

## **Bioethics in the Third Millennium: Some Critical Anticipations<sup>\*</sup>**

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*Abstract:* Its promises to the contrary notwithstanding, bioethics is plural. There is a diversity of content-full moral understandings of the good and the right. Moreover, there is no secular means in principle to set this diversity aside without begging the question. This moral diversity exists both as a sociological condition and as a moral epistemological constraint. Without succumbing to a metaphysical scepticism or moral relativism, the bioethics of the future, if it is to be honest, should learn how to live with robust moral diversity.

Despite the obvious heterogeneity of the field of bioethics, there is often a presumption that bioethicists can disclose a common, content-rich understanding of moral truths, a canonical moral vision. This presumption is not borne out by the facts of the matter or by the principled basis on which such a claim could be justified.

If such a claim could be made, bioethicists would function somewhat like the moral high priests of our culture. Instead, I will argue that, even when we come as secular bioethicists with content-rich moral advice, we approach as sectarian advocates of particular visions of moral flourishing. Unlike clerics whose garb may disclose their particularity, our particularity comes often, if not usually, without warning. There may, in short, be little free and informed consent about the particularity of our advice and the sectarian secular character of our moral commitments. My focus will be on why many bioethicists assume our field can unambiguously disclose a unique, content-rich moral vision to guide society and, in particular, health care policy, and the implications this has for our future. On this last point, I will make a plea that we take significant steps to come seriously to terms with moral pluralism. [End Page 225]

### **A Brief but Significant History**

Why is it so hard for us to take moral pluralism seriously? Part of the answer lies in the history. Thirty years ago, there was no field called bioethics. The term would not be coined until 1971 by Van Rensselaer Potter (1971) or by André Hellegers, depending on how the history is understood (Reich 1995). In any event, it was Hellegers who gave the term the meaning it currently possesses. This is not to deny that medical ethics has a rich and considerable history or that numerous religions have for centuries addressed medicine. But in the 1970s, something new emerged. A set of forces combined to frame a new scholarly and service field replete with its own encyclopedia (Reich 1978). In the process, as Stanley Hauerwas (1995) has observed, Christian ethics was becoming medical ethics in the hope of speaking in universal, nonsectarian terms. Diverse sectarian religious approaches to medical moral problems were being recast in language purportedly accessible to all regardless of their beliefs or lack thereof. In addition, a field of professional moral reflection, which had gone under rubrics such as medical ethics, medical etiquette, and medical deontology, also was taking on a more general character. <sup>1</sup>

A number of developments took place concurrently, focusing on fashioning a single, coherent area of moral and conceptual investigation. First, as already noted, there was a movement to translate religious moral concerns regarding medicine and the biomedical sciences into secular terms. A similar change was occurring in American society. American culture was becoming less dominated by Protestant Christianity, instead taking on a robustly secular character. Until the 1930s, courts still could recognize the United States as a "Christian people" and the Christian religion as part of American common law. <sup>2</sup> It was only in the 1950s and 1960s that the Supreme Court took decisive steps away from this religious self-understanding of American law and

policy.<sup>3</sup> As the current medical paradigm redefined itself and supplanted the traditional Western European humoral medicine, so, too, contemporary bioethics was redefining itself, supplanting the dominant religious morality and bioethics of the West. In this very special sense, the bioethics that emerged is post-Christian.

During this era, it also became less plausible to regard the medical profession as having ethical codes drawn from special professional insights. It became implausible to view medical morality as independent of the discipline of ethics generally (Clouser 1974). Professional moral perspectives shifted from a vantage point of special professional experience [End Page 226] and reflection to the general embrace of critical philosophical reflection, again leading to a unity of moral focus. This was as well a period of dramatic transition in the self-regulation of the health care professions. From the early 1940s into the 1980s, the American Supreme Court removed medicine's residual guild status so that constitutional law came to regard medicine as more of a trade.<sup>4</sup> Moral reflections concerning the biomedical sciences and health care professions were thus subject to the same forces that were secularizing society and changing the professional character of those engaged in health care. As a consequence of the integration of professional moral concerns within the framework of moral philosophy in general, bioethics is also post-professional.

