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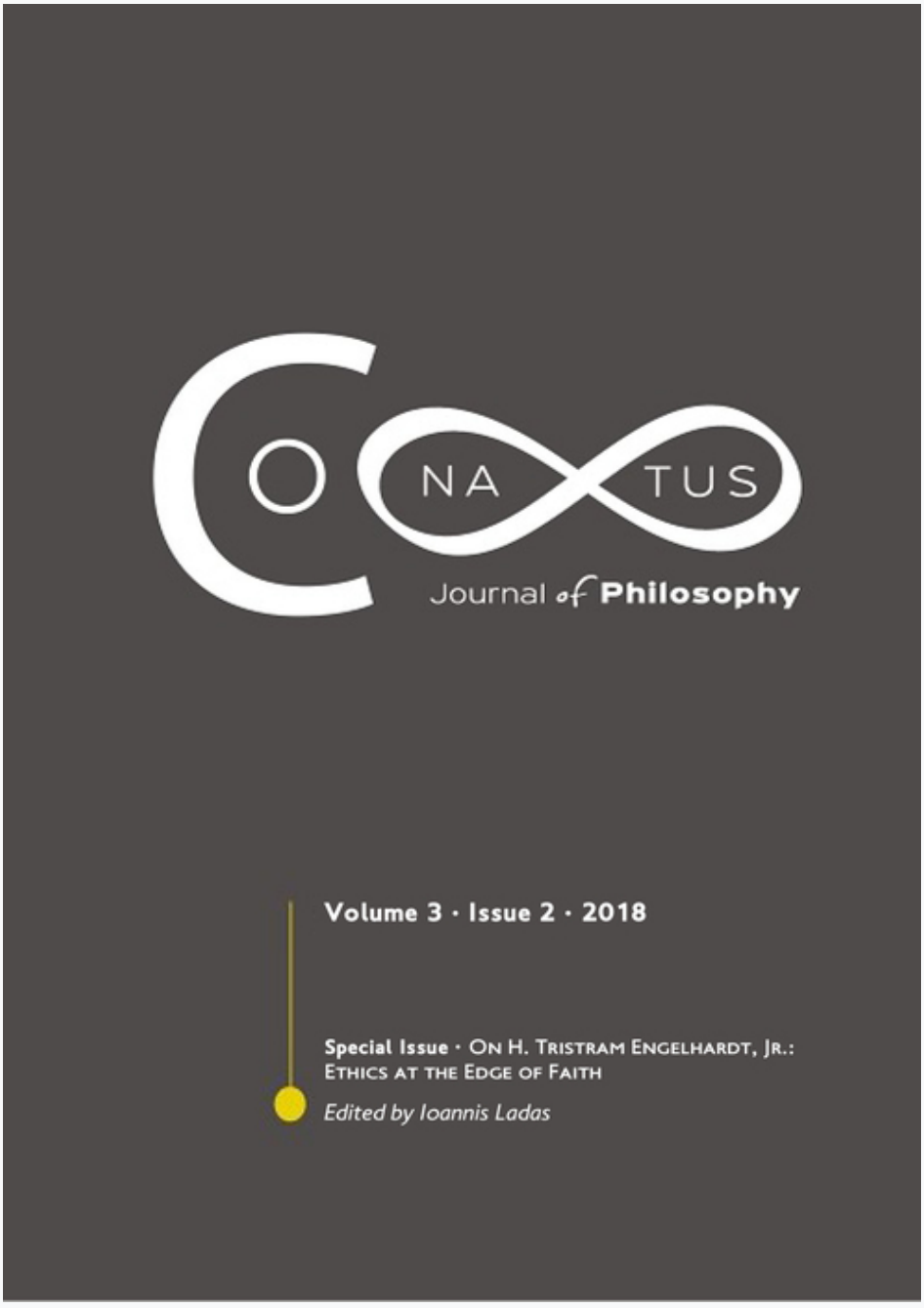

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Ethics at the Edge of Faith

Edited by Ioannis Ladas

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contents

editorial

I. Ladas/*Conatus* 3, no. 2 (2018): 9-15
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Expanding Engelhardt's Cogitation: Claim for Panorthodox Bioethics

In June 2018 the Texan philosopher and distinguished bioethicist Tristram Engelhardt, Jr. crossed the great divide to meet his maker, as he would probably put it. His work remains till now the most systematic effort to fully revise Bioethics on the basis of the Orthodox Christian theology doctrines, while it is also a precise account of Ethics and Bioethics in the "after God" era. Engelhardt was an excellent master of ancient Greek, medieval, western and eastern philosophy, and after he converted from the Roman Catholic to the Eastern Orthodox Church – officially the Orthodox Catholic Church – he indulged in the works of the Holy Fathers and became greatly influenced by them. This is clearly manifest in his views and continuous reference to Fathers and Ecclesiastical Writers. His conversion crucially influenced not only his bioethical views, but also his entire philosophical system. This magnificent journey obviously turned the Texan philosopher into a true Theologist – not in the academic sense, but in the one the Orthodox Catholic Church accepts, according to which "a Theologist is a person of God, from God, before God and speaks to praise God."[1] Engelhardt was not the first to deal with bioethical issues under the spectrum of Orthodox Theology, but he was the first to unravel both secular and Western-Church Bioethics and suggest a totally different version of Bioethics based on the principles of Orthodox ethics, the ceremonial and esoteric life of the Orthodox Church, having previously made himself a true communicant of both the paternal tradition and dogmatic teaching.

Engelhardt's conversion and the new, unanticipated views on ethics and bioethics it brought about attracted both favorable and critical comments. Several scholars assume that this conversion produced a totally new Engelhardt. Few however, acknowledge the organic unity between his former and his later work; among them the bioethicist Cornelia Delkekamp-Hayes suggests that this allowed Engelhardt to incorporate all his previously discordant views in a coherent and consistent philosophical system.[2] Tagging along with Delkekamp-Hayes I also believe that understanding

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[1] Ioannis Ladas, *The Problem of the Philosophical Foundation of Bioethics and the Bioethical Views of H. Tristram Engelhardt*, Jr. (PhD diss., University of Athens, 2018), 38.

[2] Mark J. Cherry and Ana S. Iltis, "Introduction At the Foundations of Christian Bioethics; or, Why H. Tristram Engelhardt, Jr.'s Orthodox Christian Bioethics is so very Counter-Cultural", in *At the Roots of Christian Bioethics – Critical Essays on the Thought of H. Tristram Engelhardt, Jr.*, eds. Ana Smith Iltis and Mark J. Cherry (Salem: Scrivener Publishing: 2010), 6, and Cornelia Delkeskamp-Hayes, "Χ. Τ. Ένγκελχαρντ: Μια επιβλητική φυσιογνωμία της σύγχρονης Ορθόδοξης Βιοηθικής", accessed September 2, 2018, www.pemptousia.gr/2014/01/x-τ-

the philosophical, theological, ethical and bioethical views of the Texan philosopher one has to study Engelhardt's entire work; for example, the reader of *Foundations of Secular Humanism* who is not familiar with Engelhardt's work may jump to the conclusion that Engelhardt altogether rejects a broad spectrum of practices (e.g. abortion).[3] The comprehensive knowledge of Engelhard's entire work allows better understanding of his individual works and the complex thinking of the Texan professor.[4] Some scholars claim that his early period is the most important, but I believe this is mostly due to the fact that his later views are hard to be perceived by those who are not acquainted with the Orthodox Catholic Church dogma. Cornelia Delkeskamp-Hayes thinks on the one hand that it is not easy to accept the crucial diagnosis of Engelhardt in relation to the limits of secularist ethics of rationalism and the collapse of the work of Enlightenment, and on the other that it is very difficult to distinguish between the arguments of the Texan philosopher as regards the abilities of the secularist moral speech and the possibilities of Christian knowledge.[5]

I. Engelhardt 2 v. Engelhardt 1

The work of Engelhardt can be divided into his ante- and post-conversion period. It seems that in his early period Engelhardt discusses the issues he deals with as a secular religious thinker; in his post-conversion period, however, he completely revises his former views in such a way as to conform to the theistic approach he had meanwhile adopted. This gives to his later works a confessional character, something that is not at all strange, since after his conversion he seems to have developed the need to critically revisit and revise all his former views. He even seems to feel so guilty for his previous contribution to the development of secular Bioethics (from the beginning of the '70s up to the '80s), as to think of it as a sin.[6] This urged him to write both *The Foundations of Christian Bioethics* and *After God: Morality and Bioethics in a Secular Age*[7], in the first chapter of which he mentions some biograph-

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ένγκελχαρντ-μια-επιβλητική-φυσιογ/.

[3] Kevin Wm. Wildes, S.J., "Completing the Picture: Engelhardt's Christian Bioethics", in *At the Roots of Christian Bioethics – Critical Essays on the Thought of H. Tristram Engelhardt, Jr.*, eds Ana Smith Iltis and Mark J. Cherry (Salem: Scrivener Publishing: 2010), 101.

[4] Ibid., 101.

[5] Cornelia Delkeskamp-Hayes, "Morality in a Post-Modern, Post-Christian World: Engelhardt's Diagnosis and Therapy", in *At the Roots of Christian Bioethics – Critical Essays on the Thought of H. Tristram Engelhardt, Jr.*, eds Ana Smith Iltis and Mark J. Cherry (Salem: Scrivener Publishing: 2010), 28.

[6] H. Tristram Engelhardt Jr., *Μετά Θεόν: Ηθική & Βιοηθική στον Αιώνα της Εκκοσμίκευσης*, trans. PolyxeniTsaliki-Kiosoglou (Holy Mountain Athos:The Holy and Great Monastery of Vatopedi, 2018), 284.

[7] H. Tristram Engelhardt Jr., *After God: Morality and Bioethics in a Secular Age* (New York: St. Vladimir's Seminary Press, 2014).

ical data, that are very insightful for the evolution of his philosophical thinking and cover, as he notes, "what it could be considered as an unbridgeable gap between his early and his later work."[8] The autobiographic references in *After God: Morality and Bioethics in a Secular Age* serve as explanations and facilitate the reader of his early works to understand the arguments used in *Foundations of Bioethics*[9] against those he adopts in *The Foundations of Christian Bioethics* and the rest of his later works. In his previous studies, Engelhardt reviewed the reasons that his arguments could not offer regulatory foundation to a logically reasoned secular morality and bioethics, which led him to the conclusion that moral philosophy in general doesn't have the power to establish rules applicable to all humans and support morality and Bioethics by strong arguments only, if it is cut off from God.[10] So, the stake in the first edition of *The Foundations of Bioethics* was to establish a typical secular morality and Bioethics, one that would facilitate the solution of bioethical disputes. Engelhardt tried to establish an interactive morality, focusing on the distinction between moral bonds between friends (the morality of a specific community), and the moral agreement between strangers. This way he endeavored to offer a moral perspective, one that would overcome the variety and diversity in moral visions and provide at the same time a common moral vocabulary. The procedural secular Bioethics however, elaborated in the first edition of *The Foundations of Bioethics,* is by no means an idiosyncratic one; it is based upon a common virtue that can bind together people that are morally strangers enabling them to work together. Whereas his views were misinterpreted, in the preamble of the second edition, he makes clear, to avoid misunderstandings, that the said book is not a presentation of his own specific moral ideas, but an inquiry concerning the possibility of a morally authorized cooperation of morally strangers.[11] Nevertheless, his views had been perceived so diversely that some saw in them the creation of a new secular morality, and others the possibility of a valid substantial consent - several even considered that he supports individualism and the value of freedom, reaching to the point where he was called not only a liberal but also a libertarian.[12]

The Texan philosopher also stresses that in his works before 2000 the approach of the concept to live without God was not attempted, nor the roots of the dominating secularized culture together with the effects of the establishment of atheism

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[8] Engelhardt, *Μετά Θεόν*, 36.

[9] H. Tristram Engelhardt Jr., *The Foundations of Bioethics* (New York: Oxford University Press, 1986); also H. Tristram Engelhardt Jr., *The Foundations of Bioethics* (New York: Oxford University Press, 1996).

[10] Engelhardt, *Μετά Θεόν*, 38.

[11] Engelhardt, *The Foundations of Bioethics*, xi.

[12] Myrto Dragona-Monachou, "Η 'Οικουμενικότητα' της Βιοηθικής και ο Tristram Engelhardt Jr.", *Φιλοσοφία και Παιδεία* (2016): 16-22, 20.

or at least agnosticism.[13] Indeed, in those works a thorough review of the way this condition is related to the cut-off of the dominating culture from God was never attempted[14], although the question is discerned vaguely in the bedrock of both *The Foundations and the Bioethics* and *Secular Humanism*.[15] *The Foundation of Christian Bioethics* looks into issues of morality, political theory and bioethics that may not be dealt with sufficiently within the limits of secular philosophy, and an effort is made to describe the character of the moral and bioethical principles that the Christians share as morally friends. In this book that clearly exhibits Engelhardt's ethical and bioethical views, one could claim that Engelhardt thinks like a theologist, using a language that, as Myrto Dragona Monachou notes, is strange to philosophers. Nevertheless, the way Engelhardt deals with moral dilemmas does not differ a lot from his previous approaches, but the "principle of approval" has not the same place anymore. Engelhardt refers scarcely to autonomy, freedom and consent, stressing that while consent is a serious moral principle for secular Bioethics, it is not so for Christian Bioethics.

II. Deconstruction of the secular and the western Christian bioethics

Bioethics according to Engelhardt was created to serve a theoretical as well as a practical purpose. The theoretical purpose was to describe proper moral behavior, while the practical one was to create a kind of secular priests, who would be able to provide advice in hospitals, medical schools and research centres. In its current form, bioethics resulted as a part of a secular system and was not a religiously neutral evolution, but a movement that was formed in North America and West Europe, where the dominating communities had cut themselves off from their Christian past.

Christian Bioethics, as the Texan bioethicist notes, didn't have the power to offer moral guidance to new cutting-edge medicine. The reasons for this may be summarized to the following three: First, Christian Bioethics tried to establish its assertions on apocalypse, which it approached with earthly terms. Therefore, it did not find a transcendent foundation, but a number of social-historic interpetations of the apocalypse of transcendence. Second, it orientated into a secular moral philosophy and found itself in front of great variety and fragmentation in many moralities. Third, there is not just one Christianity, thus Christianity was not able to provide clear guidance, since there are diverse views and anyone may choose among them.

On the other hand, secular determinism seems to secure unity for bioethics, it is rationally accessible by everybody and also able to provide guidance to public policy. However, the unity that the secular bioethics secures is empty in reality, because there are so many secular interpretation for morality, justice, integrity, exactly as

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[13] Engelhardt, *Μετά Θεόν*, 36-37.

[14] Ibid, 38.

[15] H. Tristram Engelhardt Jr., *Bioethics and Secular Humanism* (Philadelphia: Trinity Press International, 1991).

it is with regard to the religions. In his effort to avoid being trapped within a variety of moral and bioethical considerations, Engelhardt concluded that if the Truth is not revealed to us and does not guide us personally, we will remain forever lost in a labyrinth of moral and bioethical considerations. Engelhardt found the Truth in Christianity, therefore he claims that Christian Bioethics are directly dependent on the knowledge of the dogma of Christianity. But wihch among the several dogmas? The one, according to Engelhardt, that once upon a time united "in faith and pray the Mediterranean coast" and in our times is preserved within the experience of the Orthodox Church that abides by the tradition of the first ten centuries. Traditional Christianity may provide answers to bioethical issues through a teaching - and worldview - that was established "before the world gets dizzy from the spectrum of the Christianities created after the Reform and the Enlightenment". Therefore, where moral wisdom cannot be acquired through analysis and the pure reason, the experiential relation with God is required.

III. The most essential causes, according to Engelhardt, for the failure (secular and western Christian) bioethics exists within the Orthodox Church

By deconstructing western Christian Bioethics, the Texan philosopher shows that the division of Christianity played a serious role in the failure of Christianity to provide bioethical guidance, since through such a variety of "Christianites" anyone concerned could choose whatever pleased them most. The same applies to secular Bioethics, since the alleged unity it allows is only wishful thinking, given that there are equally many secular interpretations for morality. If we look deeper, we may find that also within the Orthodox Church there are no clear normative views, but in many cases there are extensive differentiations with regard to bioethical issues. This seems to be extremely annoying since it proves that one of the most essential causes, according to Texan philosopher, for the failure of both secular and western Christian Bioethics exists within the Orthodox Church.[16] These differentiations in dealing with bioetuical issues become a problem when they are expressed as the official views of the various Autocephalous Churches and have the approval of a local Holy Synod. The consequences of the adoption of different views within the Orthodox Church may be clearly manifest through this: The Church of Russia decided not to baptize infants given birth by a surrogate mother. Such a decision could not be accepted by the Ecumenical Patriarchate and the other Orthodox Churches, since it is based neither on the Holy Canons nor on Holy Tradition. Now let's consider two families living in Geneva, a city with several Christian communities, and let one belong to the Church of Russia and the other to the Church of Serbia. These two families, which may maintain friendly relations, both acquire their child through surrogate motherhood; however, although both infants were born to Orthodox Christian parents, only one of

[16] Ladas, *The Problem of the Philosophical Foundation*, 285.

them will be baptized. Such issues, especially when they concern the Diaspora, have huge ecclesiastical effects and are a wound for the body of the Orthodox Church; this is mainly due to the fact that some Churches, ignoring predefined geographical boundaries, hurried to create "national Churches" in regions that typically belong to the Ecumenical Patriarchate's jurisdiction. Although issues as such are not directly linked to Bioethics, but rather to the unity of the Orthodox Church, make bioethical debates even more complex.[17]

Differentiations as such among the Orthodox Churches made the coming together of a Panorthodox Council an imperative ever since the end of the 19th century. The Holy and Great Council of Orthodox Church, which eventually met in June 2016 on Crete, is undoubtfully the most important ecclesiastical event of the last centuries, since on one hand it declared the unity of the Orthodox Church, and on the other it stressed the strong interest the Church has for the the sciences, noting that "The Orthodox Church cannot remain on the sidelines of discussions about such momentous anthropological, ethical and existential matters."[18] In fact, the Ecumenical Patriarch Bartholomew in his opening speech made clear that the Church, before it proceeds with dealing with the real issues that concern humanity (Bioethics-related ones included) has to resolve issues of domestic nature, which pertain to its visible unity.[19] As a result, it is certain that the new Holy and Great Council will express specific views on bioethical issues, combatting this way the deviances and the polyphony, so as to create the basis for a Panorthodox Bioethics.

IV. Articles and Texts Presented in this Book

The papers included in this Special Issue of *Conatus* devoted to T. H. Engelhardt Jr. cover a broad spectrum of Engelhardt's views on philosophy in general, and Bioethics in particular. The variety of the topics discussed is telling of the extend and magnitude of the Texan philosopher's thought. This issue includes eleven papers authored by prominent professors and scholars who have either studied and worked with Engelhardt, or are experts in his work in various fields. Any attempt to provide a summary of these papers in this Editorial would probably leave several aspects of these works out, therefore I will only suggest to the reader to proceed with the rest of this issue.

Now this brief Editorial comes to its end I wish to express my gratitude to Evangelos Protopapadakis, Professor of Applied Ethics at the National and Kapodistrian University of Athens and the Head of the Greek Unit of the UNESCO Chair in Bioeth-

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[17] Ladas, *The Problem of the Philosophical Foundation*, 6.

[18] "Encyclical of the Holy and Great Council of the Orthodox Church", accessed September 13, 2018, https://www.holycouncil.org/home

[19] Ecumenical Patriarch Bartholomew, "Opening Address at the Inaugural Session of the Holy and Great Council", accessed September 13, 2018, https://www.holycouncil.org/home.

ics (Haifa), who inspired and motivated me to get involved with the work of Tristram Engelhardt Jr., and also for inviting me to be the Guest Editor of this Special Issue of *Conatus*. I am also indebted to the Associate Editors and the whole staff of *Conatus* for an absolutely impeccable cooperation – especially to the Managing Editor, Ms. Despina Vertzagia.

May this Special Issue be a worthy tribute to Hugo Tristram Engelhardt Jr. for his significant contribution to philosophy in general, and Bioethics in particular.

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articles

M. Chorianopoulou/*Conatus* 3, no. 2 (2018): 19-31
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On Being and Becoming an Animal: Engelhardt's Two Notions of Animality

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Abstract

The principal objective of this essay is to briefly present and discuss what could be thought of as Engelhardt's two approaches on animality. The first, rather literal use of the term, refers to non-rational animals stricto sensu, while the second and more important one thematizes humanity's ontological self-degradation resulting from the dominant pleasure-oriented culture of our time. As for the first, aiming to moderate his outright acceptance of animal use, I invoke Dworkin's insights on sanctity, which substantiate a plausible alternative stance. As for the second, I attempt to critically reconstruct the way in which, according to Engelhardt, humanity, having rejected every transcendent inquiry, is increasingly embracing its lower nature. In conclusion, I will hint that this return to animality may be impeded by upcoming challenges that already leave a noticeable imprint on a global scale.

Key-words: *Tristram Engelhardt Jr., morality, moral standing, self-consciousness, animals, animality, critical interests, sanctity of life, post-metaphysical culture, immanence, individualism, end of history*

I. Introduction

Few, if anyone, would impugn the claim that Engelhardt's seminal contribution to contemporary bioethical and generally philosophical debates is that extensive, that it resists all attempts to fully grasp it; beyond a shadow of a doubt, numerous scholars will commit themselves to evaluating his overall input and it is in this context of post mortem tribute that this paper would like to situate itself. When embarking on decoding his thought and reading his books and numerous articles, one has to carefully address two major difficulties. The first lies in the fact that Engelhardt articulates his arguments drawing from a vast philosophical, theological and medical tradition, while his knowledge

of Western history and culture is equally formidable.[1] Such a mastery is rarely found, hence though admirable, it makes it very difficult for anyone to assess the synthesis that stems from its employment. Besides, the currently dominant views on how scholarship should be carried out explicitly favor specialization in a usually narrow field, thus complicating the fruitful reception of more ambitious and demanding academic endeavors. The second challenge results from the very philosophical and spiritual assumptions of his work. More specifically, it is known that, while some of his books and articles adopt a purely secular argumentative line, others bring out a passionately defended religious commitment – one that foreseeably leads to normative conclusions diametrically opposed to the secular ones. Self-evidently upsetting as it is for all his readers, this twofold approach, both secular and religious, demands a very delicate handling by anyone approaching Engelhardt's thought and poses intricate interpretive difficulties.[2]

Therefore, focusing on a particular set of arguments pertaining to to a specific field of scholarly interest or even to a specific concept, seems quite wise an option, albeit not too daring. In this regard, this paper will briefly discuss a rather neglected topic, that is the humans-animals conceptual pair, which will be examined in the light of two distinct perspectives. The first will elaborate on some secular- oriented theses of Engelhardt on the proper attitude of humans towards animals, the latter having risen to the center of many philosophers' attention during the past decades. My pivotal aim will be to critically reconstruct his arguments in support of animal use and experimentation, since he is notorious for totally rejecting animal rights.[3] In trying to slightly moderate his claims, I will explore and invoke other secular accounts on the same issue, which, though equally hesitant to acknowledge certain rights, nevertheless do resort to middle-level claims about the value of nature and offer insights into our motivation to respect and preserve nature as a whole. The second point that I will raise is related to the notion of animality, examined from the human point of you, and not so much to animals themselves. I should clarify that this second section will make use both of secular and religious ideas expounded by Engelhardt. My objective will be to build upon his suggestion that humanity is gradually immersing itself in a spirituality-hostile culture, which is radically anti-metaphysical and aspires to ultimately transform humanity into a consumerist species, that is a merely sentient animal. What I am going to hint

[1] Laurence B. McCullough, "Foreward: A Professional and Personal Portrait of H. Tristram Engelhardt, Jr.", in *Reading Engelhardt: Essays on the Thought of H. Tristram Engelhardt,* ed. Brendan B. Minogue, Gabriel Palmer-Fernandez and James E. Reagan (Dordrecht: Springer, 1997), xii-xvii.

