse by noting that in its entirety the Report provides “full and fair” consideration of the issues because it offers a range of views, including Minority #1’s non-theoretical account which is akin to the Third Way. However, each segment of the Council should “respect and respond to” the main arguments of their opponents. In the absence of this type of discussion, the Report becomes a vast exercise in ideological ships passing in the night, unaware of—or unconcerned with—other serious intellectual traffic in the region.

The second problem with Minority #2 is its unconvincing treatment of the crucial substantive issue. Considering our general theory of moral status, the conclusion of Minority #2 is mistaken because it fails to attribute *any* moral status to EHEs based upon their being alive and the undeniable fact that they are sincerely valued by other moral agents, most obviously the remainder of their colleagues on the Council (very highly valued in the case of the Majority and accorded considerable value in the case of Minority #1). It is the second of these reasons we focus on here because a proper appreciation of it can enhance the quality of public discourse in the face of deep moral disagreement.

Our principle of evaluative respect and accommodation would require that Minority #2 show at least some respect to EHEs precisely because the rest of their colleagues—representative of many others within the society that the Report hopes to engage—consider EHEs to have either full or substantial moral status. Our principle requires moral agents to respect, within reasonable limits, one another’s attributions of moral status out of respect for the valuing agents themselves. Respecting other persons’ attributions of value requires us to “give fair hearing to other people’s reasons for ascribing to certain entities either a stronger or weaker moral status than we think appropriate” (Warren 1997). According some respect to the actual moral status judgments of others does not entail that one shares those judgments, or even less that one has

abandoned one's own values, but simply that one has some respect for the individuals who have in fact made those judgments. For example, as several Native American tribes consider Devil's Tower or Bear's Lodge (a high, isolated monolith of igneous rock in Wyoming) to be a sacred and culturally significant place, fellow citizens should pay some deference to the tribes' evaluations even though to them it is just a big *rock*. Such deference could be paid in this case in various ways, such as not climbing this rock at certain spiritually significant times or in certain ways seen as destructive of its value or integrity.

The obligation imposed by the principle of evaluative respect and accommodation to honor the sincere valuations of other persons does not require an acceptance of their ultimate justifications. Nor does it require acceptance of the particular degree of moral status attributed to the entity. The main point of this principle is to respect, as far as is reasonable, the actual valuations of other agents even when one neither shares their valuations nor the grounds on which they rest.

Moreover, the sincere and not obviously irrational judgments of moral status made by others with whom one is in dialogue cannot be *dismissed* without harming relations with them. This is not merely a shrewd strategic maneuver to advance one's own self-interest. Respect for other agents and their views about what has moral status requires us not to take them lightly and also to accord them as much regard as they reasonably merit. Demonstrating this respect, as required by the principle of evaluative respect and accommodation, is in turn one important aspect of respect for fellow citizens deliberating on complex matters of shared concern. Dismissing the views of those who don't agree with one's own particular attributions of moral status not only betrays dogmatism with respect to one's own evaluation, but also fails to even attempt to establish reasonable and principled common ground with those who have divergent views about moral status in complex cases.

Those skeptical of the principle of evaluative respect and accommodation might say that our commitment to some transitivity of evaluation and respect is not necessary to realize the valuable ends of public discourse. This is so because providing publicly available reasons for attributions of moral status is sufficient to these ends. The skeptics' point is that achieving the valuable ends of public discourse only requires that the parties state their positions in terms which others can understand and avoid terms

peculiar to their own religious tradition or world view. In short, this account of public discourse does not require parties to a controversy about moral status to give a respectful and engaged response to the views of others with whom they deeply disagree, something the principle of evaluative respect and accommodation explicitly demands.

However, the skeptics' view of public discourse allows deep disagreements about moral status to be bypassed, and this generates both practical and moral problems. First, this view is an unproductive approach to deciding public policy within a broadly pluralistic society because it undermines any prospect of reaching a reasonable and fairly balanced compromise about how the society ought to treat an entity whose moral status is controversial. Reaching such common ground is itself a highly desirable consequence of public discourse because, among other things, if public discourse fails to seek and sometimes find a reasonable compromise, pluralistic societies can't flourish.

Of course, the mere mention of *compromise* can conjure the appearance of either the abandonment of principled commitments altogether or the execution of a narrowly self-interested gambit in the face of intractable opposition. However, a reasonable and fairly balanced compromise is instead a genuine alternative to these two negative conceptions of compromise. The kind of compromise the principle of evaluative respect and accommodation facilitates can create a new place for opponents to stand together that fully satisfies neither side but accommodates in a respectful way some of the critical moral values of each.