As these changes took place, there were simultaneously pressing health care policy issues to confront. A need for moral direction arose just as the traditional sources of direction seemed less reliable. Medicine appeared on the brink of doing novel things requiring moral guidance, just as it became less clear who the guides should be, or how they should guide. In the 1960s and 1970s, it became less clear who was a moral authority, as well as who should be in moral authority. Given the moral horrors of the National Socialist era and continuing problems in American research, the use of human subjects appeared to require more thoughtful and explicit regulation. From concerns regarding transplantation and the definition of death to in vitro fertilization, new moral questions were in the offing. With safe abortion techniques, old issues took on a new salience as traditional moral and legal restrictions collapsed. To these seemingly novel challenges, there was an over-abundance of responses. In addition, medicine was costing more and for that reason alone attracting greater health care policy oversight and moral scrutiny. There were new questions, new costs, and less confidence in the old answers.

In response, the late 1960s and 1970s witnessed the appearance of various ad hoc committees and advisory boards, as well as a national commission, all engaged in the articulation of moral frameworks and policy during this period of moral transition.<sup>5</sup> Health care policymakers needed an ethic to justify their regulations, as old justifications seemed less appropriate. Committees, boards, and commissions were invoked to give guidance toward a unified moral vision for an increasingly secular society. The 1978 *Belmont Report* (National Commission 1978) and its principles brought reassurance that such a guiding morality could still be disclosed. Bioethics as a secular scholarly undertaking appeared able to supply what had once been sought from religion as well as from the special [End Page 227] insights of health care professionals: moral direction not simply clarification of claims and ideas.

It was not just that ethical or moral explorations were engaged. There was also a pervasive sense of a need to orient the biomedical sciences and medicine within larger cultural concerns, such as literature and the arts. This interest placing biomedicine within the framework of the humanities was of one piece with reactions that had been voiced since the turn of the century regarding science and technology. This particular reaction against the materialism and positivism of the late nineteenth and twentieth centuries came to be characterized in Europe as the Third Humanism.<sup>6</sup> The response by persons such as Werner Jaegers (1888-1961) found a resonance in America in a movement styled the New Humanism, in which individuals such as Irving Babbitt (1865-1933) and Paul E. Moore (1864-1935) played cardinal roles. Efforts to place the developing sciences and technologies within the broader context of the humanities were taken up by Abraham Flexner (1866-1959), the author of the famous report for the Carnegie Foundation (Flexner 1910), in the 1928 Taylorian Lecture (Flexner 1928). Intellectual and cultural orientation was being sought, as had occurred with the emergence of the first humanism at the end of the fifteenth and the beginning of the sixteenth centuries and, at the end of the Enlightenment, with the second humanism at the close of the eighteenth and the beginning of the nineteenth centuries. But this time, unlike in the past, science and technology were perceived as being in contrast to, if not in conflict with, the humanities, rather than as being essential elements of the flourishing of that which is most truly human, of that which is integral to the *humanissimus vir*.

In a period of significant cultural change, all of these concerns found an epiphany in Edmund Pellegrino's clarion call to recognize the deep bond between the humanities and medicine. The emergence of bioethics was fueled by forces of secularization, significant cultural change, the emergence of pressing health care

policy needs, and a hunger to resituate the growing power of medical science and technology within the broader concerns of traditional culture. Pellegrino (1979, p. 17) acted to restore the Renaissance vision when he proclaimed that "Medicine is the most humane of sciences, the most empiric of arts, and the most scientific of humanities." Again, a coherent vision, a unity of cultural focus was sought.

Ironically, the North American return to traditional European cultural roots with evocations of the liberal arts and the humanities occurred just as our culture and other cultures were becoming robustly post-traditional. **[End Page 228]** Indeed, much of what engendered bioethics as an international phenomenon was tied to the transition from traditional to post-traditional societies and the consequent moral disorientation this engendered. Consequently, across the world, there was a perceived need to find a new foundation for moral judgment and policymaking, as traditional religious and cultural foundations for public policy came radically into question. The very sense of reason, in particular, moral reason, was changing.