[2] Walter S. Davis, "Book Review: H. Tristram Engelhardt, Jr., The Foundations of Christian Bioethics, Swets and Zeitlinger, 2000", *Theoretical Medicine* 23 (2002): 97-100.

[3] David B. Morris, "Animal Pain: The Limits of Meaning", in *Meanings of Pain*, ed. Simon Van Rysewyk (Cham: Springer, 2016), 396.

is that, despite the fact that such an estimation is not unduly expressed, science and technology will to a significant extent substitute for the old, classical transcendent tradition in becoming humanity's wholly new quasi-religious vision.

II. The permissibility of animal use

During the past decades, there has been a growing interest in the philosophical delegitimization of animal use, regardless of whether animals are used for medical experimentation, cosmetic testing or simply for food. Peter Singer and other widely recognizable thinkers pioneer in this field, indicating that animal equality is unjustifiably violated by numerous human undertakings.[4] They assert that, since human and non-human animals share the capability of sentience, no discrimination against the latter is morally tenable.[5] Others, while they question the moral status of animals, consider respectful treatment as a moral obligation of rational humanity towards animals.[6] On the opposite side, Engelhardt's secular morality presents three mutually supportive arguments that are destined to ground the moral superiority of humans and their derivative right to use animals in order to meet their needs and preferences.

The first argument takes as starting point the character of morality itself, namely the fact that its origin is strictly human, at least as far as secular morality is concerned. In the absence of any other rational beings except for human persons, it follows that humans are the only beings capable of constructing reflective judgements concerning their conduct. The very notion of reflectively judging in the robust sense of the term is equally a human privilege. Hence, human conduct cannot be criticized and condemned, cannot be reformed or ameliorated, but by humans.[7] It seems, then, that secular morality 'suffers' from a certain self-referentiality. The latter's negative consequence lies in the fact that in the end no fully grounded and world-widely accepted secular morality can be unearthed, because this undertaking would presuppose a preexisting consent on how competing moral principles and visions of the good should be ranked.[8] That moral pluralism is irresolvable is also thematized

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[4] Peter Singer, *Animal Liberation: A New Ethics for Our Treatment of Animals* (New York: Open Road Media, 2015); also Peter Singer, "All Animals Are Equal", in *Animal Rights: Past and Present Perspectives*, ed. Evangelos D. Protopapadakis, 163-178 (Berlin: Logos Verlag, 2012).

[5] Onora O' Neill, "Environmental Values, Anthropocentrism and Speciesism", *Environmental Values* 6, no. 2 (1997): 127-142.

[6] See Evangelos D. Protopapadakis, "Animal Rights or Just Human Wrongs?", in *Animal Ethics: Past and Present Perspectives*, ed. Evangelos D. Protopapadakis, 279-291 (Berlin: Logos Verlag, 2012).

[7] H. Tristram Engelhardt, Jr., "Animals: Their Right to Be Used", in *Why Animal Experimentation Matters: The Use of Animals in Medical Research*, ed. Ellen Frankel Paul and Jeffrey Paul (New Brunswick, London: Transaction Publishers, 2001), 175-185.

[8] David E. Guinn, "Religion and Bioethics in the Public Sphere", in *Handbook of Bioethics and*

in human rights debates, within which it is recognized that reaching a philosophically justified catalogue of human rights constitutes a task difficult to accomplish, given the variety and divergence of existing accounts of the human good.[9]

However, the self-referential character of morality has also a positive effect. More specifically, Engelhardt argues that, morality being human-centered and absent any other beings capable of reflection, its quintessence lies in that all actions in need of moral consideration will be deemed from an exclusively human perspective. In a nutshell, only humans can judge themselves for the ways they treat animals and this moral judgment is interwoven with, or rather will take into account, any possible contribution of animals to human life, health, prosperity, and traditional cultural rituals. It may be that in the West many people are religiously indifferent and scorn their cultural heritage, but other centuries-old cultures (Confucianism for example) around the world that survived secularism and retained their vivacity use animals for ritual reasons.[10] In such cases, animals are not malevolently used, but are regarded as means for the faithful accomplishment of a certain ritual performance, which consolidates community's connection with the past and attests to its willingness to preserve its cultural particularity. By the same token, the issue of testing future medicines on animals provides another indicative example, indeed one citizens in the West are more familiar with. This is not to deny that animals feel pain and suffer during these testings, but rather that all these regrettable collateral damages are morally examined in the light of the expected profit of these trials, which could hopefully result in the alleviation of human pain, the prolongation of human life and the improvement of its quality. Engelhardt does not claim that this is the right thing to do; rather, he explains that a secular morality has nowhere to resort to so as to ground the impermissibility of causing pain to animals, because it lacks a convincing account of the reasons why animal pain should impede the elimination of human pain. The above strategy is closely connected with another aspect of Engelhardt's argumentation. This second claim is of Kantian origin and expounds the idea that only humans are ends in themselves, hence animals, not being ends in themselves, can nevertheless be used as means contributing to humanity's well-being. Following Kant's fundamental assumptions, he asserts that agency, that is competence for reflective, rational and coherently articulated action, is only achieved by humans and that it is in this exceptional attribute that humanity's superiority is to be found and grounded. Only humans are able to recognize themselves as free moral agents accountable for their actions. The self-consciousness of moral freedom

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Religion, ed. David E. Guinn (Oxford: Oxford University Press, 2006), 126-127.

[9] Onora O' Neill, *Autonomy and Trust in Bioethics* (Cambridge: Cambridge University Press, 2002), 74-77.

[10] H. Tristram Engelhardt, Jr., "How a Confucian Perspective Reclaims Moral Substance: An Introduction", *Dao: A Journal of Comparative Philosophy* 9, no.1 (2010): 3-9.

and responsibility distinguishes humans from animals, since the former are aware of their ability to overcome what nature dictates and comply with the principles of moral autonomy. It is from the awareness of this ontological competence that stems our 'right' to morally evaluate human actions.[11] When judging one's actions, we just state that things should have been done in another (moral) way and we take it for granted that they could have been otherwise. The very concept of moral philosophy would be inconceivable, if it had not been for this elementary ontological prerequisite, namely that humans do have the freedom of moral choice. The normative conclusion drawn from the above strategy is that human rights enjoy a deontological priority against the interests of animals (as for example the interest to avoid pain) and cannot be equated with them. Nonetheless, no right to malevolent actions is recognized[12], first because malevolence implies an overall rejection of morality itself and, second, because animal maltreatment undermines one's ability to respect humanity and act in accordance with the moral law. If we shift from a more or less reasonable animal use to intentional viciousness, then persons are inescapably going to be our next victims. This Kantian-inspired remark suggests the continuity of morality and dispels the illusion that the corruption of our sentimental world due to animal maltreatment will not infringe on the realm of purely human interaction. In Engelhardt's words: "We owe to persons both respect and beneficent regard. To animals we owe only beneficent regard."[13]

The self-reflective character of human nature provides the basis for the third argument as well, but in what follows it will not be correlated to a certain aspect of the transcendental subject, but rather to our empirical self. A major and intuitively strong argument against animal use is that animals, as sentient beings, have feelings similar to ours. This common sentient background, it is usually said, should be interpreted as a moral constraint; pain and pleasure, in other words, are conditions shared both by humans and animals and, consequently, deserve an equal moral consideration. On the contrary, Engelhardt shows that this common empirical background is subject to incommensurably divergent appropriations. Human pain and pleasure are not just the outcome of a merely sensory stimulation, whose imprint is destined to gradually vanish. They are constitutive parts of one's bio-history and are incorporated in the reflectively constructed narrative of her life. This approach admits of further elaboration. Indeed, the value of these experiences is not simply empirical, as is the case with animals. What makes them indispensable for our self-recognition is the fact that, taken as a whole, they

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[11] Engelhardt, "Animals: Their Right to Be Used", 188-191.

[12] Christopher Tollefsen, "Missing Persons: Engelhardt and Abortion", in *At the Roots of Christian Bioethics: Critical Essays on the Thought of H. Tristram Engelhardt, Jr.*, ed. Ana Smith Iltis and Mark J. Cherry (Massachusetts: M & M Scrivener Press, 2010), 172-173.

[13] H. Tristram Engelhardt, Jr., *The Foundations of Bioethics* (Oxford: Oxford University Press, 1996), 144-145.

represent the development of our life. All these experiences, though retaining their origin from the empirical realm, are somehow cut off from it and transformed into a higher level, within which pain and pleasure are conceptually translated into various meanings, such as happiness, felicity, disappointment, anxiety, fear of death, anticipation etc. Human sentience, then, is much more delicate and refined than that of animals; it facilitates the reception of the external world whose content, transmitted through our senses, is all the more meaningful as it is subject to a creative, non-mechanical, interpretation.[14] The internalization of the external world and its understanding in the light of our rational and emotional undertakings enriches and normatively upgrades human experience, since the latter is placed within the realm of human culture and determines the self-reflective evaluation of our life. As self-conscious beings, we place pleasure and pain within a wider meaningful context, which remains inaccessible to animals.[15] Human right-claims are ultimately reduced to the uniquely human awareness that our life has a past and turns to the future with rationally constructed expectations.

III. Moral Realism and Critical Interests

The above description of Engelhardt's blatantly anthropocentric attitude should not be taken as reflecting an unmitigated hostility against animals or an unjustified, relentless prioritization of humanity. First, because these are not the views Engelhardt himself embraces, given his religious commitment and the totally different stance it suggests. Second, because they are typical of a great deal of secular moral philosophers, who reject the accusation of speciesism and underline the distinctiveness of human experience. In this section, my main objective will be, first, to examine some of the less intuitively attractive conclusions previously described from the perspective of value realism, as expressed by Ronald Dworkin, and, second, to use his notion of critical interests in support of Engenlhardt's third argument. Life's Dominion has arguably made a tremendously influential contribution that revolutionized public debates on abortion and euthanasia. Nevertheless, despite the fact that its scope does not openly raise environmental concerns, there are some hints worth attending to. In its crucial third chapter on sanctity, Dworkin makes an allusion to nature and claims that "in our culture, we tend to treat distinct animal species (though not individual animals) as sacred. We think it very important, and worth considerable economic expense, to protect endangered species from destruction at human hands or by a human enterprise. [..] We see the evolutionary process through which species were

[14] Engelhardt, "Animals: Their Right to Be Used", 185-188.

[15] H. Tristram Engelhardt, "Bioethics and the Process of Embodiment", *Perspectives in Biology and Medicine* 18, no. 4 (1975): 486-500.

developed as itself contributing, in some way, to the shame of what we do when we cause their extinction now. Indeed, people who are concerned to protect threatened species often stress the connection between art and nature themselves by describing the evolution of species as a process of creation."[16] I find Dworkin's account very attractive especially when it comes to the moral evaluation of hunting. In Engelhardt's Texan cultural context hunting as a leisure activity may be an established practice that no one would consider questioning. However, using animals to advance medicine and killing them in order to exhibit our hunting skills or mitigate our harshness do not seem to bear any substantial moral affinity. Dworkin rejects all skeptical challenges against morality and calls attention to the fact that our concerns about protecting and preserving nature can be explained through his notion of sanctity. The latter admits either secular-darwinian or religious grounding depending on the convictions of each individual. Let us invoke the paradigm of the Siberian tiger or of white lions. Mesmerizing and impressive, these animals bear witness to a creative process that we are unable to imitate. Their beauty and strength instill into our soul a sense of awe, accompanied with reasonable fear. But putting fear aside, we cannot but admire their exotic colors, their commanding look, their predatory skills and velocity. One could turn to more elegant examples (such as red panda or deer) and enumerate other aspects of their way of being that stir a certain moral objection or repulsion against their destruction. What lies at the core of this approach is the call to respect what eludes our competence to reconstruct it. Animal species and the beauties of nature encompass an aesthetic excellence and a history of creative development that motivates us to protect it, at least avoid its uncritical and mindless waste, without involving ourselves in sticky questions about rights, balancing of interests etc. In this regard, a refined mentality marked by self-restraint is to be gradually shaped.

I will now explore another aspect of Dworkin's argumentation, which seems to support Engelhardt's view on the outstanding character of human experience. The former's thought is steered by the aspiration to bring out the reasons that justify the so-called 'right to death', that is the right of patients who suffer from unspeakable pains and whose medical condition is irreversible to be allowed to die and, additionally, to receive from their doctor the aid they need in order to achieve this goal. Thus, Dworkin claims that advance directives and euthanasia protect individuals' "critical interests", which are opposed to the purely experiential interests: "But most people think that they also have what I shall call critical interests: interests that it does make their life genuinely better to satisfy, interests they would be mistaken, and genuinely worse off, if they did not recognize. Convictions about what helps to make a life good on the whole are convictions

[16] Ronald Dworkin, *Life's Dominion: An Argument about Abortion, Euthanasia and Individual Freedom* (New York: Alfred A. Knopf, 1993), 75-76.

about those more important interests. They represent critical judgments rather than just experiential preferences. Most people enjoy and want close friendships because they believe that such friendships are good, that people should want them. I have many opinions about what is good for me in that critical sense."[17]

The notion of critical interests provides us with an alternative insight into the meaning and relative weight of our sensory exchanges with the world. I will focus on the issue of pain, which is also crucial for those supporting animal rights. In Dworkin's analysis, it is only through the mediation of critical interests that one can reach an understanding of the meaning of death.[18] These interests do not only depict the evaluative priorities we embraced in the course of our life, but they equally reflect our judgements on how we should die. For many people, living in a persistent vegetative state with no self-consciousness and devoid of all life's attractions is an abhorrent prospective that would destroy in retrospect their critical interests. Patients at the end of life may feel intolerable pains and experience suffering beyond any description. This condition, if examined in the light of Dworkin's distinction between "critical" and "experiential" interests, is not comparable to the pains felt by animals. The most significant aspect of human suffering is not that it attacks our body nor that it impedes our vital functions. Rather, it lies in that indescribable suffering violates our human dignity as self-conscious authors of our life and marks our failure to live up to our critical interests. A humiliating death and an agonizing pre-death period stain our life's narrative. These external and empirical adversities, then, invade our inner self as rational beings and their detrimental effect threatens to eliminate our efforts to lead a critically examined life. A liberal state, Dworkin claims, properly respects individual freedom only by acknowledging that each person has a right to determine the conditions of her death. This does not mean that all citizens of democratic states will accord that the intolerable pain at the end of life deprives them of their dignity or that the loss of certain human capacities makes their life worthless. These evaluations are deeply personal, since the worth of each human life can be measured both objectively and subjectively. As a result, my impression is that Dworkin's conceptual distinction has significant interpretive strength in environmental concerns as well, because, though indirectly, it offers an ontologically thin, but sufficiently clear, account of what differentiates animal from human experience.

IV. Humanity in the post-modern era: Renouncing its moral standing and embracing animality

All previous sections were concerned with animals, strictly speaking, and with the arguments set in favor of humanity's right to use them in its various

[17] Ibid, 201-202.

[18] Ibid, 208.

undertakings. Thus, a significant distinction was presupposed throughout the paper between animals and humans, the latter being attributed moral priority for various reasons. In my introductory observations, I suggested that for Engelhardt (and evidently this is not at all a revolutionary assertion) certain layers of animality can equally be found (and intensified, depending on the historical circumstances) in humans in the sense that human beings are prone to neglecting their soul, are vulnerable to pleasures and fail to diligently refine their most precious attributes.

This position is formulated in the context of a thorough criticism of the current Western culture. He disputes the foundations of the dominant secular morality and offers a forceful description of the moral and spiritual disorientation that deters individuals from searching for God and responsibly shaping their life. Modern liberal societies have displaced religiosity from the public sphere and promote an "after God" culture, which underscores individual autonomy, holds in high regard sexual freedom and addresses in a superfluous way major moral issues, such as abortion, euthanasia, substitute maternity, complex and morally dubious reproductive options, human tissue market etc. In our post-modern cultural environment, no ultimate moral truth can be grounded through the use of public reason and the Rawlsian proposal for reaching a reflective equilibrium is also deemed to be infeasible.[19] Engelhardt's main concern is the recession of spirituality and the massive blindness towards the pivotal human questions about the existence of God, the meaning of human life, the proper content of morality. These tendencies, which he imputes to the politically correct morality of Western Christianity and the gradual isolation of God from the major philosophical systems articulated in the course of modernity, are intensified by the secular doctrine that declares the 'end of history'. The latter shall be precipitated by the relatively established economic prosperity enjoyed by Western citizens and the progressive eclipse of all metaphysical, ideological and transcendent inquiries. The thirst for truth, meaning and moral guidance is destined to be quenched, or rather replaced, with worldly pleasures.

Provocative as it is, this description of our era is intended to show that, following Kojève's insights, humanity will embrace animality in that the scope of its interests will only include the quest for individual eudemonia and economic security, an entrenched moral indifference and relativism, contempt of ideological quarrels and concerns about social justice, equality, rights etc.[20] In other words, the long-established requirement of leading an examined life, which has determined the very essence of Western culture, will see the emergence of

[19] H. Tristram Engelhardt, Jr., "Bioethics Critically Reconsidered: Living after Foundations", *Theoretical Medicine and Bioethics* 33 (2012): 97-105.

[20] H. Tristram Engelhardt, Jr., *After God: Morality and Bioethics in a Secular Age* (New York: St Vladimir's Seminary Press, 2014). This account is primarily based on the last chapter of Engelhardt's last book, to which I had access only through its recent Greek translation.

another, less demanding, attitude. Hence, the emphasis is put rather on "life", on its enhancement, enjoyment and prolongation, and not on the prerequisite of self-reflective examination and rationality. From an anthropological point of view, humanity is left without solid ontological roots and decisively rejects the eminence of its moral status, in full compliance with Singer's doctrines. This turn to animality signifies an emaciation that inescapably gives life to crucial bioethical consequences.[21] For example, the surge of interest for regenerative medicine, life prolongation, genetic enhancement and cosmetic improvements can be explained as expressing this increasingly growing adherence to the attractions abundantly found in the realm of immanence. In trying to secure the most rewarding life experiences, the Western world abandons its past metaphysical explorations and secular moral narratives, in order to comply with what I would call a "radical or insatiable empiricism". Embracing animality, therefore, involves the shift of emphasis to the exaltation of our sensory capacities, that is to a more or less empirical self, devoted to the consumption of experiences and hesitant to commit itself to anything else but satisfaction and pleasure. The new, satisfaction-centered civilization that emerges marginalizes every longing for the transcendent, may that be the question about God or morality, and commits itself to securing immanent satisfactions for the "animal-man."[22]

V. Conclusion-Final Remarks

What Engelhardt provides us with is the philosophical narrative of the estimated development of Western culture in the decades to come. Any talk about development in literal terms, however, is rather ungrounded for him, given that his conclusions are more or less congruent with the Neohegelian analysis on the end of history. It is now clear that in examining his rejection of animal rights in the first part of this paper, I only intended to underline that the current philosophical upheaval on the upgrade of animals' moral status is indissolubly connected with the emergence of a thin anthropology, which is much less willing to escape from immanence and worldly lures. But is there anything that could undermine the above interpretive scheme and mark the end of the end of history?

Engelhardt himself is fully aware of the fact that the significant demographic decline observed in the wealthy West, and especially within the European Union, along with the migration crisis are bound to challenge the beatitude of the West. Besides, solid, closely-knit communities of non-European immigrants and refugees

[21] H. Tristram Engelhardt, Jr., *The Foundations of Christian Bioethics* (Lisse: Swets & Zeitlinger, 2000), 139.

[22] H. Tristram Engelhardt, Jr., "Re-reading Re-reading Engelhardt", in *At the Roots of Christian Bioethics: Critical Essays on the Thought of H. Tristram Engelhardt, Jr.*, ed. Anna Smith Iltis and Mark J. Cherry (Massachusetts: M & M Scrivener Press, 2010), 290-291.

are increasingly expanding across Europe owning to the political instability in the Middle East and other regions. Hence, the citizens of the more or less prosperous West are already confronted with pressing questions about policies of integration and solidarity, security and education issues etc. Equally disturbing and dreadful have been the persistent manifestations of the upcoming environmental crisis. Climate change, for which it is the Western world that should be held accountable, is reasonably expected to jeopardize current lifestyles and question our post-modern culture's certitude that the regard for the public sphere is merely optional and that one can live in total indifference to all communal and social concerns. As for the destiny of metaphysics and Engelhardt's beloved spiritual tradition, all speculations are risky. For all that, it would not be premature to state that in our time science and state-of-the-art technology seem to be functioning as substitutes for the transcendent explorations he mourns. The longing for the unseen God has given its place to an equally passionate desire for the absolutely tangible fruits of modern technology, medicine and biotechnology, whose promising achievements are fervently welcomed with a quasi-religious eagerness. In this regard, the prospect of improving and enriching humanity's gene pool[23], the keenness to enhance our nature[24] and the commitment to the long-awaited hope for the substantial prolongation (and even immortality[25]) of human life seem to serve, if I may say, as an "alternative metaphysics"; that is, they represent the "after God", post-traditional doctrine that guides contemporary thought and, most importantly, governs humanity's future aspirations.

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[23] Julian Savulescu, "Procreative Beneficence: Why We Should Select the Best Children", *Bioethics* 15, no. 5-6 (2001): 413-426.

[24] See Julian Savulescu and Ingmar Persson, "Moral Enhancement, Freedom, And The God Machine", *The Monist* 95, no. 3 (2012): 399-421; also Evangelos D. Protopapadakis, "In Defense of Pharmaceutically Enhancing Human Morality", *Current Therapeutic Research* 86 (2017): 9-12.

[25] Yuval Noah Harari, *Homo Deus: A Brief History of Tommorow* (London: Harvill Secker, 2015), 20-29.

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Epistemologies of Biomedical Ethics: A Tribute to Dr. Engelhardt

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Abstract

In this essay, and in his honor, I focus on two of physician-philosopher H. Tristram Engelhardt, Jr.'s many contributions, namely, his view that biomedical ethics (1) cannot offer a singular content-driven theoretical approach and (2) requires an appreciation of epistemologies of knowing in medicine. While these two positions remain controversial, because we all want definitive answers to our questions concerning what we ought to do in medicine and elsewhere, Dr. Engelhardt's view makes possible discussion and debate in medicine to include diverse, defensible ways of knowing. In the end, Dr. Engelhardt's approach in biomedical ethics is one of shared decisionmaking and negotiation. This is an important model if we take respect for patients seriously in the clinical setting.

Key-words: *epistemology of medicine; biomedical ethics; H. Tristram Engelhardt, Jr.; concepts of disease*

I. Introduction

In honor of physician-philosopher H. Tristram Engelhardt, Jr.'s passing in April 2018, I share a few words about his contributions. There is much to say: He has been one of the founders of the resurgent of philosophy of medicine in the United States. He is the inspiration behind the *Journal of Medicine and Philosophy* as well as the *Philosophy and Medicine* series. He has framed discussions in contemporary biomedical ethics since the 1970s, thought through difficult conceptual issues in Christian biomedical ethics, and formulated discussions in philosophy of medicine regarding how clinical concepts are understood and function as treatment warrants. His influence is significant and has guided my own scholarship and writings in philosophy of medicine these past thirty years. In this essay, and in honor of Dr. Engelhardt, I focus on one of his many contributions, namely, his view that biomedical ethics (1) cannot offer a singular content-driven theoretical approach and (2) requires an appreciation of epistemologies of knowing in medicine. While these views remain

controversial, because we all want definitive answers to our questions concerning what we ought to do, Dr. Engelhardt's views make possible discussion and debate in medicine to include a variety of ways of knowing. In the end, Dr. Engelhardt's approach in biomedical ethics is one of shared decisionmaking and negotiation. This is an important approach if we are to respect for patients seriously in the clinical setting.

