

New code to bring laws together

Matthew Xuereb

Parliament's Select Committee for the Re-Codification and Consolidation of Laws is drawing up an Administration Code which for the first time brings together all legislation related to public administration.

Kevin Aquilina, who is assisting the committee, said the idea was to create one code encompassing all laws related to public administration, such as the Public Administration Act, the Ombudsman Act and the Freedom of Information Act.

He said this code, which exists in other countries, would result in more certainty in administrative law.

"This will be beneficial for the judiciary, which will have to apply it to the legal profession, which will have to provide professional advice to the public administration, and to the public," Prof. Aquilina said when contacted.

The need for cross referencing between laws would be reduced to a bare minimum, there would be more homogeneity between the legal provisions contained in the code, while the wording of the law would be simpler to read and understand, he said.

This select committee, chaired by Nationalist MP Franco Debono, was set up in December 2009 and had a baptism of fire when the parliamentarian, who had proposed and campaigned for the setting up of such a committee, had absented himself from Parliament on the day a vote was being taken to give it the green light.

Since it was neither a money bill nor a vote of confidence, Dr Debono himself stood to lose most since he

would have lost chairmanship of this committee.

Since the government has a one-seat majority, this resulted in a tie and the Speaker had to use his casting vote for the motion to pass.

Dr Debono had vehemently denied rumours that this absence was linked to the possible re-entry into Cabinet of former minister Louis Galea, who lost his seat to the young lawyer in the fifth district in the 2008 general election - which came as a surprise, particularly since Dr Debono had managed to garner a considerable number of votes despite his hometown, Ghaxaq, not forming part of the district.

Dr Debono had later said his absence was due to urgent issues such as the lack of dignity being afforded to Parliament and Parliamentarians, the grave environmental problems in the south of Malta and the government's reluctance to put into force the fundamental human right of legal assistance prior to police interrogations. In fact, after having been dormant for eight years, this provision entered into force some weeks later.

The consolidation of the administrative laws into one Code is just one aspect of the work undertaken by the select committee, which has met 17 times over the past year.

Dr Debono explained that the committee, which also includes Francis Zammit Dimech and Jose Herrera, had already come up with examples of laws being codified that also needed reform in view of the passage of time.

As one of its first tasks, with the help of Prof. Aquilina, the committee drew up a roadmap of all of Malta's 400 laws, compiled them in various categories such as financial



Nationalist MP Franco Debono

services laws, fiscal laws, transport laws and maritime laws, with each category including various pieces of

"The need for this process of consolidation, rationalisation and simplification has long been felt"

legislation scattered in the collection of the laws of Malta.

The end result of this process, he said, would be the harmonisation

and simplification of laws and identifying any overlapping and recommending updates to laws which are outdated.

When contacted, Dr Debono who, as Parliamentary Assistant within the Office of the Prime Minister has been entrusted with drafting a law on political party funding, said that the need for this process of consolidation, rationalisation and simplification of laws, and the removal of cross references, inconsistencies and sometimes contradictory provisions, had long been felt.

He added that the committee, which cannot enact laws but can only propose changes, would be putting forward proposals to this effect in its report. The report on the first year is due to be published soon.

The committee is also discussing the codification of electoral laws, and has heard submissions by President Emeritus Ugo Mifsud Bonnici, media laws and criminal laws.

It is considering whether the existing provisions of the Code of Police Laws should be retained or transferred to other existing laws or codes, given that most of its provisions have been repealed.

It has also undertaken, with the assistance of Attorney General Peter Grech and Vanni Bruno from the Justice Unit within the Ministry of Justice, an analysis of all those laws on the statute book which are spent and no longer in use, and which can therefore be repealed.

The consolidation of press laws was also discussed with the Institute of Maltese Journalists. When contacted, official Mario Schiavone said he had made a number of suggestions related to whether journalists should have a warrant or licence to operate.

He also questioned who is eligible for a press card, which entity should issue the cards and whether these would be valid only for government events.

Mr Schiavone also questioned whether Malta should have a Press Ethics Commission "that bites" and how to sanction unethical journalism.