Among the many laments concerning these developments is that of the pope of Rome, John Paul II, in his jeremiads concerning the mores of our age. Although he is misguided about how to respond,<sup>2</sup> he correctly diagnoses the depth of the change when he observes that there has been a "de-Christianization" of Europe and a "decline or obscuring of the moral sense" (John Paul II 1993, §106, p. 158). In his responses to the fundamental changes in Western European moral outlook during the 1970s, 1980s, and 1990s, he reacts to the same forces that shaped contemporary bioethics. He recognizes that the rationality of contemporary moral reason is not that of the Christianity that shaped the medieval West. He understands that there has been a fundamental change in the way in which most philosophers and bioethicists do philosophy and bioethics. To borrow from Hegel's characterization of revolutions in cultural consciousness, John Paul II appreciates that there has been a radical change of categories. As Hegel (1970, §246 Zusatz, vol. 1, p. 202) puts it, "All cultural change reduces itself to a difference of categories. All revolutions, whether in the sciences or world history, occur merely because spirit has changed its categories in order to understand and examine what belongs to it, in order to possess and grasp itself in a truer, deeper, more intimate and unified manner." John Paul II acknowledges that there has been such a revolution in thought, in categories within general Western culture, as well as within his own religion. It is a change that he well understands has important implications for bioethics. Much of contemporary secular bioethics has abandoned the pope's metaphysical aspirations and his moral hopes.

John Paul II recognizes that the changes that have occurred can only be countered by embracing a different moral sense, namely, the sense of moral rationality and justice that came out of the Western Middle Ages and shaped post-Tridentine Roman Catholicism. This would involve embracing a particular project of metaphysical exploration as well. Out of his concern to restore the proper character to morality and public reason, the Roman pontiff makes a remarkable demand of philosophers generally: "I **[End Page 229]** appeal also to *philosophers*, and to all *teachers of philosophy*, asking them to have the courage to recover, in the flow of an enduringly valid philosophical tradition, the range of authentic wisdom and truth--metaphysical truth included--which is proper to philosophical enquiry" (John Paul II 1998, §106, p. 151, emphasis in original). John Paul II appreciates only too well that the metaphysical and moral rationality of most secular philosophers and bioethicists is not his metaphysical and moral rationality, that their sense of justice is not his sense of justice. In so doing, he partially perceives, although he does not fully acknowledge, the cultural gulfs that are opening and the character of the culture wars that are being engendered. In part, this is the case because of his commitment to a strong rationalist understanding of natural law. He holds that sound rational argument, appropriate philosophical reflection, will restore debates in the public forum to their proper character.

John Paul's position brings him close to many with whom he disagrees. The pope of Rome, many secular bioethicists, and John Rawls wish to enter the public forum under the assumption that there is a substantive canonical morality that all ought to be able to disclose through rational exploration. Each wishes to discount the foundational substance and depth of the culture wars, even as many of their major battles are fought in the areas of bioethics and health care policy. Each also recognizes that, if such a general access to a universal content-rich moral rationality is not disclosable, that is, if one has grounds for a skepticism regarding the capacities of secular moral epistemology, then it becomes radically less plausible that one can discover the right moral vision and impose it with reason's warrant. Each wishes to deny the irreducible range of moral diversity, to deny the rational irreducibility of moral heresy, if you will, that one would need to confront under this circumstance.

For both the pope and Rawls, there are considerable costs in recognizing such diversity. Each appreciates that, were the natural law or the modern philosophical projects to succeed in establishing by rational

arguments open to all that which all persons ought to do, then one could (1) dismiss those who disagreed as irrational in the sense of holding positions that are rationally indefensible and (2) have reason's prima facie warrant to establish public policy over the protests of those not concurring, since (3) such policy would accord with the community of rational persons, so that (4) the coercive force establishing such policy would not be alien to those subject to it. It would, rather, restore them to their proper rational behavior. In the face of deep and often violent disagreements, it is of both **[End Page 230]** philosophical and political interest to find, or to claim to find, a basic consensus that should bind all rational persons. This unity in secular thought that is sought has a substantial consanguinity with the secularism,<sup>8</sup> secularization,<sup>9</sup> and liberal political aspirations that came to claim Europe after the French Revolution and Napoleon,<sup>10</sup> the pope's remarks in agreement notwithstanding. Both John Paul II and John Rawls have a great interest in supporting a substantive and canonical view of public reason, although they disagree regarding the nature of both metaphysical and moral philosophical rationality. Both give priority to their moral rationality over actual individual choice, especially over the choices of individuals to act on community-specific views of justice and equality.