In what follows, I review Dr. Engelhardt's approach in biomedical ethics, focusing on his permission principle. I show how his approach requires an appreciation of epistemologies of knowing in medicine. Throughout the discussion, I apply his thinking to the case of breast cancer to show the relevancy of Dr. Engelhardt's position in today's discussion about knowing and treating breast cancer. I end with reflecting upon Dr. Engelhardt's account of the dual dependence between biomedical ethics and epistemology of medicine.

II. Dr. Engelhardt's Approach in Biomedical Ethics

Biomedical ethics (Gr. bios, life + Gr. ēthikē, ethical, or study of standards of conduct) is the study of the ethical or moral implications of biomedical discoveries and practices. It gained notoriety at the end of the twentieth century for its incisive analyses and critiques of practices in medicine.[1] The term "Bioethics" was coined by Dr. Van Rensselaer Potter, a research oncologist at the University of Wisconsin in the early 1970s.[2] Potter published an article entitled "Bioethics, The Science of Survival" (1970) and, in 1971, followed it with his book *Bioethics: Bridge to the Future*. In it, Potter defined "Bioethics" generally as "a new discipline that combines biological knowledge with a knowledge of human value systems."[3] Biomedical ethics has since become influential in western medicine, especially as many have become concerned about the role, power, and limits of medicine in their lives and as biomedical ethicists enter into mainstream medical school teaching and research to offer analyses and critiques of medical practices.[4]

According to Dr. Engelhardt, the success of biomedical ethics at the end of the twentieth century comes from a variety of sources. First, "there was a cultural hunger to locate medicine within larger cultural concerns."[5] In the late twentieth century, health care in every developed country was claiming a larger portion of the gross

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[1] Albert Jonsen, *The Birth of Bioethics* (New York: Oxford University Press, 1998).

[2] Ibid., 27.

[3] Van Rensselaer Potter, *Bioethics: Bridge to the Future* (New Jersey: Prentice-Hall 1971), 2.

[4] H. Tristram Engelhardt Jr., "Bioethics After Four Decades: Looking to the Future", Portugal Talk, March 16, 2012, accessed December 7, 2018, www.apbioetica.org/fotos.gcal/1331984832discurso.pdf.

[5] Tristram Engelhardt Jr., "The Philosophy of Medicine and Bioethics: An Introduction to the Framing of a Field", in *The Philosophy of Medicine: Framing the Field,* ed. H.T. Engelhardt Jr., 1-15 (Netherlands: Kluwer Academic Publishers, 2000).

domestic product. Nations and states began to grapple with challenges regarding the allocation of funds and resources in medical care and research. Second, "new technologies ...pressed for clarity about issues."[6] Moral problems raised by new technologies, such as organ transplantation and gene therapy, spawned significant discussions in Bioethics. Third, "old" moral problems, such as abortion, "became more acute because the technologies that occasioned them had become safer."[7] As a consequence, there arose the need to rethink some formally settled moral matters in medicine. Fourth, "there appeared to be purely philosophical issues, such as the nature of a clinical problem and illness, that were addressed neither by philosophy of medicine nor even the philosophy of biology."[8] For Dr. Engelhardt, such philosophical issues undergird the biomedical ethical ones and thereby need attention in discussions today.

According to Dr. Engelhardt, "two major moral principles"[9] guide actions in clinical medicine. These include "The Principle of Permission" and "The Principle of Beneficence." First, the principle of permission states that:

> Authority for actions involving others in a secular pluralist society is derived from their permissions. As a consequence,
>
> i. Without such permission or consent there is no authority.
> ii. Actions against such authority are blameworthy in the sense of placing a violator outside the moral community in general, and making licit (but not obligatory) retaliatory, defensive, or punitive force.[10]

The principle of permission expresses the circumstance that authority for resolving moral differences in a secular, pluralist society can be derived only from the agreement of the participants. Health care professionals cannot force patients to come into the clinic for care. They cannot force patients to receive medical care or continue with the medical care that they are receiving. Alternatively, patients cannot force health care professionals to practice in ways that go against their professional standards. Second, the principle of beneficence states that:

> The goal of moral action is the achievement of goods and the avoidance of harms. In a secular pluralist society, however, no particular account or ordering of goods and harms can be established as canonical. As a result,

[6] Ibid., 2.

[7] Ibid., 2.

[8] Ibid., 2.

[9] H. Tristram Engelhardt Jr., *Foundations of Bioethics* (New York: Oxford University Press, 1996[2]), 121; also see Tristram Engelhardt Jr., "The Search for a Global Morality: Bioethics, The Culture Wars, and Moral Diversity", in *Global Bioethics*, ed. H. Tristram Engelhardt Jr., 18-49 (Massachusetts: M & M Scrivener Press, 2006), 25.

[10] Engelhardt, *Foundations of Bioethics*, 122.

> within the bounds of respecting autonomy, no particular content-full moral vision can be established over competing senses (at least within a peaceable secular pluralist society). Still, a commitment to beneficence characterizes the undertaking of morality, because without a commitment to beneficence the moral life has no content. As a consequence,
>
> i. On the one hand, there is no general content-full principle of beneficence to which one can appeal.
>
> ii. On the other hand, actions without regard to concerns of beneficence are blameworthy in the sense of placing violators outside the context of any particular content-full community. Such actions place individuals beyond claims to beneficence. In particular, malevolence is a rejection of the bonds of beneficence. Insofar as one rejects only particular rules of beneficence, grounded in a particular view of the good life, one loses only one's own claims to beneficence within that moral community; in either case, petitions for mercy (charity) can still have standing.[11]

The principle of beneficence expresses the circumstance that the promotion of patient welfare and the avoidance of harm to a patient are central to the goals of medicine. It serves as a basis for health care professionals' determinations regarding what interventions are in the patient's best interest. In these determinations, there is a moral mandate to minimize patient harm through non-malevolent acts and maximize patient benefits through beneficent acts. This is, in part, because such moral mandates are part and parcel of the practice of the helping profession. But what these benefits and harms specifically look like needs to be worked out within the context of particular communities of persons who grant permission.[12] As Dr. Engelhardt says, "within the bounds of respecting autonomy, no particular content-full moral vision can be established over competing senses (at least within a peaceable secular pluralist society)."[13]

The principle of permission grounds mutual respect for a person's self-determination and is binding of all moral agents. Particular moral communities appeal to specific understandings of beneficence and are constrained from forcing their understanding of the good on unconsenting others. This is in keeping with how medicine works today since health care professionals cannot force treatment on unconsenting patients, without some exceptions. Alternatively, again with some exceptions, a health care professional cannot be forced to provide treatment to a patient.

In the end, then, biomedical ethics offers guidance regarding how to respect

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[11] Engelhardt, *Foundations of Bioethics*, 123.

[12] See, e.g., H. Tristram Engelhardt Jr., *The Foundations of Christian Bioethics* (Massachusetts: Scrivener Publishing, 2000).

[13] Engelhardt, *Foundations of Bioethics*, 123.

members of the health care professional-patient relationship. All members in the relationship have a binding obligation to secure consent for actions, unless, of course, the situation requires emergency intervention. Such is the basis of law, policy, and practice in medicine today. Beyond this, all members of the health care professional-patient relationship can share their views of what is beneficial and good. Consent-based permission permits actions that may lead to such goods. Lack of permission prevents such actions from taking place, unless, of course, there is a reason to do so. In this way, according to Dr. Engelhardt, biomedical ethics cannot provide a singular view of what is beneficial for the patient outside the context of permission granted in the health care professional-patient relationship.[14]

III. Epistemologies of Knowing in Medicine

As previously stated, part of the reason that a biomedical ethics delivers a diversity of defensible views on what is right or wrong, or good or bad, is because permission guides such views. Another reason is that biomedical ethics, as Dr. Engelhardt envisions it, draws upon a range of epistemologies of knowing in medicine. I'll focus in this section on the epistemology of knowing clinical problems, which serve as underpinnings in biomedical ethical discussions since biomedical ethical discussions concern how we know and respond to clinical problems. Examples are drawn from breast cancer medicine to illustrate Dr. Engelhardt's influence in my own work.[15]

The ways in which health care professionals speak of and react to clinical problems, such as disease, illness, deformity, and dysfunction, are shaped and directed by a number of interests. According to Dr. Engelhardt, these interests include descriptive, explanatory, evaluative, and social ones. These interests reflect "four conceptual dimensions" or "modes of medicalization."[16] They constitute the "language of medicine"[17] in that they provide the "grammar" and "rules," so to speak, for constructing meaning about and practical guidelines for addressing the problems that are attended to in the clinic. They reflect epistemologies of knowing in medicine, and such epistemologies undergird discussions in biomedical ethics.[18]

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[14] Engelhardt, *Foundations of Bioethics*, 123.

[15] Mary Ann Cutter, *Thinking through Breast Cancer: A Philosophical Exploration of Diagnosis, Treatment, and Survival* (New York: Oxford University Press, 2018); also see Mary Ann Cutter, *The Ethics of Gender-Specific Disease* (New York: Routledge, 2012).

[16] Engelhardt, *Foundations of Bioethics*, 195.

[17] Ibid., 195.

[18] Also see H. Tristram Engelhardt Jr., "Is There a Philosophy of Medicine?", *PSA 1976* 2 (1977): 94-108; H. Tristram Engelhardt Jr., "The Concepts of Health and Disease", in *Concepts of Health and Disease: Interdisciplinary Perspectives*, ed. A. L. Caplan et al., 31-46. (Massachusetts: Addison-Wesley Publishing Company, 1981 [1975]); H. Tristram Engelhardt Jr., "Clinical Problems and the Concept of Disease", in *Health, Disease, and Causal Explanations in Medicine*, ed. L. Nordenfelt and B.I.B. Lindahl, 27-41 (Netherlands: D. Reidel Publishing Company,

1. Descriptive Dimension

A clinical problem is "seen through a set of descriptive assumptions."[19] In medicine, description takes place by providing "facts". The term "fact" is derived from the Latin "factum"[20] and refers to "a thing done" or a "reality of existence", that is, to something that has really occurred or is actually the case. Such a view assumes that there is a reality "out there" to be discovered, a position called a *realist* view in philosophy. In medicine, a typical test for a fact is verifiability, which seeks to confirm whether the facts correspond to experience. Such a view assumes that matter is the basis of reality, a position called a *materialist* view in philosophy. The position in which matter is reduced to its component parts is known in philosophy as *reductionism*. Here the properties of the material whole are the addition or summation of the properties of the individual parts.

Consider how our understanding of breast cancer reflects both a realist and materialist view of a clinical problem. The National Cancer Institute states that "[i]n all types of cancer, some of the body's cells begin to divide without stopping and spread into surrounding tissues."[21] Such cells can lead to what is called a "tumor". In the case of breast cancer, a breast tumor is submitted to pathological testing to determine its size, shape, and, if available, biomarkers and/or genetic characteristics. The description of breast cancer assumes that breast cancer is a reality out there to be discovered and composed of empirical or physical matter. Such matter can be reduced from the whole to its parts and can be studied, tested, and verified.

But a realist and materialist view of a clinical problem is insufficient. Dr. Engelhardt[22] reminds us that the so-called "facts" in medicine are not neutral. They are seen through theoretical frameworks.[23] "Descriptions require standardization of terms"[24], and, as such, are framed by prior discussions, presumptions, claims, and language within particular frameworks. For instance, surgeons describe clinical problems in terms of surgical features, geneticists describe them in terms of genetic factors, and pathologists describe them in terms of pathological criteria. Such descriptions can and do change. One thinks of the change that the American Joint Committee on Cancer (AJCC) Breast Cancer Task Force made from the fifth to the sixth edition in

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1984); H. Tristram, Engelhardt Jr., "From Philosophy and Medicine to Philosophy of Medicine", *Journal of Medicine and Philosophy* 11 (1986): 3-8.

[19] Engelhardt, *Foundations of Bioethics*, 207.

[20] *The Complete Oxford English Dictionary* (England: Clarendon Press, 1994), 560.

[21] "What is Cancer?", National Institutes of Health, National Cancer Institute, last modified December 7, 2018, http://www.cancer.gov/about-cancer/understanding/what-is-cancer, 1.

[22] Engelhardt, *Foundations of Bioethics*, 208.

[23] Also see Ludwik Fleck, *Genesis and Development of a Scientific Fact*, ed. T. J. Trenn and R. K. Merton, trans. F. Bradley and T. J. Trenn (Chicago: University of Chicago Press, 1979 [1935]).

[24] Engelhardt, *Foundations of Bioethics*, 208.

2003 in recommending that the N (node) category of the TMN (tumor, metastases, node) cancer staging system be changed from one to three categories based on the number of axillary (i.e., under the arm) lymph nodes that are present.[25] This change came about in part because of a theoretical shift in understanding the role of lymph nodes in determining the extensiveness of breast cancer and the need for more specific diagnoses of breast cancer so that treatments for breast cancer can better be tailored.

Given that the so-called "facts" of medicine are not neutral, and depend on a host of perspectives, it may be misleading to say that a clinical problem is "out there" to be discovered. Rather, a clinical problem reflects the "lenses" the clinical knower brings to the so-called reality. A clinical problem is the experience of a disability, dysfunction, and/or suffering reported by a patient that hinders the achievement of certain goals. On this *idealist* view of reality, a clinical problem may not be fully reducible to matter that can be studied using laboratory tests. It is not a thing but an idea of a *holistic* event in the life of a patient. In the case of breast cancer, breast cancer reflects not simply a collection of mutated cells that have spread in the breast and perhaps elsewhere in the body. It constitutes an evolving event in the life of an embodied being who seeks to minimize dysfunction, pain, and suffering.

2. Explanatory Dimension

Further, the "facts" of a clinical problem are structured around explanatory claims and assumptions. In this way, a clinical problem is an explanatory concept, and as such "brings coherence ...to the multiplicity of events we encounter in medicine."[26] It brings coherence to the signs and symptoms that bring patients into the clinic, and the pathoanatomical and pathophysiological data that are generated by laboratory findings by gathering and interpreting empirical data within the framework of observations and interpretations that have been handed down in history. This approach is known in philosophy as *empiricism*. Here clinical facts are verified by repeatable experiments and data and they maintain an accepted status until they are falsified. In this approach, a clinical problem relates "two worlds of observations"[27], namely, the world of the clinic and the world of the laboratory.[28] "The findings of the clinician are related to the observations of the pathoanatomists and pathophysiologists and take

[25] American Joint Committee on Cancer, *AJCC Cancer Staging Handbook* (Netherlands: Springer, 2010), 423.

[26] Engelhardt, *Foundations of Bioethics*, 209.

[27] Ibid., 209.

[28] Also see H. Tristram Engelhardt, Jr., "The Subordination of the Clinic", in *Value Conflicts in Health Care Delivery*, ed. B. Gruzolski and C. Nelson, 41-57 (Massachusetts: Ballinger, 1982); Michel Foucault, *The Birth of the Clinic: An Archeology of Medical Perception*, trans. A. M. Sheridan Smith (New York: Pantheon Books, 1973 [1963]).

on a new significance through these anatomical and pathological observations."[29] With shifts in explanations of a clinical problem come "an expansion...of the explanatory powers of medicine"[30] and the ability to diagnose and treat clinical problems with greater reliability and specificity.

In contemporary medicine, a clinical problem is often explained in terms of a causal relation between that which brings a clinical problem about and a clinical problem itself, the result of which is used to predict the onset, severity, and future path of a clinical problem. But one might note, following Engelhardt, that the notion of cause in medicine is far from simple and involves appeal to what can be called *empirical* (or evidence-based) and *rational* (or logical) criteria. "The term *cause* can be used to identify conditions that are sufficient to produce effects, necessary to produce effects, or that contribute to the likelihood of an effect's occurring."[31] Health care professionals continue to search for sufficient and necessary conditions for clinical conditions, such as breast cancer, in order to provide more specific accounts of the relation between what brings a clinical problem about and the resulting clinical problem. Although medicine may aspire to discover sufficient and necessary causes of a clinical problem, "[i]n medicine, where the data are often statistical [or contributory], causal factors are frequently identified in the last sense."[32] While clinicians hope to find sufficient and necessary conditions for breast cancer, for instance, they often cannot and are instead left with working with contributory factors (e.g., effects of hormones on breast cells, diet) to guide treatment and survival care.

Given that medicine typically offers contributory causal accounts of a clinical problem, a tension arises. A statistical causal account of a clinical problem provides less certainty than, say, a necessary causal account. This recognition of the "limitations of human reason" causes "tension," as Dr. Engelhardt puts it, "between the universal aspirations of knowers and the particular context in which real individuals actually know and frame explanations."[33] In breast cancer medicine, for instance, while we may rally on behalf of "the cure," we know that a "cure" is an ideal goal and not usually the actual result. Such is the condition of knowing enough about what we do not know about and working with an empirical methodology that cannot guarantee 100% certainty.

3. Evaluative Dimension

Further, "facts" and "explanations" of a clinical problem are structured around evaluative claims and assumptions. A clinical problem is an evaluative concept: "To

[29] Engelhardt, *Foundations of Bioethics*, 209-210.

[30] Ibid., 210.

[31] Ibid., 223.

[32] Ibid., 223.

[33] Ibid., 218.

see a phenomenon as a clinical problem, illness, or disability is to see something wrong with it."[34] A clinical problem is experienced as a failure "to achieve an expected state, a state held to be proper to the person afflicted."[35] This may be a failure to achieve an expected freedom from pain or suffering, an expected level of function or ability, a realization of human form or grace, and/or an expected span of life. This may also be a failure to achieve a state sought by a patient, determined to be beneficial to a patient, and/or in keeping with the standards of moral integrity and the virtues of the health care profession. In other words, the "facts" of a clinical problem are inextricably tied to the "value" of a clinical problem and its treatment, where value is understood as an important and enduring sign of significance or worth.

For Dr. Engelhardt, a clinical problem is an evaluative concept because a clinical problem is not simply reducible to physical dysfunction. Consider the case of osteoporosis.

> "The species-typical character of calcium metabolism for post-menopausal women is one of negative calcium balance. More calcium is absorbed than deposited, leading to the development of osteoporosis and painful debilities such as collapsing vertebrae and greater exposure to risks of fractures. Such phenomena are as species typical as menopause itself. Yet, one would usually want to say that osteoporosis in postmenopausal women is a disease."[36]

Osteoporosis is a clinical problem not because it is abnormal function but because the present or future pain and disability experienced by individual patients leads them to seek the treatments offered by health care professionals. In seeking clinical help, patients determine that their condition is, all things considered, disvalued and harmful to their life experiences and, as a consequence, changes are in order.

In the case of breast cancer, the American Joint Committee on Cancer announced changes in the seventh edition of its cancer staging manual[37], resulting in the publication of the eighth edition in 2018. Once again, revisions have been made to the primary tumor, lymph node, and metastasis (TNM) classification of breast cancer commonly used around the world. More specifically, a major effort is made to incorporate biological factors, such as tumor grade, proliferation rate, estrogen and progesterone receptor expression, human epidermal growth factor 2 (HER2) expression, and gene expression prognosis panels into the staging system. Such efforts are

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[34] Ibid., 197.

[35] Ibid., 197.

[36] Ibid., 203.

[37] Armando E. Giuliano et al., "Breast Cancer - Major Changes in the American Joint Committee on Cancer Either Edition Cancer Staging Manual", *CA: A Cancer Journal for Clinicians* 67 no. 4 (2017): 291-303.

for purposes of developing better ways to predict the outcome of breast cancer occurrences and its treatments given advancements in testing and treatment for breast cancer. A hope is to develop better personalized cancer treatments for breast cancer patients as it incorporates emerging biomolecular knowledge of breast cancer into the traditional staging system for breast cancer.

4. Social Dimensions

Further, "facts," "explanations," and "evaluations," of a clinical problem are socially nested. A designation of a clinical problem takes place within the social practices of developing professional clinical standards, devising educational requirements and licensure agreements, formulating funding options, and instituting health laws and policies. To claim that a patient has a clinical problem "is to cast that individual in social roles where certain societal responses are expected."[38] Some of the social responses include assigning individuals a sick role, expecting that such persons seek help from socially recognized therapists, excusing sick persons from responsibilities for certain tasks while recovering from a clinical problem, and expecting that treatment for a clinical problem is covered by medical insurance plans.

In the case of breast cancer, staging and grading breast cell mutations is in part a social endeavor. "The decisions in such circumstances [in staging and grading cancer] are made not simply in terms of the character of reality as it is taken really to be, but also in terms of which modes of classification will be most useful in organizing treatment and care."[39] Choices to divide cancer stages and grades, and sub-divide cancer stages and grades, into a certain number turn on cost-benefit calculations and understandings of prudent actions that have direct implications for the ways patients are treated within social contexts.

In some sense, then, medical reality is a social phenomenon. The choice among different understandings of reality within medicine is a matter of communal interest. As a consequence, "[c]ommunities must begin with a recognition of the constructed character of medical reality. This recognition underscores our choices and indicates our responsibilities as individuals who not only know reality but also know it in order to manipulate it."[40] In this way, the social dimension of a clinical problem is constituted by the descriptive, explanatory, and evaluative dimensions of a clinical problem. It is framed by the clinical evidence of the time, how the evidence is explained, and what values are central to clinical medicine as well as the patients who seek medical services. With this comes the responsibility on the part of clinical professionals to provide the best care that is possible within the boundaries of available resources. Patients have responsibilities as well. They are charged with being decisionmakers and co-navigators of their path to their goals in medicine.

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[38] Engelhardt, *Foundations of Bioethics*, 217.

[39] Ibid., 219.

[40] Ibid., 226.

5. Facts, Theories, Values, and Social Contexts

According to Dr. Engelhardt, the descriptive, explanatory, evaluative, and social dimensions of a clinical problem are not separate and distinct. As he says, "[t]he interplay of descriptive, evaluative, explanatory, and social labeling languages in health care...shapes our appreciation of a medical problem."[41] Further, they define and situate each other.[42] Facts are theory-ladened, the fact/theory dyads are evaluative, and the fact/theory/value triads are socially framed. Consider, again, the case of breast cancer. In classifying breast cancer, a decision has to be made regarding how many cells with deviant changes of a certain kind in the biopsied breast tissue must be present before the cells are labeled as "cancer". An explanation is given about the relation between the mutating cells and the result called "cancer of the breast". To be too liberal in classifying cells as "cancer" will lead to unnecessary treatment, which harms women, costs money, and wastes resources. To be too conservative in the classification will lead women to receive treatment too late, which leads to increased pain and suffering, as well as unnecessary deaths among women. On this view, the lines among "normal," "hyperplasia," "dysplasia," and "cancer"[43] are in part discovered and in part created. They involve appeal to the facts, theories, and values that frame an understanding and subsequent action set within social frames of reference.

According to Dr. Engelhardt, one will not be able simply to discover, by appeal to factual issues alone, what diagnoses and treatments are indicated and what diagnoses and treatments are appropriate. "Integral to such judgments will be appeals to particular hierarchies of values and to peaceable processes for resolving disputes in these matters."[44] In the case of breast cancer, one will not be able simply to discover by appeal to factual issues alone which diagnoses are indicated and what ones are minimal or excessive. Determining the difference, for instance, between 190 cells and 210 cells and the extent to which a patient has cancer micrometastasis (as determined by a 200 cells threshold) involves more than a factual judgment. Similarly, determining the difference, for instance, between stage IB and IIA breast cancer in the case of a patient with an invasive 1.8 centimeter ductal tumor in an area of the right breast, a second area of ductal carcinoma in situ (DCIS) in another area of the right breast, and one positive axillary node involves more than a factual judgment. Such determinations involve appeals to what benefits ought to be sought, what risks ought to be avoided, what medical resources ought to be expended, and what goals ought to be achieved in the clinical situation. Such leads us back to biomedical eth-

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[41] Ibid., 196.