The work of this new parliamentary committee entails a detailed, laborious and technical process, as well as legal drafting, and it will suggest the nomination of another two MPs, one from each side of the House, in view of the extensive workload.

It will also suggest the incorporation of the Law Commission under its wing and its revamping.

Freezing embryos is in itself 'not wrong'

Ariadne Massa

Freezing embryos is in itself "not wrong", according to theologian and professor of philosophy Fr Peter Serracino Inglott, and the government should not be looking at the Church's stand on this but focus on its impact on society.

"Freezing per se cannot be considered to be a way of killing the embryo since it is keeping it alive. It is wrong only when freezing is done with an ulterior motive to destroy the embryo," he said, during a discussion on in vitro fertilisation organised yesterday by AZAD, the centre for political studies.

Fr Peter made it clear he was against the practice where "a lot" of embryos - fertilised egg cells - were frozen as this left no doubt these would be destroyed.

The Church, he said, spoke out against embryo freezing because it assumed these would be either discarded or killed, and it was its duty to advise against this temptation of having a surplus.

The Vatican's 2008 document on bioethics, *Dignitatis Personae* (Dignity of the Person), condemns all artificial fertilisation techniques which "substitute the conjugal act".

Despite this, Fr Peter still feels embryo freezing could not be absolutely prohibited just because this temptation existed.

He also felt if three eggs had been fertilised it should be cou-

ples who choose, with the expert guidance, whether they wanted to implant two embryos in a mother's womb and freeze a third; the government should not be the one to legislate on this choice.

Fr Peter's views come as Parliament's Social Affairs Committee, which released its recommendations on assisted procreation last October, reopened discussions on embryo freezing.

"The government should not be looking at the Church's stand" - Fr Peter

The committee had recommended allowing embryos to be frozen under strict protocols, but it sparked strong opposition, even from Health Minister Joe Cassar himself who last month said he was against this practice.

Asked if he was completely ruling out embryo freezing, Dr Cassar told *The Sunday Times* there were only two instances where he felt this would be acceptable - if a mother died before the embryo was implanted, or if a mother turned up on the day and refused to have any embryos implanted.

In all other instances he believed oocyte vitrification - freezing just the woman's egg, a practice that does away with the ethical and moral implications associated with embryo freezing - was the way forward.

Dr Cassar, one of the speakers, said he was waiting for the committee to conclude its meetings - which were expected to be rounded up shortly - before presenting the Bill to Parliament.

During the discussion, Dr Cassar and Prof. Mark Brincat, Obstetrics and Gynaecology Department director, had a lively exchange on whether oocyte vitrification should completely replace embryo freezing.

Dr Cassar said he had questioned why the parliamentary committee had not delved deeper into this process, which had become so advanced in the past two years it was even being offered on some countries' national health service. He also slammed comments made in the past that this was merely experimental.

While accepting that freezing oocytes was an option, Prof. Brincat insisted this should not come at the expense of embryo freezing.

"We are experts in working without embryo freezing seeing we've done this for 20 years, so we can continue without it. But while we're keen on oocyte vitrification there should always be the safety net of embryo freezing," he said.

Bioethics Consultative Committee chairman Michael Ascik



Fr Peter Serracino Inglott and Dr Josie Muscat during yesterday's discussion. Photo: Chris Sant Fournier

also spoke in favour of oocyte vitrification and said it was important to never lose sight of the patient.

During the debate consultant neonatal paediatrician Paul Soler spoke in favour of embryo freezing, as he saw this to be the "lesser evil" option when it came to dealing with a surplus of fertilised eggs. The other choices were leaving the fertilised eggs to die a natural death in the lab or implant them all at the expense of the associated risks for mother and child.

But the University's head of the theology, Rev. Prof. Emmanuel Agius, disagreed the lesser evil should be brought into a moral argument, especially since the Council of Europe's Oviedo Convention considered the embryo to be a human being.

"Some consider the embryo to be simply a mass of cells, but we need to ensure we safeguard the value and dignity of human life, which has always been the case in Malta. Freezing embryos is playing with human life," he said.