## The Mirage of Consensus

As bioethics emerged, not only did traditional moral understandings weaken with respect to their governance of Western societies, they also became politically incorrect. They were recognized to depend on special moral perceptions that engaged very particular content-rich appreciations of moral rationality and justice. The particularity and diversity of religious bioethics threatened Enlightenment aspirations to rational universality, aspirations that were recaptured in much of the bioethics movement. There was a conviction with roots embedded deeply both in the modern philosophical identification of rationality and morality and in many Western Christian views of natural law that sustained the assumption that there must be a common, content-rich morality available to all, which can therefore serve as the foundation for discussions in the public forum,<sup>11</sup> as well as for the justification of health care policy, which discounts moral pluralism as depending on an error in reasoning.

Indeed, a conviction has now emerged, as expressed in John Rawls's (1997) "The Idea of Public Reason Revisited," that considerations not articulable and defensible within the dominant moral consensus or view of public reason should not even enter into debates within the public forum. As a result, "those who believe that fundamental political questions should be decided by what they regard as the best reasons according to their own idea of the whole truth--including their religious or secular comprehensive doctrine--and not by reasons that might be shared by all citizens as free and equal" (Rawls 1997, p. 771) will find themselves at loggerheads with Rawls's idea of public reason. Such individuals will be disruptive within Rawls's understanding of the public forum. Special moral convictions drawn from reasonable comprehensive doctrines that cannot **[End Page 231]** be justified in general terms, not to mention the convictions of, in John Rawls's sense, unreasonable comprehensive doctrines,<sup>12</sup> should not be advanced as public considerations for a particular health care policy. For example, in the public forum, fundamentalist Protestants should not speak from biblical grounds against the public funding of abortion. The health care policies, as well as the bioethics, of general societies must be robustly secular. In this circumstance, special professional and religious moral views become radically domesticated and robustly privatized in the service of establishing a "reasonable" consensus. Such moral views can only be introduced when they are no longer advanced in their own terms. That is, they must be articulated in terms of "properly public reasons" (Rawls 1997, p. 776).

The history of the bioethics committees and commissions of the 1970s and 1980s is often invoked to substantiate the hope for realizing such a robust moral and/or political consensus. Here I draw on and am indebted to conversations with Kevin Wildes, S.J., (1999) as he framed ancestral versions of his book, *Moral Acquaintances: Methodology in Bioethics*, in which he explores among other things the manufacture of consensus. Consensus created out of the deliberations of a bioethics committee or commission is often radically dependent on the way in which such committees are impaneled and conducted. The first point can be understood in terms of the *Realpolitik* of establishing such committees, commissions, and advisory boards. If one wishes to produce usable guidance for framing health care policy, rules, regulations, or guidelines, then one has good grounds not to appoint people with truly foundational moral differences. If one is exploring the moral acceptability of public funding for abortion, one does not establish an advisory commission with representation from both pro-life and pro-choice advocates, libertarians, and socialists. If one does make such appointments, then one will have destined the commission or committee to endless, though perhaps engaging, debates, with little likelihood of useful agreement.

One is better advised to invoke one's own special view of public reason, constitutional democratic society,

reasonable pluralism, and/or reasonable comprehensive doctrines in one's choices regarding appointments. As a result, one will tend to select those individuals who share one's own general background ideology, world-view, or philosophy. As a consequence, there will be an implicit if not explicit agreement about the major issues to be addressed by the commission or committee. This fundamental prejudice integral to the *Realpolitik* of impaneling committees and commissions [End Page 232] can be justified in terms of one's background view of public reason. Because it is reasonably in accord with one view of the limits of rational disagreements, such a justification need not seem at all disingenuous to those who engage in it.