[42] Mary Ann Cutter, *The Ethics of Gender-Specific Disease* (New York: Routledge, 2012).

[43] "What is Cancer?", National Institutes of Health, National Cancer Institute, last modified December 7, 2018, http://www.cancer.gov/about-cancer/understanding/what-is-cancer, 4.

[44] Engelhardt, *Foundations of Bioethics*, 221.

ical considerations.

IV. Intersection of Epistemology of Medicine and Biomedical Ethics

The dual dependence between biomedical ethics and epistemology of medicine come about for a number of reason. These reasons harken back to those justifying the emergence of Bioethics in the late twentieth century. First, biomedical ethics finds itself part of discussions in epistemology of medicine and the much larger concerns about what constitutes the proper focus of boundary of medicine. These concerns are not only ethical ones, but knowledge-based ones concerning the nature of medical reality, how we understand it, and how we will manipulate it. Second, biomedical ethics relies on epistemology of medicine in order to find clarity on new bioethical issues that challenge our sense of clinical reality and require new ways of thinking. Understanding how worldviews and associated knowledge frameworks change and evolve lend insight into what claims and assumptions fuel the bioethical debates and which ones are open to revision and rethinking. Third, biomedical ethics turns to epistemology of medicine in order to address "old" moral problems that reemerge in contemporary culture in new ways. "Old" settled moral problems are no longer so settled given shifts in what constitutes clinical reality and how we know it. Exploring these dimensions of the debate provides new insights into old problems. Fourth, biomedical ethics needs epistemology of medicine in order to reorient itself to a central focus of medicine, i.e., treating the clinical conditions that patients bring into the clinic or hospital. This is not simply an epistemological claim, but one lodged in understanding how health care professionals understand their rroles and responsibilities.

Consider an example of the dual dependence between epistemology of medicine and biomedical ethics. There is a debate in breast cancer medicine today about the extent to which ductal carcinoma in situ or DCIS should be treated. DCIS is a state in which cells that have mutated have not spread outside the walls of the breast ducts. At present, DCIS is not considered cancer, although there are plenty of examples to show how it is referred to in the literature as a form of "breast cancer."[45] Because breast cancer clinicians do not have reliable ways to predict which cases of DCIS will develop into later stage cancers and which will not[46], some clinicians recommend treating DCIS in ways similar to how Stage I ductal breast cancer is treated. Others prefer a "wait and see" approach, but this does not reflect the general practice in breast cancer today. As seen here, how we understand a clinical problem (or

[45] "Ductal Carcinoma In Situ (DCIS)," American Cancer Society, last modified December 7, 2018. http://www.cancer.org/cancer/breast-cancer/understanding-a-breast-cancer-diagnosis/types-of-breast-cancer/dcis.html, 1.

[46] "What is Cancer?", National Institutes of Health, National Cancer Institute, last modified December 7, 2018, http://www.cancer.gov/about-cancer/understanding/what-is-cancer, 4.

better, how we do not understand it) sets up treatment warrants. Because some of these treatment warrants have well established side-effects for patients, such as harm from radiation and chemotherapy, treating a precancer stage raises a host of ethical questions, including how informed consent is secured, how benefits and harms are weighed, and how access to breast cancer medicine is structured in a context of not fully understanding a clinical condition. The interplay between knowing and doing, knowing and valuing, and epistemology and ethics becomes evident and brought to our attention by Dr. Engelhardt's contributions.

Further, how questions and issues are worked out rely not only on clinical epistemological standards but the binding obligation of the permission principle that Dr. Engelhardt develops. With regard to the scenario above, whether a patient seeks treatment for DCIS will turn on what information clinicians provide and how the patient weighs the benefits and burdens of the proposed interventions. Responses will vary and patients will choose a range of options, along with their clinicians. Such is in keeping with making choices in a world of uncertain clinical information and a world in which the permission principle guides ethical decisionmaking.

In his expansive work, Dr. Engelhardt shows us an important connection between the project of making ethical decisions in medicine and knowing in medicine. His insight is that there is no one single approach in biomedical ethics to determine the welfare of a patient. Rather, there many. There are many approaches because the permission principle in concert with epistemologies of knowing guide how we think about what is beneficial to a patient. The many approaches are lodged in biomedical ethics in a commitment to respect persons and in clinical epistemology in a commitment to modes of conceptual dimensions. In this framing, Dr. Engelhardt creates expansive room for discussion, debate, and options in biomedical ethics. While we all may want more definitive answers, these are not forthcoming. Answers will be framed by participants in the debate. And this is no small ethical endeavor. As Dr. Engelhardt says, "[t]his recognition underscores our choices and indicates our responsibilities as individuals who not only know reality but also know it in order to manipulate it."[47] Note that "'[t]he issue of who decides is thus moved from the area of individual free and informed consent to a communal area of negotiation regarding construals of reality"[48] and what it means to live the ethical life.[49] Such is the message Dr. Engelhardt delivers. Such is the legacy Dr. Engelhardt leaves us with as we navigate the terrain of understanding clinical reality and making ethical decisions about how we ought to act in medicine.

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[47] Engelhardt, *Foundations of Bioethics*, 226.

[48] Ibid., 226.

[49] Also see: H. Tristram Engelhardt Jr., "Confronting Moral Pluralism in Posttraditional Western Societies: Bioethics Critically Assesses", *Journal of Medicine and Philosophy* 36 (2011): 243-260.

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Engelhardt on the Common Morality in Bioethics

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Abstract

Contemporary Bioethics is, at least in part, the product of biomedical and sociopolitical changes in the middle to latter part of the 20th century. These changes prompted reflection on deep moral questions at a time when traditional sources of moral guidance no longer were widely respected and, in some cases, were being rejected. In light of this, scholars, policy makers, and clinicians sought to identify a common morality that could be used among persons with different moral commitments to resolve disputes and guide clinical practice and health policy. The concept of the common morality remains important in Bioethics. This essay considers the common morality in light of the work of H. Tristram Engelhardt, Jr.

Key-words: *Bioethics, common morality, Engelhardt, neutrality, moral commitment*

Contemporary Bioethics is, at least in part, the product of biomedical and sociopolitical changes in the middle to latter part of the 20th century. While its history has been described differently and some elements are hotly contested, a number of events and developments were important in the emergence of Bioethics.[1] These include the advent of organ transplantation and the interest in (re)defining death, the introduction of life-saving or life-extending but scarce medical resources such as dialysis, the ability to keep patients who otherwise would have died alive in intensive care units even when there appeared to be no prospect of recovery, the legalization of abortion in the United States, and public revelation of the United

[1] See Albert Jonsen, *The Birth of Bioethics* (New York: Oxford University Press1998); Tina Stevens, *Bioethics in America: Origins and Cultural Politics* (Baltimore: Johns Hopkins University Press, 2000); John Evans, *The History and Future of Bioethics: A Sociological View* (New York: Oxford University Press, 2012); Robert Baker, *Before Bioethics: A History of American Medical Ethics from the Colonial Period to the Bioethics Revolution* (New York: Oxford University Press, 2013); David Rothman, *Strangers at the Bedside* (New Brunswick, NJ: Aldine Transaction, 1991).

States Public Health Service study of untreated syphilis in poor African-American men in Tuskegee, Alabama. These events and practices prompted reflection on deep moral questions at a time when traditional sources of moral guidance no longer were widely respected and in some cases were being rejected. Many were suspicious of authority figures, including physicians and religious leaders, or at best they saw them as irrelevant. The sociopolitical trend of challenging and rejecting authority and traditional sources of moral guidance together with biomedical developments that generated new questions created space for others to engage issues and direct future decisions.

A major theme early in Bioethics (and one that continues today) is the question of who is in authority to make health care decisions. Substantive issues beyond matters of authority included questions about the permissibility of various types of research, whether and when it was permissible to withhold or withdraw medical treatment, and how to allocate scarce resources. These were not merely academic questions to be discussed endlessly. These questions were arising in real life situations and demanded action-guiding answers. While some of these matters seemed intensely private, there was a sense that they were in fact community or public affairs. The state was involved in funding research, defining death, and paying for dialysis and other health care, for instance. Cases were being heard before courts in the United States and the state was deciding whether or not single women should be permitted to access birth control [Griswold v. Connecticut, 381 U.S. 479 (1965)], ventilators could be withdrawn [In re Quinlan, 70 N.J. 10, 355 A.2d 647 (NJ 1976)], and, later, whether artificial nutrition and hydration could be withheld [Cruzan v. Director, Missouri Department of Health, 497 U.S. 261 (1990)]. There was a push for communal reflection and decision making. It was in this context that Bioethics flourished and that a desire to identify neutral, secular, shared grounds for bioethical decision-making took root.

Numerous figures shaped Bioethics as it developed. One of them was H. Tristram Engelhardt, Jr. (1941-2018). As a young philosopher, he wrote:

> "Ethics, as a philosophical enterprise, is best conceived as an attempt to negotiate diverse moral intuitions. Ethics is the logic of a pluralism in the sense that ethics is an attempt to find the most general grounds or bases for judging the rightness and wrongness of conduct. Unlike religious ethics, or particular legal traditions, philosophical ethics hopes for general principles of conduct discoverable by disinterested reflection, apart from either grace or cultural prejudice. Though such a disinterested perspective cannot be attained, one can move towards such a vantage point by attempting to lay out ever more clearly general principles of moral conduct."[2]

[2] Tristram Engelhardt, *In National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research*, Appendix I, Essay 8, 4, 63, 1978.

These principles would be neutral in the sense that they would "not [be] engaged on either side; specifically: not aligned with a political or ideological grouping" (Merriam Webster). They would be secular in that they would not be "overtly or specifically religious" (Merriam Webster). These features would allow persons who held different or no religious convictions as well as different accounts of the good life to share and use the principles to answer moral questions and resolve disputes despite their differences.

Early on, Engelhardt recognized the deep problems associated with pursuing common ethical principles as he had described them, principles that allegedly would allow for moral reflection and decision making despite the loss of foundational sources of morality and in the face of moral disagreement. He dedicated much of his work to demonstrating that the claim to have discovered a common morality that could be used to guide Bioethics was a deception that would be used to harness authority and exert power.[3] Much of his later work was dedicated to two other important ends, which are not the focus of this essay. The first was articulating one particular account of biomedical morality, that of the Orthodox Christian Church.[4] The second was exploring the consequences of living in a world governed by secular ideology.[5] In such a world, Engelhardt argues, the state has become not secular but secularist, meaning that it "seeks to exclude from the public forum and even from public discourse any but a secular ideology."[6] Here, we consider the common morality in light of Engelhardt's assessment of it.

Bioethics and the Hope for the Common Morality

When persons who did not share an account of moral authority or guidance faced urgent questions about health care and biomedical research, an action-guiding morality shared by all was sought. It would have to arise not from religious commitments or other particular views of the good life but from a neutral, secular foundation that could be recognized and applied by and to all persons. This was especially important for the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, which had been tasked with identifying the principles that could govern human research in the wake of revelations of the United States Public Health Service study of untreated syphilis. The National Commission went about

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[3] See Tristram Engelhardt, *Bioethics and Secular Humanism* (London: SCM Press and Philadelphia: Trinity Press International, 1991), and Tristram Engelhardt, *The Foundations of Bioethics* (New York: Oxford University Press, 1996).

[4] See Tristram Engelhardt, *The Foundations of Christian Bioethics* (Salem: Taylor & Francis, 2000).

[5] See Tristram Engelhardt, *After God: Morality and Bioethics in a Secular Age* (New York: St Vladimir's Seminary Press, 2017).

[6] Tristram Engelhardt, "Christian Bioethics after Christendom: Living in a Secular Fundamentalist Polity and Culture", *Christian Bioethics* 17, no. 1 (2011): 76.

crafting shared moral principles that could be used to govern human research to re-build trust in the research enterprise and avoid future scandals. The National Commission settled on three principles: respect for persons, beneficence, and justice (National Commission 1979). Its description of these principles was largely influenced by influenced by Tom Beauchamp, who had been hired to help with report writing, Engelhardt and others who like him who had been asked to write papers for the Commission's consideration, as well as the Commissioners.[7] Engelhardt would eventually describe the paper he wrote for the National Commission in which he advocated for "general principles of moral conduct" (1978) as one of the "sins of [his] youth."

At the same time that the National Commission was developing a common moral framework for human research and articulating its three principles, Tom Beauchamp and James Childress were working together on a book that would shape the field profoundly. In *The Principles of Biomedical Ethics* (1979), now in its seventh edition, they claimed to have identified some of the common moral principles shared among persons who held different particular accounts of morality. This common morality included four principles that were especially important in the biomedical setting: respect for autonomy, beneficence, nonmaleficence, and justice. For Beauchamp and Childress the common morality consists of "the set of moral norms that all morally serious persons share."[8] Individuals hold more than the common morality; they hold particular moralities and among those particular moralities we see significant differences. But for Beauchamp and Childress, the view that there are some basic moral commitments shared among "all morally serious persons" is significant, and they spend much of *The Principles of Biomedical Ethics* developing an account of the four principles. These principles require specification to yield concrete action-guides, and, as prima facie principles, they must be balanced to determine which obligations will be honored in cases of conflict. Specification and balancing require substantive moral commitments, and herein lies one of the reasons for which the common morality cannot deliver as hoped, as discussed below.

The desire for a common morality is understandable. It would appear to give us a basis for making decisions and developing policy in the face of pluralism without imposing our own particular moralities on others. The allegedly shared commitments of rational agents are seen as an appropriate shared basis for public policy and clinical decision making in a morally pluralistic society.

Engelhardt and the (Implausible) Common Morality

Despite his contribution to the common moral language of principles for

[7] Albert Jonsen, *The Birth of Bioethics* (New York: Oxford University Press1998), 103.

[8] Tom Beauchamp and James Childress, *Principles of Biomedical Ethics (*New York: Oxford University Press, 2009), 3.

research ethics, Engelhardt noticed that the dream of a common morality that could bypass moral pluralism and enable us to draw moral conclusions amidst the loss of moral foundations was not plausible. For the principles to be action-guiding, we must determine what they mean, what they require, and what they prohibit. This process of specification and balancing depends on the moral assumptions or the conceptions of the right and the good of the persons in the privileged position to specify and balance the principles. For example, to understand what it is to respect the principle of justice, we need to know what constitutes justice. In attempting to flesh out that content we find numerous, incompatible accounts of justice. Further, we cannot resolve some of the differences by establishing which account of justice is based on reason alone. All accounts of justice require us to grant certain assumptions, e.g., they require a conception of the good or they require that we have some account of rights. We cannot specify our way to moral content from nowhere; instead, we require a moral starting point, and those starting points can vary dramatically among persons. Insofar as we acknowledge this, it is at best trivially true that we share a common morality. Thus even if we concur that we should adopt just practices and avoid injustice, we might have different conceptions of justice and thus different accounts of which policies and practices promote justice and avoid injustice.

It is for this reason that Engelhardt noted that appeals to mid-level principles might resolve controversies "when individuals with the same or very similar moral visions or thin theories of the good and justice have reconstructed their moral sentiments within divergent theoretical approaches."[9] If people already have the same general views about a moral question, such as the permissibility of allowing for inequalities in the health care system that allow the rich to access better care or to access health care more quickly, then it should come as no surprise that they will be able to come to consensus. They might explain their reasons for reaching to those shared conclusions differently, such as by an appeal to consequences or to deontological right- and wrong-making conditions.[10] But because they already shared a "moral lifeworld", their shared conclusions despite different justifications are no surprise. From that shared moral lifeworld, "it is not at all amazing that their different theoretical apparatuses generally justify similar choices."[11] But the story changes when the persons in question occupy different moral lifeworlds. For instance, if those who have different background conceptions of justice, such as Rawlsians and Nozickians, were to attempt to asses the permissibility of a two-tier system that allows the rich to access better care even if this makes the poor worse off, then no set of mid-level principles will lead them to the same conclusions.[12] Without any

[9] Tristram Engelhardt, *The Foundations of Bioethics* (New York: Oxford University Press, 1996), 56.

[10] Ibid., 57.

[11] Ibid.

[12] Ibid.

established way to judge among particular moralities, it is just one among many and not, as its proponents say, the morality that binds all morally serious persons. In other words, "[t]he appeal to middle-level principles may succeed in bridging the gulf between those who share a moral vision, but who are separated by their theoretical reconstruction of that vision. But it will not bridge the substantive gulf between those separated by different moral visions or different moral senses."[13] The latter gulf is real, not imagined, and it is this gulf that explains the culture wars.[14]

The common morality as described in the Bioethics literature is not actually held in common in any substantive way. It is also not neutral nor is its application neutral in the sense of not favoring or undermining any particular account of morality. Consider the shift in the Bioethics literature toward allowing children more authority over their health care decisions. Many contributors recommend this shift out of respect for the (emerging) autonomy of children or because they think that it will promote the good by producing better health outcomes. Policy and legal changes that grant minors greater legal authority to make their own health care decisions, particularly with respect to contraception and abortion, appear to arise from applications of the common morality principles of respect for autonomy and beneficence. Often they are defended using data that adolescents are able to make decisions comparable to those of adults[15], or that they lead to better health outcomes because they reduce the teen pregnancy rate. To hold that the observation (which has been challenged[16]) that adolescents are approximately as good as adults at making certain kinds of decisions already is to assume that the ability to decide justifies granting decision making authority or is more important than parental authority. To assume that allowing adolescents to make their own decisions advances public health goals and that this justifies granting them this authority is to assume that the ends justify the means (means which some consider illicit). Alternatively, it is to assume that public health officials' conceptions of the good, which involve contraceptive use and extramarital sex, are more important than other conceptions of the good, such as those held by traditional religious believers who recognize the authority of parents over their children. Policies that appear neutral and are defended using common morality principles, such as respect for autonomy or beneficence, rest on assumptions that one way of life is better than another and should be privileged.[17] Rather than being neutral, they are grounded in particular conceptions of the good and a particular ranking of goods.[18]

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[13] Ibid., 58.

[14] Hunter, 1992.

[15] E.g., Weithorn and Campbell, 1982; Weithorn, 1983.

[16] For a discussion of these challenges, see Partridge, 2010.

[17] Ana Iltis, "Toward a Coherent Account of Pediatric Decision Making", *Journal of Medicine and Philosophy* 35 (2010): 526-552.

[18] For further discussion of the role of the family, see Mark Cherry, *Sex, Family, and the Culture*

A Different Common Morality?

The common morality allegedly is shared among all morally serious persons and does not privilege any of the many possible religious or non-religious beliefs people in a pluralistic society may hold. In this sense it is supposedly neutral, and we can rely upon and apply its principles independent of the way of life or conception of the good we think is best. It is supposed to give us a way of resolving moral controversies when we share space with what Engelhardt calls moral strangers. Because neutral reasons must not favor or presume any particular belief or conception of the good, it is widely held that secular reasons fit the requirements of neutrality. However, many allegedly neutral secular reasons do appeal to particular conceptions of the good life and marginalize other such concepts. As Engelhardt and others have shown, and as discussed above, the way the common morality has been described and applied in Bioethics rests on particular conceptions of morality and favors some ways of life and ideologies over others. The problem is not merely that this particular account of the common morality in Bioethics is implausible. It is that it is impossible to secure the moral guidance necessary to resolve moral controversies from any set of universal principles that operate across particular moralities independently of all non-universal assumptions about the right and the good. Any allegedly secular neutral account of ethics, just like any religious account, will rest on particular conceptions of the right and the good and be partial to some ways of life and ideologies. There is no shared account of the right and the good. And conceptions of the right and the good are essential to resolving moral questions.

Engelhardt was not alone in describing the implausibility of a common morality. For example, Lisa Cahill has argued that there is no "objective, traditionless, secular version of philosophical reasoning" by which one may engage public Bioethics.[19] She continues: even the "preeminent and supposedly neutral vocabulary of public policy debates in the U.S. today (liberty, autonomy, rights, privacy due process) itself comes out of a rather complex but distinct set of political, legal, philosophical, moral and even religious traditions."[20] Gilbert Meilaender argues that it is impossible to eliminate "from public discourse or debate insights and principles that grow out of our deepest religious and normative commitments", and that "those who profess neutrality (or suppose they have 'set aside' all metaphysical underpinnings) often turn out to be committed to views that can hardly be said to be neutral with respect to comprehensive doctrines."[21] Meilaender offers John Rawls' footnote in *Political*

Wars (New York: Routledge, 2016).

[19] Lisa Cahill, "Can Theology Have a Role in 'Public' Bioethical Discourse?", *Hastings Center Report* 20 (1990): 11.

[20] Ibid., 11.

[21] Gilbert Meilaender, "Against Consensus: Christians and Public Bioethics", *Studies in Christian*

Liberalism, where although he professes to exclude comprehensive doctrines from the discussion of justice, he identifies three values relevant to the permissibility of abortion and asserts that "any reasonable balance of these three values will give a woman a duly qualified right to decide whether or not to end her pregnancy."[22] Meilaender demonstrates that Rawls' "view manages to be simultaneously ad hoc and (unwittingly) laden with normative commitments."[23] To hold those values is to hold a particular view of the good life.

The foundational principles of any worldview, including one allegedly based on principles disclosed by reason, depend on substantive assumptions. As Kevin W. Wildes, S. J. has argued:

> "...there are just as many starting points for consideration of secular, content-full Bioethics as there are for religious Bioethics, and scholars have no way to determine which starting point is correct. Yet without some initial set of premises or moral assumptions moral controversies cannot be resolved. Content-full assumptions therefore must be made if fields of applied ethics, such as Bioethics, are to resolve moral controversies. Without any way to know what initial assumptions are correct many different 'Bioethics' – both secular and religious – will result with no way to know which of them is correct."[24]

As a result, he argues, no substantive approach to Bioethics or to moral decision making in general can be neutral:

> "Every systematic approach to Bioethics – theological, philosophical, legal – is particular in some way. Every method needs content... Two key points are worth bearing in mind... First, any attempt to address moral issues involves choices about some particular method in which to frame the issue. The choice of structure represents a particular view of moral reason and a way to view the moral world. Second, even if there is a common agreement about the method and structure to be used, there will still be a need for a content and its specification in order to address issues in Bioethics. The field is not simply an argument about doing good and avoiding evil but an attempt to argue for which evils should be avoided and which goods should be done. Each choice

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Ethics 18 (2005): 79.

[22] John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 243, n. 32; quoted in Gilbert Meilaender, "Against Consensus: Christians and Public Bioethics", *Studies in Christian Ethics* 18 (2005): 79.

[23] Meilaender, "Against Consensus", 79.