Rejecting as it does the principle of evaluative respect and accommodation, the skeptics' view of public discourse is unproductive and shows moral disrespect for their opponents. Ignoring opponents' sincerely and strongly held evaluations of moral status expresses a kind of contempt for them because it severs the connection between the person and that which she cherishes. Having a life of integrity and meaning commits a person with moral sensibilities to embracing the moral status of certain entities and protecting them. A public discourse that promotes this kind of disrespect is unworthy not only because showing contempt for fellow citizens is in itself undesirable, but also because contempt sabotages the background conditions necessary for settling pressing questions of public policy in a pluralistic society.

We believe the Third Way provides a good example of reasonable and respectful compromise.

The Third Way employs a general theory of moral status that attempts to explain and justify why any entity has moral status. Any such theory constrains evaluative claims within certain boundaries and does not treat every value judgment as compelling. Moreover, the Third Way utilizes the corollary of evaluative respect because it incorporates the commitments of other valuers in the determination of why an entity has a particular degree of moral status.

In the Report, the position of Minority #1, although it by no means explicitly uses the principle of evaluative respect and accommodation or deliberately adopts a general theory of moral status, resembles the position of the Third Way presented here. Both its conclusion that EHEs have some appreciable (but not full) moral status and its recognition that the claims of the Majority about moral status should affect its own moral deliberations are consistent with our position. Minority #1 most clearly manifests its resemblance to the Third Way in briefly stating:

We appreciate the concerns of people [like the Majority] who voice these objections and risks, and we are prepared to accept certain limits and safeguards against possible abuse. Yet we believe that . . . [t]he moral balance lies on the side of endorsing and encouraging this activity." (President's Council 2002, 144)

The argument we have offered above provides the necessary but absent theoretical background for the position taken here by Minority #1. For one, while they seem to use an approach in form and outcome like our principle, they fail to either state or defend this idea. Furthermore, they fail to put the notion of, or the reasons for, respecting others' evaluations into a general account of moral status.

The stark contrast between how Minority #1 and Minority #2 respond to the Majority is, however, instructive, and the difference between them is elucidated by our account. Where Minority #1 at least tries to appreciate the Majority's deeply held convictions about the moral worth of EHEs, Minority #2 is utterly unmoved. In addition, Minority #2 is unresponsive to the further suggestion of Minority #1 to pay some, but not full, respect to EHEs as well as to those who value them so highly. While neither the Third Way nor Minority #1 agree with the Majority's evaluation of EHEs, their respective attempts to show some respect for the Majority's concerns has considerable value. The Third Way moves beyond the standoff between the two

extremes on the Council and reveals a path for public policy beyond stalemate.

In moving toward principled constructive engagement and away from stalemate, we also provide a sketch of a productive model of public discussion in the face of deep disagreement. The conclusion of the Third Way will not fully satisfy either the Majority or Minority #2, but it will allow each side to see some of their real concerns shown principled respect. The constructive engagement of the Third Way sheds moral light where there is instead much ideological heat; it also provides a public policy prescription fortified with moral reasons to show real, if also limited, respect to some of the deep concerns of both sides.

CONCLUSION

While *Human Cloning and Human Dignity* does indeed merit a closer look than it has been given, we have shown above that none of the positions of the Council utilize an independent theory of moral status to more fully justify their conclusions. In addition, the two opposite positions on the Council (EHEs are persons with full moral status, EHEs are morally worthless) are simply not convincing. Nor do they adequately respond to their opponents. Our position—that EHEs may be destroyed in the course of legitimate research but must be respected in so doing because they have a real though modest moral status—will surely be unsatisfactory to the Majority as well as Minority #2. However, our position is not only an alternative respectful to some of the moral concerns of each side, but it is the only one that has the support of a general theory of moral status. Moreover, our discussion provides explicit reasons for seeking the best kind of compromise in the face of profound moral disagreement and one plausible, if necessarily incomplete, account of how to do so. In addition to detailing the serious conceptual shortcomings of the two polar positions within the Council, we have provided an example of positive public discourse that attempts to bridge their deep differences in the ascription of moral status to EHEs.

The President, the authors of public policy, and the American public deserve a more fully developed moral discussion from any official governmental committee on bioethics like the Council. What amounts to an ideological standoff should not be substituted for the intellectual inquiry necessary to give public policy genuine moral depth and political civility.

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