One also is well advised to appoint as chairs for such committees individuals who will both follow a well-articulated, predetermined agenda and attempt to rule out of order considerations that cannot be articulated and defended within the confines of the assumed understanding of public reason, of appropriate constitutional democratic societal debate, or of the prevailing vision of moral rationality. The first element of *Realpolitik* thus leads to the second element: controlling the discourse and the character of deliberations, so that they are directed to discovering an appropriate consensus. Under such circumstances, it may be politically costly to be too different. That is, there may not be a deep concurrence regarding a particular view of public reason, but only an acquiescence in a *modus vivendi*. It also may be strategic to refuse to admit that one's compliance in a particular form of public reason is from pure expediency.

The resulting "consensus" derives from the view of public reason and moral rationality of the participants. People with different philosophical, moral, or cultural understandings can be brought to consensus about controversial issues only if they share a common view of public reason that limits and subordinates those differences. In such circumstances, their implicit view can be given an explicit articulation. The result may be accompanied by a shared experience of moral discovery. One will be able to say, "Eureka! We have disclosed a common moral consensus as a result of our deliberations." The necessary condition for the possibility of this discovery lies, however, in the prior selection of participants and the determination of the character of their discourse, all leading to a shared background moral and/or political understanding. The experience of rational concurrence and the disclosure of consensus therefore depends on a prior commitment to a particular understanding of moral rationality, fairness, justice, and/or public reason. It does not involve the discovery of a consensus that was not already guaranteed from the start. One gets out at the end what one puts in at the beginning.

A similar set of assumptions guides the success of secular casuistry. Contemporary appeals to casuistry trade on the image of a Roman Catholic religious practice with a particular history that carries with it a substantial prior understanding of the deep metaphysical structure of reality and of appropriate moral deportment. It therefore brings with it a background [End Page 233] appreciation of who the authorities on proper conduct are, who knows correctly what it is to live well, and who is in authority to resolve controversies. This thick web of framing commitments, practices, and institutions allows agreement regarding which cases are exemplar for the resolution of which controversies. Such casuistry was not practiced in a context of foundational moral crisis. To borrow a metaphor from Thomas Kuhn (1970), such casuistry is normal casuistry, not crisis casuistry. However, in our society, unless one already concedes the crucial point as to which understanding of public reason, moral rationality, or justice should be canonical, thereby providing a framework for casuistry, one is embedded in crisis casuistry, not a normal casuistry. As a consequence, it becomes a matter of controversy as to which appeals one should use to resolve cases, how to reason by analogy from exemplar cases to controverted cases, and who should be recognized as authorities regarding the resolution of casuistic debates, as well as who is in authority to declare moral closure. Appeals to casuistry in secular bioethics typically resolve cases in a contingent manner rather than in a morally authoritative one.

These foundational characteristics of commission-discovered consensus and casuistry, which bring its results into question, make it plausible to look elsewhere for evidence of a basic consensus regarding morality and public reason. Such evidence appears available in bioethics itself. Persons from different theoretical perspectives have been able to co-author books employing common principles for solutions to moral questions (Beauchamp and Childress 1979), thus giving evidence for an ability to disclose the character of a canonical, background common morality. After all, if different theoretical perspectives can lead to the same conclusions, this must show that a substantive, common, canonical, moral understanding is available. Such an interpretation overlooks the circumstance that, when this occurs, it is only a reflection of the common ideological standpoint from which the authors began. If two philosophers, one a deontologist and the other a teleologist, start from a similar moral or ideological perspective, it should not be at all unexpected that they can jointly employ principles such as autonomy, beneficence, nonmaleficence, and justice in analyzing

particular biomedical cases. However, when there are real ideological or moral differences, as for example between a socialist and a libertarian, then the use of a principle of justice will accentuate differences, rather than aid in the resolution of bioethical controversies.

The foregoing analyses are meant critically to discount claims that there is a general concurrence about the content of morality or that there is a **[End Page 234]** single account of public reason that can recommend itself. It is remarkable indeed that one would have doubts concerning the real plurality of our moral visions. After all, health care policy is marked by strong, if not at times violent disagreements regarding bioethical issues. From disputes regarding abortion and euthanasia to disagreements regarding the nature of justice and fairness, there are deep and enduring controversies. They show no indication of disappearing. Moreover, the moral differences that divide persons involve significant matters regarding the meaning of sexuality, reproduction, suffering, equality, justice, and death. If anything, this century is a testimony to the violent depth of the disagreements that separate humans regarding secular moral matters. This century has witnessed the murder of millions in the name of justice and fairness, from the slaughter under Stalin to the killing fields of Pol Pot. The disagreements have been substantive in the sense of involving different rankings of important human values and moral principles, not just theoretical in the sense of involving different general accounts of such moral claims.