[24] Kevin Wildes, "Particularism in Bioethics: Balancing Secular and Religious Concerns", *Maryland Law Review* 53 (1994): 1221.

of content represents a particular point of view."[25]

and

"[a]ny content-full philosophical ethics can be said to be particular."[26]

Others have raised similar concerns. For example, Ruth Groehnout has demonstrated that any approach to Bioethics that will offer substantive directives or evaluation of significant issues cannot be neutral; to do any real work requires, she argues, "a fairly rich conception of the good."[27] Moreover, the inability to extract content from truly neutral secular reasoning has been demonstrated repeatedly by Engelhardt; even allegedly neutral secular moral and political theories are tradition-bound and value-laden.[28] Moral content always must be grounded in some view of the right or the good. Privileging some grounds (e.g., secular reason shaped by particular philosophical traditions) over others (e.g., Orthodox Jewish insights) ignores the fact that all positions share in common epistemic uncertainty – none can be definitively defended as the correct starting point for deliberation and all require us to suspend particular beliefs. We should not find it surprising that we live in the midst of the culture wars because claims to access the morality disclosed by reason alone rely on value-laden assumptions.[29]

The hope of securing a common morality and applying it to Bioethics to resolve differences is a fantasy according to Engelhardt and many others. Allegedly neutral secular reasons rest on moral presuppositions grounded in particular worldviews, including views that require one to explicitly reject other moral positions, accept particular conceptions of the good, or recognize the superiority of some ways of life.

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[25] Kevin Wildes, "Religion in Bioethics: A Rebirth", *Christian Bioethics* 8 (2002): 169.

[26] Ibid., 170.

[27] Ruth Groenhout, "Care Theory and the Ideal of Neutrality in Public Moral Discourse", *Journal of Medicine and Philosophy* 23 (1998): 182.

[28] See Tristram Engelhardt, *The Foundations of Bioethics* (New York: Oxford University Press, 1996), 40-65, and 105-8.

[29] Ana Iltis, "The Failed Search for the Neutral in the Secular: Public Bioethics in the Face of the Culture Wars", *Christian Bioethics* 15, no. 3 (2009): 220-233.

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Why Morality Will Continue to Flourish in a Secular Society After God: An Appreciation and a Short Criticism of the Late Engelhardt

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Abstract

The paper is mostly limited to an analysis of the main theses advanced by Engelhardt in his great book After God (2017), compared with those elaborated in the first edition of The Foundation of Bioethics (1986). The first part is devoted to a summary of Engelhardt's proposals, and two of them are criticized in the second part. In particular, Engelhardt is doubtful that a morality after God is possible, while I argue that it is going to be produced and possibly will be more adequate than traditional morality. In the same line, Engelhardt holds that without God everything is meaningless, while I argue that meanings are instilled by humans in our projects, and that even in our forthcoming post-history age people will continue to have meaningful ethical actions.

Key-words: *foundation of morality; concept of secularization; Biomedical and Industrial Revolutions; concept of post-history*

I. Engelhardt's development of the moral situation

Tris Engelhardt's *After God* is a great book, not only for its size (454 pages), but mainly for the richness of analysis and intuition. It also contains an intellectual autobiography which provides a lot of personal impressions that affected his cultural development and that will be of the utmost importance to reconstruct Engelhardt's thinking. It is perhaps too early to try such an enterprise, but one thing is sure: Engelhardt admits that his research was gradual and at times he

> "was confronted with puzzles. They were foundational puzzles about the roots of bioethics and of morality generally. Prominent among these questions were what it means to acknowledge the existence of God, and what

> difference the acknowledgement of God does or should make in how one lives one's life" (p. 34).[1]

This is a basic and crucial point, because Engelhardt informs us that the "foundational puzzles about the roots of bioethics and of morality" accompanied all of his intellectual life. As a matter of fact, he had the privilege to live through one of the most dramatic and massive changes that have occurred in human history. Engelhardt's youth was still in a world unaffected by the Biomedical Revolution, and he is aware of it and describes the situation in a short and wonderful presentation:

> "It was 1954. I had arrived in Europe for the first time, indeed in Genoa. In that early June, bright with flowers, a joy for my mother, I entered a world that was a universe apart from the Europe of the second decade of the 21st century. The moral and metaphysical texture of the then-dominant life-world was radically different. There was a pronounced folk piety. Italy's streets were full of young priests and children. Everywhere there were grey and black friars. Italy was young, generally pious, and dynamic (although side chapels were at times marked by signs bearing an astonishing warning: *Vietato urinare*). The churches were not empty. These observations are not meant to deny the presence even then of the roots of the now-dominant secular culture. Italy had its full share of agnostics and atheists. However, Italy was then just before, but still surely before, a major and dramatic cultural tipping point. Vatican II (1962–1965), the sexual revolution of the late 1960s, the student protests beginning in 1968, and the general impact of the Frankfurter Schule would soon precipitate a comprehensive secularization. However, this transformation had not yet taken place. I was in a cultural lull before widespread turbulence and change. It was not yet a culture after God." (p. 57).

At the cultural level, the big change started in the '60s, and it was a real shock and an amazing social struggle. But it was also the peak of the Golden Age of the Short Century, the age of the New Frontier of Science and Rights, the age of the dialysis and heart transplant, as well as of the conquest of the Moon. It was also the decade of the beginning of mass secularization, as the young sociologist Peter Berger noted in 1969: "Probably for the first time in history, the religious legitimations of the world have lost their plausibility not only for a few intellectuals and other marginal individuals, but for broad masses of entire societies" [quoted by Engelhardt at p. 128]. Berger immediately perceived that the new situation "opened up an acute crisis not only for the nomination of the large social institutions but for that of in-

[1] All the quotations are from H.T. Engelhardt Jr., *After God: Morality and Bioethics in a Secular Age* (Yonkers, New York: St Vladimir's Seminary Press, 2017).

dividual biographies. In other words, there has arisen a problem of 'meaningfulness' not only for such institutions as the state or the economy, but for the ordinary routines of everyday life" (pp. 128-129). However, these negative aspects appeared to be minor troubles compared to the new possibilities opening up. In *The Secular City* (1965), Harvey Cox regarded secularization as integral to "the liberation of man from religious and metaphysical tutelage, the turning of his attention away from other worlds and toward this one" (Engelhardt p. 128). In short, optimism prevailed over pessimism, and the positive attitudes towards the future lasted for the next decades. Even in the '70s and '80s serious moral and social quandaries were described as mere challenges to be faced and overcome.

In the '80s, when Engelhardt elaborated one of his masterpieces, the first edition of *The Foundations of Bioethics* (1986), he was under this impulse. The book was a sort of great thought-experiment in order to test the limits of reason alone in ethics. He informs us that he was denounced for heresy within the Catholic Church, and that "[t]he accusations were discounted when [he] responded to a committee appointed to review the issue" (p. 40) that *The Foundations of Bioethics* (1986), and his work in general, had to be understood "to have explored *only* that which can be known by reason unaided by grace." (p. 40). In this sense he was interpreted "to be an extreme theological liberal" (p. 40), and a few years later his "work received a condemnation in *La Civiltà Cattolica* (Editorial 1992). Some Roman Catholic critics even regarded *The Foundations of Bioethics* as taking a utilitarian position, *mirabile factu*, similar to that of Peter Singer" (p. 42)

Of course, Engelhardt never was [or had been] a utilitarian in strict and technical terms: from the beginning it was crystal clear that he was a kind of contractarian putting individual autonomy at the core of his reflection. However, he could be understood as a utilitarian in a wider sense, because his proposal was devoted to explore "*only* that which can be known by reason unaided by grace" (p. 40), i.e., by reason alone, as requested in and by a secular environment. As a matter of fact, arguing from that [secular] point of view, Engelhardt concurred with Peter Singer on some practical conclusions, such as the moral permissibility of abortion. Of course, we knew well that the arguments justifying the conclusion were different, but being in the midst of a culture war, that aspect appeared irrelevant: in 1991, the Italian translation of "*The Foundations* was at a white-hot point of collision between a Roman Catholic and a post-Christian Italy" (p. 33). At that time, in the late decades of the xxth century, the teaching of John Paul II was at the apex, and the climate was that in which the encyclical Evangelium Vitae was prepared. Not to be in line with the traditional Catholic teaching was considered equivalent to being against it. That is the reason for which the first edition of *The Foundations* "engendered a controversy that reached into the public media" (p. 33). Engelhardt was perceived as the liberal philosopher who could provide a perspective apt to permit a peaceful social life for "moral strangers". This was the magic expression which catalyzed the attention: "moral strangers" are the inhabitants of our secularized societies, people who do not speak the same moral lan-

guage and, therefore, do not understand each other, but they can still live peacefully. And Engelhardt tried to elaborate a moral theory embedded in (secular) "rationality" in order to show that each individual could be free to express one's own perspective and still live peacefully. His proposal was fascinating not only for the many references to classical European philosophy which were appealing to educated people, but also because it opened applications for the political arena. The idea of a "free and peaceful island for moral strangers" became a sort of new utopia for many countries in which secularization was crawling in practice without receiving cultural recognition. For this reason, the first edition of *The Foundations of Bioethics* had immense success, and it is interesting that the French edition was published when the second edition was already available: it was the proposal needed for "public reasons".

In his short autobiography, Engelhardt presents the threads underlying his work and provides explanations for his proposals, stressing the unitary frame of his research. In light of his reconstruction, it is quite possible that his book was grossly misinterpreted. But there is also another possibility, i.e., that Engelhardt's thinking went through different stages and accents, and that he might also have changed his views on some aspects. It is too difficult to examine the point here, and I leave this task to others. However, my hypothesis is that starting from the '90s, Engelhardt's reflection entered into a new stage, so that the late Engelhardt of *After God* (2017) is significantly different from that of *The Foundations* (1986). Here is one point to support such a statement: in 1986, Engelhardt coined the expression "moral strangers" and tried to elaborate a moral theory to make them live together in a peaceful way. In *After God,* the late Engelhardt starts taking for granted that "Bioethics provides some of the most important battles in the culture wars" (p. 12), so that the old moral strangers transformed themselves in "moral enemies". Such a war can assume different forms, and become "guerrillas", but the root depends on the fact "that the substance of bioethics will still be known by traditional Christians to be anchored in the will of God. This knowledge will perpetuate the culture wars" (p. 24).

Since Engelhardt's intellectual progression was similar to that of many other important scholars, I dare to try and offer a brief explanation for such a shift. The starting point is the historical process of the Biomedical Revolution, which started after the Second World War and came to the fore in the '60s. What I call the "Biomedical Revolution" is that huge phenomenon which is the continuation of the Industrial Revolution. As Eric Hobsbawm remarked, the Industrial Revolution was the greatest transformation of human history of which we have written documents. As the Industrial Revolution provided control over inorganic nature, the Biomedical Revolution aims to provide control over organic nature.[2]

Bioethics as an academic discipline started the next decade, in the '70s, as the

[2] For an analysis of the relevance of the Biomedical Revolution and its connections with the Industrial Revolution, see. M. Mori, *Manuale di Bioetica: Verso una Civiltà Biomedica Secolarizzata* (Firenze: Le Lettere, 2013[2]).

systematic cultural reflection on what had happened and what was going on.[3] Often those epochal transformations are mixed up with many other phenomena, such as the space programs, feminism and the civil rights movement, and start in a piecemeal way. This last issue is particularly important, since it is sometimes difficult to perceive the paradigmatic shift that one single change brings with it, or produces. At its beginnings, bioethics was involved in analyzing single issues, and one of the most debated was the moral permissibility of abortion. However, at that time abortion required medical intervention and was seen as the last resort to women in difficult situations. Analogously, assisted reproduction through IVF [In Vitro Fertilization] still had an uncertain future and was primarily seen as a remedy for infertility, and not as an alternative method of reproduction. In that situation, bioethics was a sort of adjustment of the traditional moral frame: disagreements were deep and lively, but limited to specific moral issues. On the other hand, it was clear that morality had to be secular, but that was not seen as a threat to religion. Purified from the magical and superstitious aspects, religion would remain a respectable option: secularization was perceived as a positive process of liberation. In this context, it was perfectly correct for Engelhardt to try to elaborate, on the assumption of reason alone, a set of moral rules apt to guarantee a peaceful social life geared toward autonomy and respect for individual freedom. In any case, this appeared to be the core message conveyed by Engelhardt. The first edition of *The Foundations* is one of the mature fruit of the first stage of bioethics.

In the '90s, the general situation started to change. Events such as the fall of the Berlin Wall (November 9, 1989) and the consequent end of the USSR, the first Gulf War (January 17 – February 28, 1991), and the birth of the European Union (November 1st, 1993) modified the geopolitical scenery (and possibly put an end to the Short Century).[4] After the first decade of his long papacy which began in 1978, in which he had to fight against liberal opponents, pope John Paul II started to crown his program aimed at restoring traditional Roman Catholicism. One step was the Evangelium Vitae (1995), an encyclical entirely devoted to bioethics, to contrast with, and combat, secular perspectives on the point. Secularization had in the meantime continued its process in the world. Not only is atheism now the fastest growing "religion", but so-called neo-atheism claims that religion is dangerous and should be forbidden. While in the '60s it was atheism that had to be accepted as a "respectable option",

[3] For the distinction between bioethics as an academic discipline and bioethics as a cultural movement springing in society, see Maurizio Mori, "La 'de-teologizzazione' della Bioetica e la Nascita dell'Etica come Nuova Istituzione Specifica", *Quaderni di Diritto e Politica Ecclesiastica* 1 (2015): 57-68 (translated into Brazilian as: "A desteologização da bioética e o nascimento da ética como nova instituição específica Idéias", *Idéias, Campinas* 9, no.1 (2018): 287-304. For a more recent analyses of the consequences of the interplay of the two levels, see M. Mori, "Bioetica", *Aggiornamento Enciclopedia Utet* (Torino: Utet, 2018), 93-100.

[4] For a more detailed analysis of the history of bioethics from this general point of view, see the part that I wrote in the book G. Fornero and M. Mori, *Laici e Cattolici in Bioetica: Storia e Teoria di un Confronto* (Firenze: Le Lettere, 2012), 1-77.

and in the '70s it was taken for granted that as long as they were private options, any religion was "respectable", now the situation is quite opposite: neo-atheists claim that religions are false beliefs to be forbidden. One religious reaction to this rapid and great growth of secularization was fundamentalism and a strong revival of traditional attitudes. This already explosive background was increased by the provisions of the Biomedical Revolution that came forward in the '90s. It became clear that the new biomedical technologies were not limited to single aspects, but that it was going to affect the whole human existence, since control of life will bring about deep modifications of traditional arrangements. For instance, abortion was no longer proposed as an extreme remedy to a frightening situation for the woman, but started to be claimed as a woman's human right, a claim expressed by the slogan: "Abortion on demand and without apology". IVF had become a routine practice and started to be proposed as an alternative option for human reproduction. This brought about a radical modification of parental responsibility and of family structure. Surrogate pregnancies became frequent, as well as pressures in favor of equalitarian marriage. In February 1997, the announcement that Dolly the sheep was born on July 5, 1996 through cloning was the straw that broke the camel's back, because public opinion was scared of the new frontiers of science.

In this new context, Engelhardt started to reconsider his views. The first aspect is about secularization, which was incipient in the '70-80s and pluralism could still reach a fair equilibrium: secular views were accepted at the intellectual level, but real social life was still informed by religious perspectives. Now, in the '10s of the new century, secularization is a mature fruit and it is overwhelming. So he observes that "A new orthodoxy has been established, and it is secular. We have entered an age resolutely set "after God". The contemporary dominant culture of the West is committed to acting as if God did not exist. The implications of this culture without God are vast" (p. 27).

Granted that the cultural background is characterized by secular premises, new biomedical technologies such as IVF and stem cells are pervasive in all areas of life and not limited to only some specific parts. This means that ethical pluralism has become ubiquitous, and therefore intractable. As Engelhardt says,

> "[w]e are confronted with the core concerns and passages of life: sexuality, reproduction, suffering, dying, and death. But there is no agreement about how properly to live, have sex, reproduce, and die. As we have seen, in the dominant secular culture, possible decisions in these areas are reduced to life- and death-style choices, with morality itself becoming only a particular macro life-style choice and the state to being merely a *modus vivendi*, a political life-style choice" (p. 23).

Engelhardt is very profound in the analyses of the current situation and very sharp in distinguishing the new aspects that characterize it, such as the new meaning

that "tolerance" has come to acquire in the last few decades. What I perceive as problematic are the proposed solutions to these issues that he examines. While in 1986 he tried to find a way to keep society together, now, in 2017, he strongly doubts that this is possible. So Engelhardt puts forth some pressing questions: "Is a society with such a "weak" account of morality, bioethics, and political authority sustainable? [...] Is a society after God actually governable over the long run? Is a society fully without God livable? And if so, in what sense?" (p. 23).

Of course these are rhetorical questions, because according to Engelhardt, in reality

> "[t]he epistemological and metaphysical roots of contemporary morality and therefore of bioethics that many thought were available through an anchor in being or in moral rationality, turn out not to exist. Once one abandons God, once one attempts to live after God, as if all were without ultimate meaning, one is set adrift within the horizon of the finite and the immanent. Secular morality and therefore bioethics cannot be what many had presumed" (pp. 23-24).

In brief, the answer to those rhetorical questions is that after God the Great Fall will occur and society will break apart! The first Engelhardt was confident that a secular bioethics could develop a new way of living in order to allow for a peaceful and free society. The late Engelhardt examined the "complex and wide-ranging changes in the appreciation of what secular morality and its bioethics can be" (p. 24), and concluded

> "that the substance of bioethics will still be known by traditional Christians to be anchored in the will of God. This knowledge will perpetuate the culture wars. The content and the significance of religious morality and bioethics contrast with that of secular morality and its bioethics. The conflicts will not abate. As this book shows, in this culture after God, God's powerful presence will endure in Orthodox Christianity" (p. 24).

II. Elements for a short criticism of the late Engelhardt's views.

As with any summary, the former outline is also reductive and cannot provide the richness of the original argumentation. However, I hope that it provides at least a general idea of the main issues that are at the basis of Engelhardt's perspective. There appear to be two points that mostly attracted his attention: at the foundational level, secularization initially appeared to be a sort of liberation, but ended up being a new orthodoxy threatening the traditional Christian civilization; at the contentful level, new customs concerning sexuality, family life and ending lives are seen as replacing the old enchanting religious rites, and this process was extremely

quick, so that people could not properly adjust to the change: the final result is a kind of moral chaos.

Engelhardt put it very directly:

> "The Italy of the 1950s was an Italy that could not have conceived that there would soon be serious debates regarding the possibility of Roman Catholic priestesses and homosexual marriages, not to mention the propriety of third-party-assisted reproduction with donor gametes, abortion, physician-assisted suicide, and euthanasia. This is not to say that in the 1950s there was no abortion, fornication, adultery, active homosexuality, and even physician-assisted suicide. There surely was. However, the official culture expected repentance for such acts, or at least the tribute of hypocrisy. [...] The cardinal difference between then and now turns not just on a difference regarding certain norms, but much more *on a change in the very nature of public morality*. It turns not just on the force and meaning of norms, but on the contemporary requirement that the public square must be free of any mention of God. As a consequence, public moral discourse had a very different character. In the dominant culture of the West, and of Italy in particular, one could still be publicly judgmental regarding the morality, or better regarding the immorality, of abortion, fornication, adultery, homosexual acts, and physician-assisted suicide. Such adverse judgments were taken to have foundations, to be anchored in reality, in being itself. Moreover, one could publicly mention God. The culture I experienced in the 1950s was a world in deep contrast with what one encounters today in the public space of the West, even in that of Texas" (pp. 59).

Here we have a conjunction of the two levels of Engelhardt's criticisms: secularization modified, in depth, the nature of morality itself, and the conclusion was a change of moral norms so that the content of morality is different, and sometimes opposite. More briefly, "*immanence has triumphed and the transcendent has been exorcized*. The discourse of sin has become politically unacceptable" (p. 61). This could occur because most aspects of the framework of our life-worlds have changed: our deep ontology concerning the structure of reality, our moral epistemology concerning how we know the moral world, our sociology of moral experts that indicates who the scholars are that are appointed to give us moral advice, and finally our axiology, concerning the values itself and their hierarchy. The final result of the process is that the whole morality has become *ultimately foundationless* and has changed its role. Moral judgements do not prescribe what is required by the moral reality which is given, but have been transformed "into life-style and death-style choices, which are to be appreciated fully within the horizon of the finite and the immanent".

My first disagreement with Engelhardt concerns the idea that the new morality underlying bioethics would be "ultimately foundationless". One can say this only

if it is taken for granted that the only possible foundation is in reality, or in the being itself. However, this solution is destined to be inadequate because the reality, or the being itself which is assumed to serve as the foundation of morality, is the *biological being*. But, as I mentioned before, we are living at the time of the Biomedical Revolution, which is the continuation of the Industrial Revolution. As the latter made it possible for humans to control inorganic nature, the Biomedical Revolution is enabling human control of organic nature: the past centuries have been the time of civil, mechanical and electrical engineering, while our time is one of genetic and biomedical engineering. This means that we realize that the supposed stable and immutable "being itself" is no longer so, since we can modify it according to our needs and wants. For this reason, morality cannot be grounded in the biological reality, but this does not entail that morality is necessarily foundationless. Even without being a utilitarian in the strict sense of the term, morality can be founded on the welfare of sentient beings.

A morality based on such a new foundation can have analogous functions in society, even if it is something else, since moral decisions have been transformed "into life-style and death-style choices" which do not have an impact on eternal life, but they "are to be appreciated fully within the horizon of the finite and the immanent". This is true, and this is an epoch-making change. Morality is like a language, and the change of a language with the creation of a new one is an enormous and complex phenomenon. But this shouldn't frighten us: in one sense the process is in line with our times and should be welcome.

In order to understand why we should face this challenge with confidence and positive attitudes, without being frightened, I would like share just a few remarks. If it true that, as Eric Hobsbawm used to say, the Industrial Revolution was the most fundamental transformation in human history, then we have to realize that we are also experiencing a tremendous change. Possibly, the transformation that we are witnessing is even more profound and deeper than the one experienced in the past centuries. As I have hinted, the Biomedical Revolution is the continuation of the Industrial Revolution, but in some sense it is even more profound than the former. The Biomedical Revolution comes together with other extraordinary events, such as the information and robotic revolutions, which are synergetic with the same goal: human control of life. While the Industrial Revolution aimed at the control of inorganic nature, the Biomedical Revolution aspires to control the organic one, i.e., life itself: the former was about modifying the *external* environment of life in general and human beings specifically, while the latter points directly to modifying the *internal* environment of life, and even of humans. This would be enough to support my statement that the Biomedical Revolution is even more profound than the Industrial one. Moreover, life is what we are constituted of, and, therefore, strong feelings are rooted in whatever pertains to life and is connected with it. This means that interventions in the organic nature raise very passionate, if not violent, reactions in the public. People are bewildered and frightened by the idea that life can be forged by human intervention. This,

in fact, is a new possibility that may radically change the course of history and the very structure of our existence.

Just to give an idea of the magnitude of the phenomena we are speaking of, I can say that the Industrial Revolution was something much greater than, for instance, the passage from the Medieval age to the Modern one: possibly it was something comparable to the Neolithic revolution, i.e., the passage from the state of nomadic being to the residential, with the beginning of what we call "civilization". To elaborate this point, I can say that we are living at the time of transition from *history* to *post-history*: in fact, "*pre-history*" was the time in which no writing could register the events; "*history*" is the time where written documents testified to the occurrence of the most important events; and now "*post-history*" is the time where almost everything is going to be recorded and where life itself is under human control. My hypothesis is that we are facing a transition which is greater than any other change, because the control of life allows a new kind of setting.

If we consider the moral storm that we are facing, we shouldn't be too surprised to find ourselves living in a sort of "moral chaos". This situation is quite normal, because something similar occurs in our individual lives: when we have a shocking experience that modifies the structure of our existence, we live for a period in a kind of "suspensive vacuum" in which we do not know exactly what to think and do. Far from being on the edge of an abyss, I believe we are in a situation of departure for new directions.