Why are such deep differences often discounted? What would motivate bioethicists to act as if there were a commonly agreed-to, content-rich account of morality, which can be elaborated in textbooks and drawn upon in consultations? In part, the explanation may lie in the bonds between bioethics and Enlightenment aspirations to the disclosure of a universal content-rich global ethic that can transcend the diversity of religious and cultural moral understandings. It may lie as well in the circumstance that such a claim, if accepted, can make bioethicists more marketable for certain political and professional purposes. If those who call themselves bioethicists can discover the content of morality, then they can be hired to provide the foundations or justification for health care policy. Furthermore, if a content-rich morality can be discovered, and if it accords with the aspirations of those in power, then it becomes an inviting vehicle for justifying particular health care policies and political agendas. Bioethics under such circumstances becomes a part of the ideology of a society's rulers, a part of the particular historically conditioned understanding of political, social, and economic arrangements employed in the governance of a society. Under such circumstances, those who clarify and defend this ideology serve, in the words of Marx and Engels (1967, p. 40), as "conceptive ideologists who make the perfecting of the illusion of the class about itself their chief source of livelihood."

Bioethicists as conceptive ideologists are thus anointed as the priests of a secular moral and political establishment. If they take seriously these **[End Page 235]** claims to knowing by reason the content-full morality that should bind all, they can claim more than just an expertise in analyzing moral issues. They can recommend themselves as experts not just in explicating moral matters and arraying ethical issues for consideration by persons in moral controversies; in addition, they can introduce themselves to courts and others as moral experts who know how to rank values, order moral principles, understand virtue, achieve moral character, and articulate a justifiable account of public reason. They can purport to show what ethics should be applied and elaborate the philosophical criteria for its application. This is a robust set of claims; if it could be justified, bioethicists could establish themselves as the equivalent of secular priests for our culture. They could guide the moral and political direction of our culture, at least regarding morally proper health care policy.

## In the Face of Diversity

The foundational difficulty in establishing by discursive rational argument any content-rich account of justice, fairness, or public reason is that it presupposes agreement regarding background moral premises, rules of evidence, and rules of inference. This is precisely where agreement does not exist. As a consequence, the field of bioethics is characterized by deep, persistent, and often vehement disagreements regarding abortion, third-party-assisted reproduction, physician-assisted suicide, and the concepts of justice and fairness that should guide bioethical choices in the framing of health care policy. Choices among these different visions depend, as Pope John Paul II understands, on different views of human reason and moral rationality. Even if one situates moral concerns fully within the sphere of human immanence, there is no way to choose among orderings of values without already having in hand a background understanding of which intuitions ought to be given precedence, which thin theory of the good ought to guide, which dispositions regarding the balancing of moral claims ought to be authoritative, which senses of equality should have precedence, and which



understandings of fairness should have priority. There is no way to choose among these options without already having affirmed a background value perspective. One cannot even appeal to the satisfaction of preferences unless one knows how to rank rational and impassioned preferences, as well as corrected and uncorrected ones. One must also know God's discount rate for preferences over time, that is, the correct way to compare the present satisfaction of preferences with the possibility of the future satisfaction of preferences. This state of affairs **[End Page 236]** indicates that humans do not share, indeed have never shared, and cannot through sound rational argument establish, a grand universal narrative or a content-full account of moral probity. Such cannot be accomplished without begging crucial questions, engaging in an infinite regress, or arguing in a circle. <sup>13</sup>

If, in the face of diversity, one recognizes that one cannot draw moral authority from a canonical account of moral probity, justice, or public reason established through sound rational argument, one will need to seek other expedients. If one does not simply appeal in desperation to the preponderance of moral sentiments fashionable at a particular time and place and impose that particular moral philosophical fashion by force (Rorty 1989), or to what appears to work, begging the question of the criteria for success, then moral authority for collaboration among those who do not share a common, comprehensive moral vision must be drawn from the permission of those who participate. If all do not listen to God attentively, and if sound rational argument cannot establish a principled closure to moral controversies, then moral authority can only be drawn from the permission of those who collaborate. In the face of moral diversity, that which can reasonably be offered to citizens is the opportunity to authorize their government, and what is done to them by their government, through consent. It is for this reason that, in our morally diverse world, free and informed consent, contracts, and the market are so easily justified as practices for collaboration among moral strangers, and limited constitutional government also becomes central.