Certainly, the task is not easy to accomplish, because the elaboration of a new morality is a momentous enterprise. But we have an advantage to use in our task, and this is provided by the new conception of morality as one of the various normative institutions regulating our social life, and by the fruitful results given by ethical theorizing of the last centuries. Engelhardt is critical of all this when he remarks that "secular theoreticians of bioethics are reduced to serving as geographers of our ongoing controversies, unable to give any canonical moral guidance. They are like mapmakers or tour guides who can show us alternative moral and bioethical destinations, but who cannot tell us what destination one ought to choose, where one should go on the map" (p. 20). However, I think that this "second order" reflection marks the strength of recent moral thinking, because it enables us to provide a more considerate moral guidance. This will not prevent bioethics from continuing to provide "some of the most important battles in the culture wars" (p. 12), but we can explain that such battles are the result of the persistence of "cultural survivals" that are tenacious and deeply rooted.

In his descriptive part, Engelhardt's last book is a masterpiece in portraying, or photographing, the passage of an epoch. But in his prescriptive proposal, I think that Engelhardt is too pessimistic, and he does not take the possibility that we are living in a time of a great transition seriously enough. Willy nilly, the future will be radically different from the past, and there is no point in being a *laudator temporis acti*, i.e., someone praising the old times in which things had another shape. Morality is

like fashion: being against a fashion (that sometimes appears to be the only fashion) doesn't necessitate destroying all fashion, but simply starting a new fashion with its own styles and canons. To take another explicative analogy, morality stands to social life as the shadow stands to its object: the shadow can assume different shapes and intensities, but cannot be cancelled. This implies that our society can and will survive even without a morality founded on God, and our task is to find out a contentful morality adequate for a society inhabited by moral strangers, as Engelhardt recognized.

A brief final remark concerning why ours is a society *after God*, the topic that is at the basis of Engelhardt's contribution. The central aspect is the grand process of secularization, which in the last hundred years has become prominent. Secularization is an extremely complex phenomenon, and this is the place to limit to only one observation. Certainly the crucial point of secularization is the disenchantment with of the world consequent to the scientific revolution and to the spread of a scientific outlook. But there is another aspect to reflect upon. In the last century, life expectancy has doubled and now it is around 90 years. In rich countries people are sufficiently confident to live long enough as to realize their own life-plans. Secularized people are not militant atheists *against God*, but they are simply *after God*, i.e., not interested in God. They are neither interested in whether God exists or not, nor in what He wants and commands for salvation, because they are too busy in pursuing their own human projects. God is beyond their preoccupations, because they assume that their own life is stable and safe enough so that they can postpone metaphysical speculations to a later time. The Biomedical Revolution has provided us enough blood analyses, scans of various sorts, surgery, diets, etc., to make people confident enough to control life for an adequate time, so that secularized people can lose, or disregard, their interest in God and religion.

If this short consideration is correct, then the increase of life expectancy is another crucial factor engendering secularization. In fact, the *timor mortis* (or fear of death) is supposed to be one of the main springs of religion. According to Titus Lucretius Carus, as well as David Hume, religions are basically nourished by such an attitude. But our recent confidence in an adequate quantity of life expectancy is changing this basic feeling. Let us imagine what will be when our life expectancy will be at 250 or 400 years: for sure it is very difficult to strain our imagination to that point.[5] However, in that case, it might be possible that the *timor mortis* will be replaced by the *taedium vitae*, boredom for life, so that people will be annoyed with continuing to live. Some indications in this direction are provided by very old people, over 90, who have lost all their peers, and even if they are in adequate physical con-

[5] For some excellent analysis on these points see J. Harris, *Genes, Clones, and Immortality: Ethics and the Genetic Revolution* (Oxford: Oxford University Press, 1998), and John Harris, "Immortal Ethics", *Annals of the New York Academy of Sciences* 1019, no. 1 (2004): 527-534.

dition, seem to be less interested in living.

In his book, Engelhardt repeats several times that once one abandons God, everything is without ultimate meaning, and therefore secular morality is destined to collapse. For sure, the morality of the future will be quite different from that of the past, which we know and study. However, meaning is not something that we discover in the world, or that is inscribed in the nature of things, but something that humans instill in their projects and life-plans. And it is very likely that they will continue to instill meanings even in a society after God. Such meanings will be set within the horizon of the finite and the immanent, but hopefully it will be a horizon wide enough as to establish a morality which will produce more benefits for all then the old morality that we are acquainted with.

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In the Honour of Tristram Engelhardt, Jr.: On the Sources of the Narrative Self

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Abstract

Modern philosophy is based on the presupposition of the certainty of the ego's experience. Both Descartes and Kant assume this certitude as the basis for certain knowledge. Here the argument is developed that this ego has its sources not only in Scholastic philosophy, but also in the narrative of the emotional self as developed by both the troubadours and the medieval mystics. This narrative self has three moments: salvation, self-irony, and nostalgia. While salvation is rooted in the Christian tradition, self-irony and nostalgia are first addressed in twelfth-century troubadour poetry in Occitania. Their integration into a narrative self was developed in late medieval mysticism, and reached its fullest articulation in St. Teresa of Avila, whom Descartes read.

Key-words: *subjectivity, narrative, self, secularization, salvation, irony, nostalgia*

Most of us believe we have a story. I am not just living the instantaneous present, but I am constantly adjusting between my memories, my anticipations, and my being here right now. Perhaps I share my present with others, perhaps not. But it is certain that my memories and my anticipations are mine alone. (It is clear that my subjectivity has a wider expanse than the mere existence at a now-point attributed to it by Descartes and Kant). Taken together, these three, memory, nowness, and anticipation, are the basis for my sense of myself as an individual being. I can weave these three together into a story and tell my story because it is my own story, and I want to tell it to others. The question of why I would want to tell my story to others is a question to which we should return. Yet to tell my story, I place what I think I remember and what I expect to happen into a narrative. In turn, that narrative is my narrative.

It recently became clear to me that not all people think in this way. My personal trainer was killed in a traffic accident, and so I went to the funeral of this wonderful

woman. Rivka was a formerly Ultraorthodox woman who had left her five children and her secluded life in order to fulfill herself as a free spirit. And now her five very religious children were called to bury her. It turned out that they did not disapprove of her; indeed they loved her very much. Yet when it came time to deliver the funeral orations, they were unable to tell us anything about how she had been or indeed about themselves or how they had experienced their mother. That is because they had no narrative subjectivity, no ability to tell stories about themselves and their mother. All they could do was tell exemplary anecdotes about rabbis. These stories were supposed to illumine something about their mother, but that something was left unspoken. The individual and concrete Rivka disappeared into the general story of the religious Jewish community.

Narrative subjective individuality is a cultural construct. Some cultures let you tell your own story, and others never even let you think you have a story. What is the advantage, if any, of having a narrative subjectivity, of becoming the narrator of one's own story? To answer this question, we need to investigate what attitudes you can adopt vis-à-vis yourself when you tell your own story. We also need to ask which social and cultural conditions encourage people to have stories, and which conditions prevent people from ever putting themselves together into a story. Our claim will be that the entire edifice of modernity, and surprisingly a precondition for the investigation of nature through science, is rooted in the astonishing phenomenon of apparent autobiographical distance from oneself. In turn, this self-distancing has a specific historical origin, one which is not to be found in narrative autobiography, but rather in love poetry, perhaps because the declaration of love for another both affirms the sense of self and yet renders tenuous the sense of self. For establishing a modern sensibility, self-distancing and self-narrative need to be integrated. Indeed, self-distancing narrative can replace metaphysical analysis as a way of penetrating reality and as a way of justifying our research about nature.

Narrative is much older than subjectivity. Epic poetry, and tales of wars and heroes often reach back before societies became partially literate. Despite this primitive origin of epic, Biblical narrative, as Erich Auerbach pointed out, was sometimes psychologically acute, describing in a few words an unseen internal self.[1] Yet that unseen internal self was not a self who is looking at itself, who is telling its own emotional story. It was already a breakthrough that a narrator could relate outer displays of feeling to internal and invisible states of mind. Before there was what we would call a self, there was an omnisicient narrator, someone who tells a story from outside. The special quality of the Biblical narrator, as Auerbach pointed out, is that this external narrator can also discern and communicate internal states of mind. Yet the idea that an external narrator can discern an internal state of mind does not yet mean that

[1] Erich Auerbach, *Mimesis. The Representation of Reality in Western Literature*, trans. Willard K. Trask (Princeton: Princeton University Press, 1953); original edition Bern: A. Francke, 1946, 11-13.

someone can tell us about his own state of mind. In an analogous manner, in early modern English courts, the defendant was forbidden from testifying in his own favor. Even if there is a subject, that subject cannot be trusted to provide an objective account of events. Thus if there is a story to be told, the subject does not own it.

Subjectivity has a different origin, one that does not emerge from narrative. Subjectivity, as we understand it, is at least as old as St. Paul. St. Paul makes a real cognitive breakthrough, but he does not do so because people have stories to tell about themselves. Nor does he make this breakthrough because he is interested in cognition. Paul does recognize the importance of the emotions for salvation. Paul rather redesigned the Jewish religion in this way because he wanted to shift the sacred history of salvation away from the sacred community to the individual, an individual who henceforward can be saved for eternity. God's relation is no longer with the individual as a member of a community, but rather directly with individuals, who can then be redeemed with the realization that God loves them individually, and who are therefore individuals more in terms of their relations with Him than with their community. Correspondingly, the community is desacralized, and henceforward exists only as a community of individuals.

Modern subjectivity is rooted in Paul's transcendental anarchism, but it has developed a complex multi-layered subjectivity, which I shall now briefly describe. The first moment of subjectivity elevates the subject because it is salvation: the individual is always already saved. He may sin, but God's love is so infinite that no betrayal by a sinner will lead God to forsake him. This a priori opportunity for salvation holds true even for quite evil people such as Adolf Hitler. If we map this absolute and inescapable subjectivity onto modern cognitive subjectivity, what we obtain is the idea that the cognitive subject is a priori necessary for synthesizing our knowledge about the world. Where is this subject? Do you personally know any Cartesian ego or Kantian synthetic unity of apperception? Of course you don't. The link between this subject of knowledge and the older subject of salvation is that, while the older religious subject could sin, this modern a priori subject cannot err; only an empirical subject can make mistakes. Yet this subject does bear the mark of the Christian inheritance: he is both individual and universal, both one subject and one universal subject. In the process of secularization, his universality has come to outweigh his individuality, but that individuality is nonetheless there, for the subject for both Descartes and Kant is referred to in the singular and never in the plural.

However, there is a tension here. What prevents an inerrant Cartesio-Kantian subject from being a God? Kant sees this problem and he explicitly denies the human subject the power of seeing things as they are from all aspects, because the human subject, unlike God, operates in space and time. This theory of the limitation of the subject's perceptual scope was found wanting by the German Idealists, and much later a profounder reason was adduced for why a human subject cannot be a God. The insight was that the reason that we are not Gods has as much to do with God's nature as with ours, it has as much to do with what we attribute to God as to what

we attribute to the human subject. For example, Jacob Taubes argued that God has created humans in order to escape from his own potential nothingness, which implies that in their process of seeking to imitate God, humans also need to confront their own potential nothingness.[2] What stops the human subject from being a God is not the limits of the human subject's perceptual power, but rather the human subject's finitude. This was the response that Martin Heidegger devised to refute Hegel's supposed claim of the subject's immortality. Heidegger's solution however suffered from one defect, which was that it is not clear how we are to confront this apparent fact of our own mortality. Heidegger suggested resoluteness (*Entschlossenheit*), i.e. a grim and courageous determination in the face of our own almost certain death and the consequent actual nothingness of the world of our experience. Yet this issue of human nothingness existed long before Heidegger, and it had two proposed solutions, both of which however had nothing to do with the issue of cognitive immortality. The one was the denial that the subject is finite, which is the meaning of Christian salvation. The secular answer to this sense of human nothingness was different. Human beings have learned to confront their own uncertain nothingness by employing irony, which is to say that humans both deride their own power and also celebrate their impotence. God cannot be self-ironical. Since humans' future in this world is as nothing, they therefore can wax ironical about their own situation. Irony expresses a distance from the present, but it is basically unstable, since it provides no solution to the situation it ridicules.

One solution for this instability is, once again, salvation, which links humans to their future after their death. In other words, the instability of our present human situation is compensated for through the attribution of stability to another world, which in turn permits us to deny the facticity of this world. In contrast to salvation, irony links humans to their future on this earth. Yet this link to experience in this world is always annihiliating itself, so that no continuous tradition of irony can emerge.

Continuity first emerges with the possibility of a link to the past. It is this link to the past that provides humans with narrative coherence; narrative coherence emerges as a result of linking the present to the past. What is the emotional affect of this link between the present and the past? Perhaps this kind of linkage can be characterized as nostalgia. The subjective moment then develops in the interplay between irony and nostalgia.

The subject has one strange requirement on which Kant and Heidegger are actually in agreement. This is the idea that the individual is autonomous. There is nothing in the idea of salvation as such which would require autonomy, but there is something in the idea of individual salvation which almost immediately raises the question of individual autonomy. But what would the idea of autonomy mean for a cognitive

[2] Jacob Taubes, *Abendländische Eschatologie* (Bern: A. Francke, 1947); reissued Berlin: Mathes & Seitz, 2007. Jacob Taubes, *Occidental Eschatology*, trans. David Ratmako (Stanford: Stanford University Press, 2009), 17.

subject, one who aims to discover the laws of nature that completely determine our existence, to use Kant's terminology? The autonomous Kantian subject is in the process of discovering a world that is completely determined. In contrast, Kant located the idea of autonomy in the moral individual, but this relocation is problematic. Clearly, the scientist as well is not just a passive vessel of science. The edifice of the discovery of nature requires an autonomous cognitive subjectivity that is in the process of discovering that nature.

Tentatively, I do believe that the idea of the autonomy of the individual as being rooted in his potential salvation first appears in St. Paul. The reason that salvation is so interesting because salvation is not general. In contrast, when individuals are encouraged to use their reason, the assumption is that if all individuals could think perfectly, then they would all think the same. The pursuit of reason is the pursuit of identity as meaning the sameness between individuals. However, salvation rooted in God's love does not mean that God loves all human beings identically, because love means recognizing the difference between individuals.

That idea may be an anachronism, but it could be argued that cultural history since Paul has actually been about the articulation of individual difference. That claim is a large one, since it took at least a millenium after Paul for this process to take off. One step in the articulation of individual difference was taken in St. Augustine's Confessions, where for the first time someone proposed that his own spiritual autobiography was significant enough to be written and made public. However, as Paula Fredriksen has made clear, St. Augustine was not really that interested in his own story.[3] On the contrary, he rather sought to use his story as a kind of parable or example, a story which would show the reader how the reader could be saved. Improving upon Paul, Augustine provided a narrative of salvation.

Salvation is the first moment in creating individuality, i.e. the idea that the self is immortal. The second idea is irony, i.e. the idea that the self is unstable.

Arguably, the first person to even hint at the possibility of self-irony was the first known troubadour, William IX, the Duke of Aquitaine, who may be known to some of my readers as the grandfather of Eleanor of Aquitaine. Augustine wrote that when he tried to grasp time, he could not seize it. Analogously, Guilhem wants to grasp himself, but it turns out that this subjectivity of his is too unstable As Simon Gaunt points out in *Troubadours and Irony*, Guilhem, "engaged in a dialectic with himself", "oscillates between two opposite poles, *sen* and *foudatz*, wisdom and folly."[4] What we elicit from this is that self-irony presupposes the instability of the self, or of the subjective perspective. We will argue that self-detachment takes place not only on the basis of generalization to a general human condition, but more pointedly on the confrontation with one's own inconstancy or instability.

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[3] Paula Fredriksen, "The *Confessions* as Autobiography", in *A Companion to Augustine*, ed. Mark Vessey (Hoboken, NJ: Wiley-Blackwell, 2012), 87-98.

[4] Simon Gaunt, *Troubadours and Irony* (Cambridge: Cambridge University Press, 2008), 34.

The third moment is nostalgia. We often think of nostalgia as the recollection of a better past, i.e. of a golden age. Here however I mean the nostalgia for a previous phase of life, self-nostalgia. This emotion is clearly present in Rousseau, but it can be found much earlier, for example in St. Teresa of Avila's spiritual autobiography. Nostalgia requires perspective, even though that perspective may not be accurate or even factual. Irony also required perspective, but the point about irony is that that perspective could not be stable, because irony is self-annihilating. For perspective to function in the context of individuality, that perspective needs to be stable and continuous. The reason that irony cannot be stable and continuous is not only that irony annihilates itself but especially that the present itself is shifting, unlike the past, which has a continuous non-existence, at least in terms of subjective existence. When I look at the past, I feel that I am looking at something that is no longer there, even though at the same time it is at rest, so it can be observed. What is changing is my position in space-time

Inside each of these three aspects there is a duality. The duality of the future is the alternative between death and salvation. The duality of the present is contained in the possibility of either affirming or negating the present. The duality of the past is the duality between the past as it is and my contemplation of that past, what the historian knows as the difference between the lived past and her book about that past. Whereas there is always a tension between affirmation and negation in the future and in the present, while that tension does exist in the past, it has a fundamentally different character. Claiming either that only my perspective on the past exists, or conversely that the past really exists, but my perspective on it does not, rapidly leads to the impossiblity of having something such as a past. Nonetheless, the way I approach the past will affect my choices about the present and the future. Clearly, salvation and negating the present go together, and they are also tied to my subjective contemplation of the past. That means conversely that in a different way death, affirmation of the present, and the real past also go together. In this last case, the nihilism is about the future, whereas salvation assumes a nihilism about the present. What is striking is that vis-à-vis the future and the present, I can affirm one side of a duality and negate the other aspect, whereas vis-à-vis the past this combination of affirmation and negation does not work.

William IX had an additional breakthrough. Namely he linked his sense of self-irony to his adoration of the beloved woman. He invented a new kind of love poetry, and he chose to do so in a new language, forsaking the Latin which most of the clergy used when writing poetry, and choosing instead to write his poetry in Occitan, or Provençal, as it used to be known. There have been many theories of why he did so, and also of whether other poets who are unknown to us were also writing such poems at that time. Since most of the other poems have been lost, we will probably not be able to gauge precisely his originality. There are, however, plausible explanations of why he made this move, one which established his self-ironic sense of subjectivity in relation to the beloved woman.

Here is one explanation, which I found in Reto Bezzola's *Les Origines de la Societe Courtoise*.[5] Namely, William IX had a clerical counterpart and contemporary, Robert d'Arbrissel. Robert d'Arbrissel set up mixed convents, in itself not a novelty, at the head of which, however, he put a woman, which was a complete innovation: women in this convent would rule not only other women, but would rule men as well. This convent, Fontevraud, where Henry II of England, Eleanor of Aquitaine, and Richard the Lion-Hearted were buried, swiftly became a magnet for upper-class French women, who often chose this secluded life in order to escape their subordination to their husbands, who were also their feudal lords. The disappearance of so many ladies of the high nobility into a network of convents created a social problem for early Medieval society. Here then was William IX's stroke of genius: in place of the religious cult of the Virgin Mary, he substituted the secular cult of the divinized lady as the object of love. Moreover, this love was transgressive. If noblewomen could abandon their homes for the life of religion, then for William IX these noblewomen could be the objects of adoration for their lovers, whether or not these noblewomen were married. William IX had thus secularized the cult of the Virgin. At the same time, these women were *domina* (a loaded term in the Middle Ages), i.e. they would rule their lovers, and they had no duty to return the love of their admirers. In other words, he proposed a secular divinity for women. We know this solution did work, because it had one unintended consequence: for the first time since Antiquity, women took to writing their own love poems, which we still have.

What the troubadours did was to create an emotional rationality, or an emotional self, one that could be schooled in the emotions, and one which was in tension with the rational and cognitive self of the philosophers. Naturally, this path was a two-way path: religion influenced secular culture, and secular culture influenced religion. One of the best-known examples of this influence of secular culture on religion is the figure of St. Francis of Assisi, who indeed started out life as a troubadour, and imported the secular sense of love into religious poetry. In turn, this reimportation of secular love into religious poetry had the effect of eroticizing sacred love. A long tradition of religious figures from the thirteenth century through to the sixteenth century wrestled with this erotic dimension of religious experience. Many attempted to synthesize sacred and secular love, most notably Dante in the *Divine Comedy*.

I wish to make a further claim: our sense of self is not just cognitive. Where on earth does Descartes' sense of the certainty of his own experience come from? My point is that Descartes is certain of his own experience before he ever begins to analyze it in the *Discours de la Methode*. His doubt is really a literary figure of speech in order to enable him to convince his readers that the basis of his and our experience is certain. One possibility is that Descartes is transposing onto the self the certainty that religious thinkers attributed to a world based on God's constitution. That may

[5] Reto Bezzola, *Les origines et la formation de la literature courtoise en occident* (Paris: Honore Champion, 1960), part II, volume 1, 242-313.

explain the certainty, but it does not explain the sense of self. How could one set up the self as parallel to God? One would think that the traits that characterize the self also show the complete disparity between God and the individual self, since most of the traits that characterize the self are limitations. Limitations are also used to characterize God, but these limitations are what Kant called infinite judgements, e.g. God is limited as being immortal.

A robust sense of self did exist in Descartes' culture, but it existed in the emotional realm. Indeed, it was a richer sense of self than the self which Descartes needed for his theory of knowledge. This sense of self was modified in different ways: it had a sense of time, it had different emotional attitudes, and it had different senses of fulfillment or perfection. For example, William IX does not look for fulfillment through a relationship, i.e. the perfection he seeks is the perfection of unfulfilled love. In the same way, Dante only saw Beatrice once. What is time, how should we feel, what is completeness, were questions that were posed in the emotional tradition, and sometimes imported into the cognitive tradition. But by its nature, the cognitive tradition was reductive, always seeking an economy of explanation in preference to rendering justice to the complexity of experience. Descartes needed very little for defining the world in terms of the cogito, but he did need to know to look inside the self for basing the experience of the world, and this idea was current in the emotional tradition, which as Christia Mercer has shown, came to him through his reading of St. Teresa of Avila.[6]

As Jürgen Renn has argued, paradigm shifts are not as sudden as Thomas Kuhn claimed.[7] Paradigm shifts are rather a process. There is in each paradigm shift a transitional stage during which matters can go in many directions. This transitional stage may be quite long. For example, the agricultural revolution seems to have occurred twice, as there occurred a backsliding from agriculture to hunting. Each stage in the history of the agricultural revolution lasted for more than a thousand years. Perhaps that kind of figure is a consequence of our own inability to determine things more closely.

In an analogous fashion, the elaboration of the modern self took several centuries. In my view, it finds completion in Mme. De Lafayette's famous seventeenth-century novel, *La Princesse de Cleves*. The reason is that the self that is portrayed in this novel is a self defined entirely in terms of mental events. Nothing happens. These mental events are the consequence of circumstances and emotions. They are depicted in a perspectival manner. This manner can already be found in the autobiography of St. Teresa of Avila, but the mental life in question there is the love for Christ, not the love for the heterosexual other, as in *La Princesse de Cleves*. My claim is that this elaborated mental self is the consequence of a long process of becoming that started

[6] Christia Mercer, "Descartes' Debt to Teresa of Avila, or Why We Should Work on Women in the History of Philosophy", *Philosophical Studies* 174, no. 10 (2017): 2539-2555.

[7] Jürgen Renn, *The Evolution of Knowledge*, forthcoming.

in the late eleventh century and came to its fruition in the late seventeenth century. Our entire experience of the external world has been reformulated in terms of this internal experience. Whether or not we actually sleep with someone, what is important is what we feel about it.

In turn, the Cartesian ego is the reduced version of this emotional self, because it is the emotional self which first provides the sense of doubt about the external world, which is turn is the basis for recourse to the certitude of the cognitive ego. However, even this certitude is first one which the tradition located in the emotional self: according to the Nominalists. God was accessible only through the path of love and not through the path of intellect. Sometimes the paradigm shift is signaled by a reduction of the possibilities which were previously available as the choice of one path can lead to the exclusion of other possible paths.

Human history is marked by the exclusion of certain paths. In one sense, things become simpler all the time. Yet, on the contrary, each path that is chosen turns out to be a rich path with many branches. Moreover, choosing a path does not mean that the excluded paths do not continue to have an influence on our culture. For example, secularization could mean the exclusion of religion, yet religion continues to play a role in a secularized culture. Thus a reduced ego as the basis for cognition does not mean that the emotional path to external reality has been blocked. This emotional path keeps reappearing in Rousseau, in Schleiermacher, and in Kierkegaard. Moreover, my argument has been that the path that is excluded from the account of the world according to the cognitive ego actually turns out to be the basis for the development of that cognitive ego.

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Fair Equality of Opportunity in Healthcare

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Abstract

The allocation of resources for health, as well as the distribution of other social goods, being a political problem, can also be observed as belonging to the universe of distributive justice, considering that all citizens must have the necessary means for an acceptable physical, psychological and social performance. Individual autonomy, paradigm of a full citizenship in a modern society, cannot otherwise be achieved. Human dignity seems to imply that no citizen can be excluded from the basic health system due to the lack of financial resources. Indeed, equal access of all citizens to basic social goods and therefore to key places in society – principle of fair equality of opportunities – is one of the core aspects of Rawls's difference principle. It is, in essence, about ensuring the exercise of the right to individual self-determination in the relationship between the individual and society, as well as the right to play a social role according to skills and merit. But, it is not only the theory of the social contract that provides for a fair equality of opportunities. Different perspectives of justice contemplate this ideal. As suggested by Tristram Engelhardt Jr individual autonomy must be interpreted as a value in itself and a determining factor for the exercise of a full citizenship. But, justice is an ideal that must be progressively built. Whether in a specific society or on a global scale. And, the great challenge of humanity is precisely to recognize the existing intercultural differences and propose sufficiently flexible ideological systems that can be applied in different countries with very different levels of social and economic development. Without detracting from the ethical principles that should underpin the construction of the 21st century global society.

Key-words: *distributive justice, Engelhardt, fair equality of opportunity, healthcare, Rawls*

The allocation of resources for health, as well as the distribution of other social commodities, being a political problem, can also be observed as belonging to the universe of distributive justice, considering that all citizens must have the necessary means for an acceptable physical, psychological and social performance. Individual autonomy, paradigm of a full citizenship in a modern society, cannot otherwise be achieved. However, the principle of solidarity can also

be invoked, as an ethical and social imperative, to protect the most disadvantaged members of society. The principle of solidarity, particularly through the contributory effort of citizens, can allow a balanced allocation of resources in society. In Europe the Convention on Human Rights and Biomedicine[1], by appealing to a universal right of access to healthcare, promotes this ideal. The ethical and social implications of this Convention may determine the acceptance of this right as a fundamental one in accordance with the Universal Declaration of Human Rights.

Indeed, in most civilized countries the Welfare State formula promoted by Bismark, transformed the ideal of justice into an integral element of social and community life. The acceptance of health as a social good originated a health protection policy adapted to this perspective.[2] However, the Welfare State crisis, mainly related to the increase in life expectancy and the increase in the costs of providing healthcare – mainly due to scientific and technological progress – originated a different approach to this problem. That is, it generated the urgent need to establish priorities in healthcare.[3] Moreover, when it is known that the overall improvement of the population's living conditions (at a social, cultural, educational and economic level) was, together with the provision of medical care, responsible for the sustained evolution of health indicators in developed societies.

Nowadays, and in a global society, citizens are more critical due to the information obtained through different channels of communication. Information regarding new treatment methods and sophisticated technology is rapidly introduced into the health market. Thus, it is the very concept of "right of access to healthcare" which should be reviewed. That is, if the demand for healthcare based on individual needs is unlimited, it is, therefore, essential to limit the supply and, therefore, access to healthcare. But the methods that lead to the establishment of priorities must be transparent and previously legitimized by the democratic process.[4]

The Ideal of Equal Opportunity

A priori, one may question the plausible justification for a fundamental equality between all persons.[5] This equality can be due to the fact that all belong to the human moral community, owing to each other the obligation of support and solidarity. The human being is, in essence, a relational being living and interacting

[1] Council of Europe, "Convention of the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine", Strasbourg, November 1996.

[2] Jennifer Prah Ruger, "Health and Social Justice", *The Lancet* 364 (2004): 1075-1080.

[3] Yolonda Wilson, "Distributive Justice and Priority Setting in Health Care", *The American Journal of Bioethics* 18, no. 3 (2018): 53-54.

[4] Rui Nunes and Guilhermina Rego, "Priority Setting in Health Care: A Complementary Approach", *Health Care Analysis* 22 (2014): 292-303.

[5] Amartya Sen, *Development as Freedom* (New York: Knopf, 1999).

constantly with his fellow citizens. This is not to say that all people are equal in the strict sense of the term. In fact, we are all biologically and intellectually different. Indeed rationality is the supreme attribute of the human species and also distinguishes and characterizes the personality of each individual. Moreover, true social equality, at all levels and in all contexts, is perhaps an intangible reality. The concept of equality refers to the inclusion in a group that gives equal rights to all its members. At least, with regard to certain basic, fundamental rights.

This concept does not imply behaviour standardization; uniformity is opposed to the very essence of human nature, given that intellectual creativity is a factor that argues in favour of the existence of the moral community itself. Thus, there will always be differences between people, regardless of their fundamental rights. The inalienable rights to life, to food, to the constitution of family, to access to healthcare, do not imply that people are all the same, nor that they ambition to carry out the same life projects. It implies that whatever their intellectual skills may be – hence their ability to flourish within society – they are guaranteed a reasonable level of social conditions consistent with the dignity of the human being. This principle of equal dignity of human beings seems to be decisive in the implementation of a policy of fair equality of opportunity in access to social goods.

However, it should be noted that the different aspects of justice have a general application regarding the distribution of wealth and property. Society, regardless of the diversity of cultures and traditions within it, is generally organized around a State, with rules of social coexistence, which are translated into the creation and approval of own orders, in the ethical and legal sphere. The organization of the State, according to Thomas Hobbes, is based on the assumption that human beings are constantly fighting for survival, being, according to the law of nature, "the enemy of every human being."[6] In fact, the constant search for happiness requires the human being to always desire more power and therefore more wealth as a guarantee of his survival. And, power implies more power, always at the expense of other human beings. Happiness, being observed as an expression of a continuous progression of individual desire is also the achievement, beyond the possession. This innate desire among human beings, to always wish more power, leads the human community to organize itself through civil law to ensure its survival.

Hobbes further argues that this natural situation of the social man is only possible because in the natural state human beings are very similar to each other, on the physical and spiritual spheres. This natural equality among human beings has a triple aspect: competence, mutual mistrust and the desire for success. It is also argued that these decisions have nothing of just or unjust, given that the concept of justice does not fit into the biological evolution of humanity. The institutional creation of the State, by mutual agreement, seeks to prevent the process of self-

[6] Tomas Hobbes, *Leviathan, or the Matter, Form, and Power of a Commonwealth, Ecclesiastical and Civil* (1651), ed. Edwin Curley (Indianapolis: Hackett, 1994).

destruction of humans by humans. The State, *civitas* in Latin, derives from this human social pact, created by humans and for humans, exercising its power according to the sovereign will of those it represents. However, an idea of State as a centralised and maximalist structure of power can be clearly contradicted, not in the sense of anarchic coexistence, but in the sense of a minimalist state, of a limited government, that seeks to guarantee public order but allowing individual energies to have free expression. Ensuring, however, social cohesion. Hence the importance of a social protection system including access to healthcare.

Norman Daniels refers that there is a social obligation, through the direct intervention of the State, to provide healthcare according to the "normal functioning" standard.[7] That is, the universality of healthcare access should be promoted, in order to guarantee each citizen's access to a normal performance and therefore to a reasonable range of social opportunities. In this perspective of justice, disease, disability and incapacity, by restricting opportunities that would otherwise be available to the individual, are observed as unjust and not just as the result of random forces of nature. From this point of view it might be deduced that the right of access to healthcare is decisive for the exercise of a fair equality of opportunities. The right to healthcare access imposes on society a duty to allocate resources according to the health needs of citizens.[8]

The conviction that equal opportunities for citizens reflects the need to ensure "normal" performance should be emphasised and not necessarily "equal" performance. This distinction seems to be fundamental since no person is equal to another in a strict sense. In fact, all citizens should have the right of access, in accordance with their intrinsic dignity, to certain essential goods, so that it is possible to guarantee, at least, a reasonable physical, psychological and social performance. Thus, talents and individual capacities are likely to be achieved, even if only in specific circumstances.

However, equal opportunities may be limited by the scarcity of resources in society if the priorities in healthcare delivery are transparent, public and periodically submitted to an audit process in accordance with democratic rules.[9] This perspective of distributive justice is based on the notion of democratic accountability and justifies the scope and limitations of the provision of healthcare services. According to Norman Daniels the concept of procedural justice may imply, in the context of the provision of healthcare, transparency and accountability.[10] That is, citizens have the

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[7] Norman Daniels, *Just Health Care: Studies in Philosophy and Health Policy* (New York: Cambridge University Press, 1985).

[8] World Health Organization, *Equity in Health and Health Care* (Geneva, 1996).

[9] Norman Daniels, Donald Light and Ronald Caplan, *Benchmarks of Fairness for Health Care Reform* (New York: Oxford University Press, 1996).

[10] Norman Daniels, "Is there a Right to Health Care and, if so, What does It Encompass?", in *A Companion to Bioethics, Blackwell Companions to Philosophy*, ed. Helga Kuhse and Peter Singer (Oxford: Blackwell Publishers, 1998).

right to be informed about the reasons that led to the establishment of priorities. This concept of public accountability is based on the assumption that decisions are not only transparent and democratic, but also taken in accordance with what "reasonable people" would decide under the circumstances.[11]

According to Daniel Wikler[12], the intervention of society is growing in the macro allocation of resources for the provision of healthcare. This is partly due to the lack of consensus on the principles by which this allocation should be guided. Again, democratic accountability and its practical application seem to be the most transparent way of applying the principle of justice, at least as far as procedural justice is concerned, although theoretically, it may not be the ideal of distributive justice. In this context, access to new technologies can be legitimately restricted – such as innovative and expensive treatments – but only if this decision is determined by society and imposed by financial constraints of the system.

In order to achieve a fair equality of opportunities, it is fundamental to promote the values that, in a society that is constantly changing, can contribute to this ideal of distributive justice. In the field of healthcare access solidarity in financing and equity in access have been proposed. Equity can refer also to "equality of liberty". That is, in a more economic than philosophical sense, it can be said that everyone prefers to decide on the allocation of resources instead of accepting what was proposed by another person. An assumption will, of course, be that the individual has the necessary means to make that choice. Thus, equity includes the concept of equality in individual self-actualization.

Justice as equity implies that the criterion underlying the distribution of wealth among members of society is essentially based on individual needs.[13] Achieving equity in access to social goods implies a systematic reduction of disparities between individual citizens and different social groups. One of the main factors leading to the overall improvement in population health measured by health indicators lies both in the reduction of cultural, economic and social disparities between the most and least developed citizens and in the quality of health services. As a political and ideological option, the concept of equity can have different social and economic implications: equity in the allocation of resources, equity in the provision of healthcare, and equity in the payment of healthcare.

The application of the principle of justice can give rise to a distinction between horizontal and vertical equity. By horizontal equity is meant the provision of equal treatment to equal individuals. Vertical equity presupposes unequal treatment for

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[11] Rui Nunes and Guilhermina Rego, "Priority Setting in Health Care: A Complementary Approach", *Health Care Analysis* 22 (2014): 292-303.

[12] Daniel Wikler and Sarah Marchand, "Macro-allocation: Dividing the Health Care Budget", in *A Companion to Bioethics, Blackwell Companions to Philosophy,* ed. Helga Kuhse and Peter Singer (Oxford: Blackwell Publishers, 1998).

[13] Philippe Van Parijs, *Qu'est-ce Qu'une Société Juste? Introduction à la Pratique de la Philosophie Politique* (Paris: Éditions du Seuil, 1991).

unequal individuals. Therefore, it is possible to determine relevant properties in the individuals who give expression to this perspective of justice.[14] And, thus, promote vertical equity. In this context, it seems possible that justice is related to the concepts of "necessity" and "normal functioning", which are perhaps the starting point for an equal opportunities policy. The adoption of measures conducive to vertical equity intends to meet the well-documented sociological reality that the most disadvantaged citizens, from the economic point of view are, also, those with the worst health indicators.[15] That is, it can be at stake the positive discrimination of the most disadvantaged in society.

But in market economies, solidarity does not materialize on purely altruistic grounds in order to achieve equity in the access and distribution of social goods. If "solidarity" means the perception of unity and the will to suffer the consequences thereof, the concept of "unity" indicates the presence of a group of people with a common history and with similar values and convictions. According to the Report by the Government Committee on Choices in Health Care[16] "Solidarity can be voluntary, as when, for example, a person acts for reasons of solidarity, or compulsory when the government taxes the population in order to provide universal services." Again, in most modern democracies, the State felt the need to find ways to guarantee the fundamental rights of citizens through its tax effort. Indeed, when human beings are free from ignorance and fear and when the standard of living increases steadily, they evolve similarly to freedom and interpersonal solidarity.

Solidarity has different backgrounds from the historical point of view. It can be found, although with different names, in different religious traditions, and in Marxist, socialist and even liberal thought. As a doctrine, or as a political choice, it is deeply rooted in most healthcare systems. The pursued social good – health – not only for the individual but also for society, as well as the symbolic value that disease for everyone, implies State intervention to ensure access to a certain level of healthcare. Solidarity in health can also contribute to another social function. That is, solidarity can generate solidarity, due to the "moral movement of society."[17] A good example is the creation of a universal public health system as a source of altruism that usually extends to other areas of society.

But it is also necessary to distinguish between intra- and inter- generation solidarity. As an example, promoting the welfare of young generations is the best

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[14] Tom Beauchamp and James Childress, *Principles of Biomedical Ethics* (New York: Oxford University Press, 2013[7]).

[15] Peter Chisholm, "Preventive Healthcare Strategies are a Matter of Social Justice", *BMJ* 361 (2018): k2699. https://doi.org/10.1136/bmj.k2699.

[16] Report by the Government Committee on Choices in Health Care, Ministry of Welfare, Health and Cultural Affairs, The Netherlands, 1992.

[17] Cristina Brandão, Guilhermina Rego, Ivone Duarte, and Rui Nunes, "Social Responsibility: A New Paradigm of Hospital Governance?", *Health Care Analysis* 21, no. 4 (2013): 390-402.

way to guarantee for a stable support (namely through a healthy productive force) of the actual generation in the future. So guarantying the right to an open future of the young generations it is a win-win strategy. That is why it is difficult to accept any strategy that is inter generationally disruptive. Such as the "fair innings" theory that states, based on the age of each citizen, that justice in resource allocation should be related to the number of years lived and, thus, with the fair share of the social resources already consumed.[18] According to this perspective, as the life expectancy in modern countries is around eighty years, society's responsibility to provide healthcare would be inversely proportional to the number of years lived. Beyond the average life expectancy, roughly eighty years, society would no longer have the responsibility of providing healthcare to elderly citizens.

A strictly utilitarian view contributes to this theoretic arrangement because by giving preference to programs of preventive health to the young generations, we are increasing the number of "years-benefit" and, therefore, of the overall well-being of society. Daniel Callahan[19], for example, argues that society must provide the means for children to reach third age, and only use the scarce financial resources so that the elderly can become even older when that goal is achieved. However, in the long run the social impact of these measures, by excluding entire groups of citizens from basic healthcare, can contribute to the disintegration of society which is precisely what utilitarianism seeks to avoid.

However, it should be noted that there are huge global disparities in the amount of resources that can be allocated to healthcare delivery. Hence, a variable geometry may imply a conceptual reframing and an adjustment of the application of these principles, according to the concrete reality of each society.[20]

Progressive Justice

There are different conceptual roots regarding the concept of justice in the allocation of resources for the provision of healthcare. The various theories invariably appeal to the formal principle of justice that "equals" should be treated "in the same way" (formal equality principle of Aristotle). This principle is called formal because it outlines the arrangements of justice between citizens, although it does not allow to deduce what substantive differences make citizens equals or not equals.

The lack of substance of this formal principle is revealed by the fact that it is not possible to specify the relevant properties of the subject – or circumstances – that

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[18] Allan Williams, "Economics, Society, and Health Care Ethics", in *Principles of Health Care Ethics*, ed. Raanan Gillon (London: John Wiley & Sons Ltd, 1994).

[19] Daniel Callahan, "Terminating Treatment: Age as a Standard", *Hastings Center Report* (1987): 21-25.

[20] David Buchanan, *An Ethic for Health Promotion: Rethinking the Sources of Human Well Being* (New York: Oxford University Press, 2000).

allow the determination of this equality. It is precisely to incorporate "substance" into the "form" proposed by Aristotle that different theoretical currents proposed, over the centuries, different material principles of justice.

Material Principles of Justice

1. Radical Egalitarianism: Identical distribution of social goods by all citizens. For example, access to universal vaccination programs;

2. Necessity: Access to social goods according to individual needs, that is to say, equal consideration of the interests of each citizen. For example, access to hospital and pre-hospital medical emergency;

3. Effort: Access to and distribution of social assets would be in line with the effort made by each one. For example, remuneration by medical act in the case of private practice;

4. Merit: Access to scarce goods in society is done according to individual merit. For example, access to the best universities;

5. Social Contribution: The contribution of the individual to society is considered decisive (from the economic, family, cultural, or other point of view). For example, the God's Committee, which in Seattle in the 1960s selected patients for kidney dialysis according to socioeconomic status, the level of income and the number of descendants;

6. Competition and Market: Access to and distribution of social and economic assets, as well as access to key positions in society, are made according to the rules of the market. For example, the charges of commercial health insurances.

All social protection systems, in particular as regards access to health, integrate different material principles of justice, sometimes contradictorily, so that the need arose to resort to different "distributive justice theories" to better frame the right of access to healthcare. By theory it is understood an integrated and systematized body of rules and principles with internal coherence and logic. The view of distributive justice, that is most in conformity with the conceptual formulation of the Welfare State, is perhaps the egalitarian theory that rests on the concept of social contract. This contract implies that a plural society, well organized and well structured, in the words of John Rawls[21], has as fundamental values individual freedom and fair equality

[21] John Rawls, *A Theory of Justice* (New York: Harvard University Press, 1971), and John Rawls,

of opportunities in access to social goods.

Rawls defines a theoretical situation in which the impartial observer (reasonable citizen) is on an imaginary plane – ahistoric and acultural – not knowing his financial, cultural, social, health or illness position (under a veil of ignorance). In this situation, any reasonable citizen would choose to distribute social assets and access to key positions in society, so that, at the end of the decision-making process, the most disadvantaged people are protected. The two principles of justice of John Rawls were, thus, formulated in a hierarchical order:

Every citizen must have access to the most complete system of basic freedoms;

a. Access to key positions in society must be carried out on a fair equality of opportunities basis (and not just on formal equal opportunities);
b. In the end the allocation of resources and the distribution of social goods should privilege the least favoured people.

The principle of fair equality of opportunities becomes the main instrument that determines social policies in the developed world. This justifies some policies of positive discrimination, of which affirmative action in the United States of America or in Brazil is a good example, by giving priority to access to certain key positions in society to members of cultural minorities (universities for example). Or in the implementation of gender equality and protection of the handicapped people policies.

The existence of formal institutions legitimated by the public authorities is a direct consequence of this model of social organization, being a prerequisite for the widespread implementation of these values. Rawls also refers to the concept of "social primary goods" that every citizen wants for himself as a way to achieve self-actualization. It is first and foremost the confirmation of freedom as a fundamental right, second, the fair distribution of socio-economic benefits and, finally, access to these benefits on an equal opportunities basis. In any case, there is a hierarchical order among the principles as freedom is specially valued and protected.

For the libertarians, such as Robert Nozick[22], the fundamental values of a democratic society lie in the personal freedom and, for its effective exercise, the right to private property. It should be noted that libertarianism comes essentially from the field of political philosophy and not from economic theory. Although there is some similarity with the expression "liberalism", they should not be considered equivalent concepts, especially given the economic dimension usually associated with the term "liberal". Freedom of thought, expression, or association overlap a utopian vision of equality and social justice. Even so, equal opportunities can be considered as an essential instrument for the effective exercise of individual freedom. According to this perspective all people live – in fact, and contrary to what was

Political Liberalism (New York: Columbia University Press, 1993).

[22] Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974).

proposed by John Rawls – in a society with a pre-established culture, with a history and tradition. Moreover, citizens are owners (or not) of property and wealth, these goods being transmitted over the generations. Thus, the coercive expropriation of individual property, namely through taxes, is legitimate but only if it is aimed at obtaining certain social goods (such as public health or national defence) that cannot be left to individual responsibility. The expropriation through taxes is illegitimate if it aims at obtaining goods that can be the responsibility of each person – such as health protection or education (not basic).

Whatever social contract exists between the citizens and the State, it must be taken into account that there are various ways of not complying with tax obligations and, therefore, a contributory/distributive justice is not achieved. On the conceptual plane, the Laffer Principle states, precisely, that from a certain level of taxation taxpayers and institutions find methods, legitimate and illegitimate, of tax evasion. So, pragmatically, greater social justice can be achieved through a lower rate of progressivity in direct taxes, according to the fact that most people, by not developing an in-depth system of values, have a distant view of the State, only as a guarantee of their rights and not as a source of obligations. Therefore the redistribution of private property through taxes is seen frequently as unfair. The existence of a "distributive justice" is therefore questionable, and even "contributory justice" (taxes) would be of doubtful legitimacy, because the retribution of property according to the criterion of necessity is generally perceived by libertarians as a civilized form of "forced labour". Only admitted, thus, with fiscal consent.

Tristram Engelhardt Jr.[23], for example, states that the biological lottery and the social lottery are sometimes considered as a personal and family misfortune, but that their perverse effects are not related to the notion of justice nor to social justice, because, they do not stem from the intentional action of third parties. Thus, according to libertarians there is no basic human right of access to healthcare. There could exist a formal right but only if it results from the freely expressed will of the citizens. It follows that for libertarians health is considered primarily as a duty of citizenship, a personal responsibility and not as an obligation of the State.

Engelhardt Jr. further argues that postmodern pluralism that characterizes today's discourse should take into account the divergence of opinion and the fact that any ordering of primary goods is based on certain ethical/philosophical assumptions, or a pre-defined notion of the common good. Therefore, mutual agreement – that is, the consent of individuals to common goals – is the only viable instrument for healthy social cooperation between citizens. In this context of intersubjectivity, and even if there is disagreement on the ethical foundation of policy decision-making, it is sufficient to accept common rules of practice in order to comply with the requirements of procedural justice. Mutual agreement on the procedures to be

[23] Tristram Engelhardt, *The Foundations of Bioethics* (New York: Oxford University Press, 1996[2]).

adopted by citizens can even become a potent cement on a global scale, by allowing peaceful coexistence between peoples with distinct cultural traditions. And, it is only in this way that, for libertarians, it would be permissible to conceive a formal "right" to health, but never a substantive one.