Alongside Rawls's liberal constitutional democracy, one finds that other possibilities recommend themselves, including limited constitutional democracy, as well as limited autocratic governments, such as what prevailed in Hong Kong. After all, consent through voting is not essential for a government to have authority with the consent of the governed, it only is necessary that the government engage solely in that which respects and protects the authority of persons over themselves and with consenting others. Since some autocratic governments may do as well in this regard as less limited constitutional democracies, they may even be more acceptable. In the course of history, for both theoretical and practical reasons, different options will appear attractive. It is unlikely, at least in the short run, that any one account will prevail. In any event, in the face of moral and political diversity there is no secular justification for establishing any single thick view of polity or morality. **[End Page 237]**

What remains is moral diversity. It is a fact of the matter. We cannot reason it away. We have only begun to consider ways to come to terms with it. Some of the emerging international bioethical debates regarding the existence and character of a global bioethics provide hints of the beginning of a change. There is a growing realization that the established North American and Western European version of bioethics may in great measure represent a particular, culturally bound understanding of justice, fairness, and appropriate physician/patient relationships. <sup>14</sup> There is a sense on the part of some that introducing this version as if it ought to be *the* global bioethics involves a kind of cultural imperialism (Fan 1998). We are left to face a plurality of secular moral perspectives and to a contest among rival priesthoods' representations of diverse approaches to health care policy.

The future of bioethics will be defined by the strategies we develop for coming to terms with our own moral diversity. Doing so need not involve affirming a moral relativism or a metaphysical skepticism. It does involve a recognition of the limits of discursive secular moral investigation and of the inability of secular moral reflection to set moral pluralism aside. It presses us to explore default strategies that can allow us to live peaceably with moral authority for limited collaboration in the face of moral diversity. At the very minimum, we will need to recognize that, wherever one would want religious bioethicists to disclose the religious origin of their recommendations and advice, we should find ways for secular bioethicists, *mutatis mutandi*, to do the same. By such strategies, we can respond more honestly to the character of our moral condition, as well as aid others in recognizing the diversity of moral visions that characterizes secular moral philosophy and bioethics.

Beyond this, we need to look for institutional strategies by which to maintain not only the moral integrity of individuals by honoring the privacy rights of patients, physicians, nurses, and others, but also that of communities and institutions. We need to take institutional and community moral integrity seriously. We need

to recognize that communities, especially through their own health care systems, should be free to give flesh and substance to their own particular visions of morally appropriate health care. As we find ourselves divided not just by concerns regarding abortion, but also with respect to physician-assisted suicide, such institutional solutions will likely become an ever more significant element of taking moral pluralism seriously. **[End Page 238]**

Finally, we need to regard diversity not merely in terms of domesticated cultural differences, somewhat like variations in ethnic restaurants. Diversity has to mean more than a set of cultural alternatives caged within what is often tantamount to the constraining confines of a dominant culture's zoo that displays diversity as rainbow for its delectation, but which would deny the ways in which moral pluralism has real consequences. For example, taking moral diversity seriously, taking seriously the circumstance that communities will act on their own moral commitments, may mean that the only hospital in town is a religious one that provides neither abortion nor physician-assisted suicide.

As we enter the next millennium, we will be pressed to fashion default moral strategies in the face of a moral diversity that will not go away. Our models for polity are of no help. In the West, we do not, in reality, conjure up images of an Ottoman empire with a millet system, within which different, non-geographically located communities can carry with them their special welfare rights, as well as their special civil and criminal law. Yet, these may be the images that will be the most important for us in a future in which moral diversity may further separate our approaches to health care. How we develop strategies that will take moral pluralism seriously will define the role and significance of ethicists, bioethicists, and bioethical expertise in the new millennium.

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## Notes

- [1.](#) A genre of literature articulating the special moral obligations of physicians has existed for a long time (see, e.g., Saundby 1902).
- [2.](#) For examples of the American establishment of Christian mores, see *Church of the Holy Trinity v. United States*, 143 US 457 (1892), and *United States v. Macintosh*, 283 US 605 (1931).
- [3.](#) For examples of the move to a new secularity, see *Tessim Zorach v. Andrew G. Clauson et al.*, 343 US 306, 96 L ed 954, 72 S Ct 679 (1951); *Roy R. Torcaso v. Clayton K. Watkins*, 367 US 488, 6 L ed 2d 982, 81 S Ct 1680 (1961); and *School District of Abington Township v. Edward L. Schempp et al.*, *William J. Murphy et al. v. John N. Curlett et al.*, 374 US 203, 10 L ed 2d 844, 83 S Ct 1560 (1963).
- [4.](#) See, for example, *The United States of America, Appellants, v. The American Medical Association, A Corporation, The Medical Society of the District of Columbia, A Corporation, et al.*, 317 US 519 (1943), and *American Medical Association v. Federal Trade Commission*, 638 F.2d 443 (2d Cir. 1980).
- [5.](#) As examples, see Ethics Advisory Board (1979); Ad Hoc Committee of the Harvard Medical School to Examine the Definition of Brain Death (1968); National Institutes of Health (1976); and National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (1975; 1978).
- [6.](#) "The third humanism is the creation of an ideal sentiment over against the surrounding materialism of post-war times . . . and against the positivist and historicist understanding given to the ancients by scholars during the last half of the nineteenth century" (Rüdiger 1937, p. 280, my translation).
- [7.](#) It is remarkable that John Paul II's response to the abandonment of traditional morality and the chaos within his own religion is to appeal to a reawakening of philosophical faith, rather than to a strengthening of



traditional Christian piety. His is more a secular philosopher's response rather than a Christian call to asceticism and repentance. This is explicable in terms of his Roman Catholic moral epistemology, which has come to render knowing truly as a Christian regarding moral issues as roughly equivalent to knowing truly regarding moral issues as a philosopher. In this, the pope of Rome has disconnected himself further from the traditional Christian view of moral knowledge as grounded in a noetic rather than a moral discursive encounter with truth. For a contrasting approach, see, for example, Elder Joseph the Hesychast (1998).

[8.](#) In France, and in Europe generally, the term laicism came to identify rendering a society secular in the sense of free from the role of religion in the public forum (see, e.g., Reclus 1947).

[9.](#) Contemporary secular central Europe emerged in great measure after the *Reichsdeputation* assembled on 24 August 1802 and in 1803 confiscated the large clerical holdings east of the Rhine. This occurred as a consequence of its *Reichsdeputationshauptschluß* (see Hofmann 1976). For a contemporary study of the consequences of this secularization, see von Eichendorff (1958). Also of significance was Austrian Josephism, the secularization initiated by Emperor Josef II of Austria (ruled 1765-1790).

[10.](#) In great measure, the French Revolution and Napoleon attempted to overthrow the old religious order with both force and theater, which included, for example, carrying both Pope Pius VI (1775-1779) and Pope Pius VII (1800-1823) to France as captives.

[11.](#) The similarity between Roman Catholic approaches to morality and those of secular atheist thinkers is often substantial, given the roots of modern moral philosophy in the Western faith regarding reason's ability discursively to disclose the character of proper deportment. Both hold that a common canonical morality can be disclosed outside of a life of virtue directed by grace. For an interesting exploration of some of these issues, see Buckley (1987).

[12.](#) Traditional Christianity recognizes that moral truth is personal, that is, the Persons of the Trinity, and that it is misguided to provide a discursive foundation of the fundamentals of the good life. Instead, entry to the good life is to be found in turning from ourselves worshipfully toward God (Sophrony 1988).

[13.](#) These issues are explored at some length in *The Foundations of Bioethics* (Engelhardt 1996, especially chapters 3 and 4).

[14.](#) For a critical discussion of the possibilities of a global ethics, see Hoshino (1997).

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