A third perspective of enormous influence in distributive justice is called utilitarianism, existing different backgrounds of this theory, generally designated by consequentialist or teleological currents. That is, what defines the intrinsic goodness of a social intervention is its purpose, its consequences, the classic paradigm that the ends justify the means adopted, not necessarily existing proportionality between the two. The main values in question are the efficiency – economic and social – and the public good. From the methodological point of view, the principle of utility is adopted: an intervention is legitimate if it promotes the greatest possible good for as many people as possible.

Of course, utilitarian strategies favour interventions that target large segments of the population – such as vaccination or prevention programs – to the detriment of expensive treatments, of marginal benefit, of limited scope to small groups of citizens. A criticism of utilitarianism is that it allows for discretionary interventions. That is, discrimination of whole groups of people, such as the disabled, cultural minorities or the elderly, jeopardizing the principle of intergenerational solidarity and intercultural cohesion. But also, from the point of view of utilitarianism, a formal right to healthcare access can be shaped, starting from the assumption that in this way the utility is maximized. In fact, a healthy society is a more balanced, stable and productive one.

Ultimately, this may involve a genuine procedural justice: fair and transparent procedures, under the supervision of society. It is, in fact, the just acquisition and transfer of property and the just rectification of the breach of freely celebrated contracts. That is, a reparatory justice of which the criminal justice is a good example. The concept of public accountability is to be viewed in this context, that is, the need to be accountable for personal and collective decisions.[24] Procedural justice as the common denominator to all theories of distributive justice, may not be the best but the only solution, in a society where citizens find themselves with different viewpoints, as true "moral strangers", and where there is no unanimous view of the common good.

The existence of a right to healthcare access should be interpreted in the light of egalitarian theories – namely the principle of fair equality of opportunities. That is, every citizen must be in the same starting circumstances, biologically and socially, in order to develop his talents and abilities, in accordance with individual autonomy. But also, utilitarian and libertarian values should be considered. First, the necessary cost control in health and the analyses proposed by health economists, of cost-benefit,

[24] Rui Nunes, Guilhermina Rego, and Cristina Brandão, "Healthcare Regulation as a Tool for Public Accountability", *Medicine, Healthcare and Philosophy* 12 (2009): 257-264.

cost-utility and cost-effectiveness.[25] On the other hand, the libertarian principles of the autonomy of patients and providers, freedom of choice and prescription, must also be cherished in a modern and plural society.

But this interdepend arrangement in resource allocation must take into account a hierarchy of individual needs. According to Abraham Maslow's primary and secondary needs[26] it can be affirmed that fair equality of opportunities, as an ethical and social imperative, implies that all citizens must have access to a certain level of conditions that allow them to have "normal functioning". That is there are different levels of needs that influence human behaviour. Hierarchically superior needs (placed at the top of the pyramid) only manifest themselves when the lower level is satisfied. These include physiological and safety needs (primary needs). In the higher level secondary needs emerge, which are social needs, and also esteem and self-actualization.

Proportionality between the hierarchy of needs in Maslow's pyramid and the concept of normal functioning can be suggested.[27] It should be noted, however, that as hierarchically inferior needs are satisfied, the concept of normality becomes more comprehensive, implying its own redefinition. If we consider the fact that "normal" may mean a situation of physical, psychological and social well-being, (and, perhaps, also spiritual, according to the World Health Organization definition), then it becomes necessary to satisfy the primary needs to achieve a situation of true equality of opportunities.[28]

Conclusion

Human dignity seems to imply that no citizen can be excluded from the basic health system due to the lack of financial resources. The exercise of individual autonomy, a value specially cherished in plural societies, implies equitable access to certain basic, primary goods, namely to healthcare considered essential.[29] Indeed, equal access of all citizens to basic social goods and therefore to key places in society – principle of fair equality of opportunities – is one of the core aspects of Rawls's difference principle. It is, in essence, about ensuring the exercise of the right to individual self-determination in the relationship between the individual and

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[25] Penelope Mullen and Peter Spurgeon, *Priority Setting and the Public* (Abingdon: Radcliffe Medical Press, 2000).

[26] Abraham Maslow, "A Theory of Human Motivation", *Psychological Review* 50, no. 4 (1943): 370-396.

[27] Rui Nunes and Guilhermina Rego, "Priority Setting in Health Care: A Complementary Approach", *Health Care Analysis* 22 (2014): 292-303.

[28] Z. Bankowski, J. Bryant, and J. Gallagher (Eds), *Ethics, Equity and Health for All*, CIOMS - Council for International Organizations of Medical Sciences: Geneva, 1997.

[29] Martha Nussbaum, "The Good as Discipline, the Good as Freedom", in *The Ethics of Consumption and Global Stewardship*, ed. D. Crocker, 312-41 (Lanham, MA: Rowman and Littlefield, 1998).

society, as well as the right to play a social role according to skills and merit. But, it is not only Rawls's theory of the social contract that provides for a fair equality of opportunities. Different perspectives of justice contemplate this ideal. Individual autonomy must be interpreted as a value in itself and a determining factor for the exercise of a full citizenship. In fact, the poor, the homeless, the disabled, among others, cannot truly be considered as "equals" regardless of fundamental rights. And, for two reasons. Firstly, because of the inability to defend their interests, and secondly because of the vulnerable situation in which they are.

That is, equity in access to healthcare, materialized through solidarity in financing and equal opportunities in access, implies that all people with similar health needs should have the same effective opportunity to receive appropriate treatment. However, equity does not imply that in all circumstances there is a social duty to provide for treatment, but only that the specific needs of all citizens are considered in parity. Always under the scrutiny of society through the compliance of fair and democratic procedures. Accountability is the guarantor of the exercise of responsibility, both at professional level and administrative control.

But, justice is an ideal that must be progressively built.[30] Whether in a specific society or on a global scale. And, the great challenge of humanity is precisely to recognize the existing intercultural differences and propose sufficiently flexible ideological systems that can be applied in different countries with very different levels of social and economic development. Without detracting from the ethical principles that should underpin the construction of the 21st century global society.

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"We Live in the Ruins of Christendom"*: Bioethics in a Post-Engelhardtian Age

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Abstract

Hugo Tristram Engelhardt Jr. is a philosopher and a physician who has devoted all his life and all his creative power to developing and promoting a Christian bioethics. At the same time, the American is a personality who polarizes and has received euphoric praise on the one hand and malicious criticism on the other. This has already been the case during his lifetime and will presumably remain so even after his death, which we wish to commemorate here. In the following contribution I intend to investigate why Engelhardt provokes so different reactions in the scientific community, and I will try to bring closer together the two seemingly irreconcilable parties of Engelhardt admirers and Engelhardt critics. I will do this by focusing on the two most controversial aspects of his research, his critique of the status quo and his concept of an independent Christian bioethics.

Key-words: *Engelhardt, Bioethics, Christian bioethics, common morality, post-Engelhardtian age*

I. Developing a content-full Bioethics

To start with the first point, the question is what sort of bioethics we need today. It is, I believe, an ethics that takes people and their problems, but also their moral knowledge seriously. It is an ethics that suggests concrete answers and might therefore be called content-full. In doing so, it does not necessarily have to provide exact knowledge, but it certainly needs to identify the outlines of morality and to provide orientation for the single individual in decision-making situations. Furthermore, it is an ethics that remains critical towards everyday practice, and it is, after all, an ethics that seeks to motivate good behaviour.

To provide all this, normative theories must define, and here I fully agree with Engelhardt, what should be regarded as "good" or "desirable" and give us an idea of

* H. Tristram Engelhardt Jr., *The Foundations of Christian Bioethics* (Lisse: Swets & Zeitlinger Publishers, 2000), xii.

what makes life a "good" life. With regard to "good" life, Engelhardt uses the term of a "content-full bioethics," which gives "reliable advice."[1] In the past, by devellopping some sort of metabiology, various philosophers, especially the so-called Aristotelian Naturalists, have attempted to elaborate what such content-full ethics might look like and which understanding of "good" could be deduced from human nature.

Using human nature as the basis of morality is, as Engelhardt rightly observes, a critical endeavor. First of all, there is a problem of selection, for it is quite doubtful whether it is possible to state clearly what the very characteristics of man are. If one does not want to content oneself with man's – little elucidating – genetic determination, it turns out that especially social behavior and reason we usually take as mankind's distinguishing marks also occur, partly at least, in higher developed animals. Conversely, there are human beings who are deficient with regard to these qualities, but we would still not deny their humanity.

And even if it were possible to ascertain such human characteristics, what would be gained? For from the existence of typically human qualities there does not follow any imperative concerning human behaviour, as Dagmar Borcher points out: "Aus der Beschreibung der menschlichen Natur folgt in moralischer Hinsicht gar nichts."[2]

To avoid the difficulties mentioned, a number of 20th century philosophers have chosen reconstructive approaches. Such models have existed since antiquity[3], but they have been explicitly designated as such and increasingly developed in the post-war period only. Bernard Gert[4], for example, is one of them: with reference to the Decalogue of Deuteronomy, he formulates ten basic laws, which he believes to be *prima facie* valid. Another approach is that of Axel Honneth[5], who explicitly takes the contingency of moral rules and of ethical disputes as a starting point, but still

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[1] Engelhardt, *Christian Bioethics*, 28.

[2] Dagmar Borchers, *Die neue Tugendethik. Schritt zurück im Zorn?* (Paderborn: Mentis Verlag, 2001), 225 (The description of human nature has no moral consequence). In a slightly different context see Richard M. Hare, *Essays on the Moral Concepts* (Berkeley: University of California Press, 1972), 37-38: "[...] it is one thing to say that by calling a creature a man we imply that he belongs to a species having certain capacities, and quite another thing to say that by so calling him we imply that he belongs to a species whose specific good is of a certain kind. [...] Similarly, if 'horse' is used as a functional word, meaning 'charger', a horse that throws his rider becomes eo ipso a bad one; but the horse may say to himself 'I am not trying to be a horse in that sense; I am only a solid-hoofed perissodactyl quadruped (equus caballus), having a flowing mane and tail', and proceed to throw his rider without offence to anything but the rider´ s standards. [...] The horse-breaker´ s art would be easy, if one could turn horses into chargers by definition."

[3] Dieter Birnbacher, *Analytische Einführung in die Ethik* (Berlin: Walter de Gruyter, 2007Ç), 67-72, interprets inter alia Aristotle as an early representative of reconstrutive ethics.

[4] Bernard Gert, *Morality. Its Nature and Justification* (New York: Oxford University Press, 1998). Engelhardt, *Christian Bioethics*, 64, mentions favorably that Gert has "faith in the ability to reason with a universally valid morality".

[5] Axel Honneth, *Das Recht auf Freiheit: Grundriss einer demokratischen Sittlichkeit* (Berlin: Suhrkamp, 2011). Honneth is not received by Engelhardt, which may be due to the fact that his writings have primarily attracted attention in the German-speaking countries.

argues in favour of a reconstructive approach. On the basis of two central concepts (recognition and social freedom), which he adopts from Hegel and rephrases in the tradition of critical theory, he reconstructs tensions that manifest themselves on the level of personal relationships, democratic decision-making or market-economy action. These tensions are responsible for people being denied recognition and having to suffer from injustice, degradation, exclusion, and so on.

The best-known reconstructive approach in the field of bioethics, however, is the so-called Principlism, in which Tom Beauchamp and James Childress roughly draft the contours of morality, that is a core stock of moral believes they consider to coincide with a minimum consensus between all involved.[6] This core stock is then specified by four principles of medium range (non-maleficence, autonomy, beneficence, and justice). These principles imply *prima facie* obligations, but in the individual case they require an act of balancing and reasoning so that one can ultimately succeed in formulating a well-founded response. As far as content is concerned, Principlism mediates between the demands of the historically established professional ethics, which can be interpreted as the realization of the principles mentioned, and the requirements of the complex biomedical challenges we face today.

This approach, by many scientists considered to be extremely deserving, is sharply criticized by Engelhardt. He states that in reality the alleged consensus of Beauchamp and Childress' secular bioethics is "hollow."[7] He is convinced that dissent still dominates on the level of concrete decisions and that the principles on which Beauchamp and Childress have only been able to agree on the basis of their contingently common backgrounds[8], are not likely to overcome this dissent.

In fact, Engelhardt seems to be right insofar as on closer examination, the concept of principles proves to be problematic since it is based, as I will try to show in the following, on a level too high for a reconstructive ethics. What is uncontroversial is the fact that every person has moral believes. At the same time, however, it is obvious that these beliefs do not only express themselves differently but also develop in different ways. It cannot be assumed that all actors dispose of clearly formulated and well-reflected knowledge concerning moral rules or principles and are able to apply this knowledge autonomously. Such competence is a sign of a high level of moral proficiency and is therefore not an ideal starting point for a reconstructive approach seeking to maximize the number of moral agents involved.

Moreover, rules are already the specification of a "common morality" as adopted by Tom Beauchamp and James Childress. Rules are the result of the codification of a wider moral knowledge that tends to be wider and more open. In the process of codification, however, decisions are being taken, clarifications have to be made, etc.,

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[6] Tom L. Beauchamp and James F.Childress, *Principles of Biomedical Ethics*. Oxford: Oxford University Press, 2009[6].

[7] Engelhardt, *Christian Bioethics*, 28.

[8] Ibid., 31.

which actually increases the potential for dissent. Thus – at least for the time being –, it may not seem wise to take the step of rule-building in an approach that seeks the highest consensus possible.

The same applies to the principles. If in philosophy "principle" signifies something "first come", something from which something else evolves[9], an origin, a starting point, in colloquial language "principle" has the connotation of rule-governed action. Principles are usually understood as guidelines which are to be followed. Therefore, in making rules, they fix values. In the natural sciences, "principle" is used as a synonym of "law" or in the sense of a general rule. From the above considerations, however, it arises that this closeness to rules turns out to be a problem if bioethics wishes to be oriented towards a maximal consensus. Or, as Engelhardt formulates it: "There is no common understanding of the canonical content or meaning of the principles of autonomy, beneficence, non-maleficence, or justice."[10]

So, is the bioethics project doomed to fail or is Engelhardt's criticism inaccurate? I think neither is the case. On closer examination, it turns out that Engelhardt – just like Beauchamp and Childress – seeks consensus on a very high level, that of a clearly defined moral knowledge articulated in the apprehension and application of rules or principles. Next to such ambitious moral knowledge, however, there also exists less reflective, often implicit moral knowledge, which finds its expression in values. Every moral subject[11] has such values, we need them if we want to cope with life, which would not be possible without a minimum of orientation. Values can therefore, much better than principles, be considered as a kind of minimal stock of moral knowledge.

Of course, the values themselves require a conceptual clarification: "Value" is first of all understood as goodness or the good quality of something, and this in two ways: Either this "bonitas"[12] can be determined quantitatively – then "value" is used in the sense of exchange value which has an equivalent, the value of an object or service which can be bought or sold, which can be traded; reconstructive ethics, however, is not interested in such kind of value. Or value stands for an immaterial meaning[13] that represents a norm, an orientation or a goal. But what can be understood as "immaterial meaning"?

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[9] In *Phys*. 1: 10-3, Thomas Aquinas mentions three conditions for principles: principles must not evolve from any other source (1) nor evolve from each other (2), and everything else must evolve from them (3). See also Harald Schöndorf, ´ Prinzip" in: *Philosophisches Wörterbuch*, ed. Harald Schöndorf and Walter Brugger (München: Verlag Karl Alber, 2010), 375-377.

[10] H. Tristram Engelhardt JR, "*Beyond the Principles of Bioethics: Facing the consequences of Fundamental Moral Disagreement*", *ethic@* 11, no. 1 (2012): 16.

[11] In contrast to moral objects - such as (non-human) animals, newborns, the mentally handicapped, coma patients, etc. - who have a moral status and the right to have their interests taken into account, moral subjects are capable of acting and therefore are responsible for their actions.

[12] This "bonitas" might also be negative.

[13] Schöndorf, "Prinzip", 571.

In Neo-Kantianism, values are said to have a sphere of their own, which means that they are understood as being valid not as merely being. Based on Scheler, Hartmann places values in the vicinity of the Platonic ideas. Apart from the criticism of these positions[14], the question as to whether there is a hierarchy among values or how such a hierarchy can be established is also discussed controversially. In any case, the search for the ontological status of values is closely linked to the subjectivism-realism debate in ethics. Proponents of a value subjectivism understand reality as value-free, filled only with values through human projection. Value realism on the other hand, as seen in our everyday moral practice, assumes that there are moral facts that exist independently of our attitudes, make judgments true or false, and even have a motivating effect.[15] Unfortunately, I cannot devote myself to this debate in this place.

Regardless of the debate, it seems that values which moral subjects believe to be valid even before they engage in bioethical reflection are a better basis for a minimum consensus in a pluralistic world than the principles criticized by Engelhardt. Of course, the values found in different agents – doctors, nurses, administrators, patients, and relatives – need to be critically reflected as far as their importance to bioethics and their scope are concerned. They also need to be systemized by subject areas and "reduced" in number until a small set of values remains that is so uncontroversial that it can be accepted as an overlapping consensus by all involved. It is to be expected that such a minimal core stock will not only meet with consensus with the individual agents but will also be compatible with other normative approaches in bioethics.

What needs to be discussed here is the question of normativity, *id est* the question how, in a process of reconstruction, of pondering and reasoning, of generalizing and of systematizing existing values, normativity can come into play. Of course, one could advocate an internalist position as some moral realists do and argue that values themselves have normative power. It could also be argued that values are concrete, so-called thick concepts[16] which in addition to their prescriptive part have a distinct descriptive part and that they thereby – at least to a certain degree – have a motivating effect. For it is more desirable to be called "fair", "generous", or "just" than to know that your behavior was "right". Recognition and appreciation, which resonate in the descriptive part of positive values, provide a greater incentive to behave in the manner described than the mere ok that comes from a correctly followed rule.

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[14] Criticism comes from H. and A. among others, the latter interpreting the value problem as a misrepresented problem of reification of the bourgeois society. Axel Honneth, *Verdinglichung: Eine anerkennungstheoretische Studie* (Berlin: Suhrkamp, 2005).

[15] Christoph Halbig, *Praktische Gründe und die Realität der Moral* (Frankfurt am Main: Verlag Vittorio Klostermann, 2007); Derek Parfit, *On What Matters* (Oxford: Oxford University Press, 2011).

[16] Borchers, *Neue Tugendethik*.

At present there is a complex debate on how a (possible) normative authority of values can be conceived, and in how far thick concepts can motivate. As I cannot take up this discussion here, I will focus on the desire of moral agents to provide some kind of framework and orientation for their actions.[17] The values analyzed in a reconstructive ethics unfold their normative power because there are people who want to orient themselves by them, people who wish to give their actions a certain direction. Such normativity remains weak but at the same time it remains basal in the sense that it is compatible with more sophisticated concepts of normativity and can therefore form a kind of 'basis' for such concepts.[18]

If, however, the desire to behave in a morally good way to some seems to be insufficient, one must ask what can be rightly expected of a moral agent. Should we demand more than the wish to do the good and at the same time the will to seek how this can possibly be achieved? I do not think so. But if that is so, I ask further why we should expect more from moral philosophy than to provide reliable assistance.

But what can we further do with this small core stock of values the actors can agree on and which derive their normativity from the will of the participants to realize them? Similar to what Beauchamp and Childress do, one can, I believe, assume a prima facie validity, which means that these values must be taken into account in concrete actions and situations of decision-making. In a situation of decision-making, the individual or a group of agents must first of all assess what it means to realize a particular value here. However, this act of assessment and pondering does not only concern this particular value but has to be applied to all values that belong to the so-called core stock. The challenge then is to mediate between the different directives that arise in this process until it is possible to formulate a "well-reasoned response". This response will not be the (only) correct answer and it does not apply unconditionally always and everywhere. On the contrary, it is even very likely that another individual, another group of agents will give a (somewhat) different well-reasoned response to the same problem because the values concerned do not behave hierarchically to each other but are fundamentally equal. This gives the decision-maker a certain operational leeway to attach more weight to one value in a specific situation and less weight to another.

This very fact is at the same time the strength of this approach, since it provides the necessary conditions for getting people with different personal and cultural backgrounds to engage in a dialogue and for bringing together different normative positions while maintaining their specific concerns. Also, those who do not promise more than a well-reasoned response need not engage in endless debates on ultimate

[17] Beauchamp and Childress, among others, proceed similarly when they talk about "morally serious people". Beauchamp and Childress, *Principles of Biomedical Ethics*.

[18] Beauchamp and Childress, *Principles of Biomedical Ethics*, 384, come to a similar conclusion. They plead not to over-emphasize the differences in the single normative approaches: "We can say without exaggeration that the proponents of these theories all accept the principles of common morality before they devise their theory".

justification but can focus their attention on the concrete issues that need to be addressed in applied ethics such as bioethics.

However – as Engelhardt and other critics of principlism[19] have shown –, it is also true that the method of reconstructing values may hold the danger of gradually weakening bioethics. In fact, such weakening might lead to resignation towards the normative force of the factual. This would mean that moral philosophy would be degraded to an ethics of appeasement which, in the face of changes in social opinion, would sooner or later justify almost everything. The metaphor of 'balancing' values seems to be particularly problematic in this context as it gives the impression that in such a normative theory, ultimately, everything is legitimate, *id est* that each value can be nullified in favor of another.

In my opinion, though, this is not the case. It is not the case because a reconstructive ethics does not define as normative what simply 'is' but the ideals and values of the persons involved, which by definition exceed the 'usual' and allow for new visions. Thus, despite the fact that the approach proposed here is basic in the sense that it asks for the lowest common denominator, it starts with moral excellence. Beauchamp and Childress express this as follows: "The model might seem impractical, but, in fact, moral ideals are practical instruments. As our ideals, they motivate us and set out a path that we can climb in stages, with a renewable sense of progress and achievement."[20]

Values thus provide orientation, they have a critical potential and therefore do not abet any ethics of appeasement. At this point one might argue – and probably Engelhardt would do so – that moral evil arises from people invoking "false" values. This problem, however, can be addressed by the fact that coherence does not remain the sole criterion (for false beliefs can of course also form a coherent system). Rather, Beauchamp and Childress have always have pleaded for "considered judgments" in the process of assessment, which represent the "mostwell-established moral beliefs."[21]

Sound reasoning and reflection are likely to be the 'silver bullet' to prevent morally deficient behavior. For what most distracts people from doing good – apart from extra-moral interests – is not false moral believes but the lack of thought they give to the question of what kind of values they realize in their actions. What is problematic in the very first place are unreflected acts or actions that result from a thoughtless practice. However, once values have been reconstructed, *id est* once thinking about what we consider important and binding has begun, a process is set in motion which

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[19] Bernard Gert, Charles M. Culver and K. Danner Clouser, *Bioethics. A Return to Funda-mentals* (Oxford: Oxford University Press, 1997); Johann S. Ach and Christa Runtenberg, *Bioethik. Disziplin und Diskurs. Zur Selbstaufklärung angewandter Ethik* (Frankfurt am Main: Campus Verlag, 2003); Bert Heinrichs, *Forschung am Menschen. Elemente einer ethischen Theorie biomedizinischer Humanexperimente* (Berlin: Walter de Gruyter, 2006).

[20] Beauchamp and Childress, *Principles of Biomedical Ethics*, 51.

[21] Beauchamp and Childress, *Principles of Biomedical Ethics*, 407.

provides a critical corrective to unreflected action.

This hypothesis is supported by the findings of cognitive psychology, according to which misjudgments regarding the truth or falsity of convictions typically occur where procedures intended to lead to fast results are applied that offer no scope for reflection.[22] In everyday life, we repeatedly encounter situations in which it is not so much a matter of truth but a matter of arriving quickly at approximately correct or even just uniform results.[23]

The fact that these practices, inappropriate for moral truth, constitute a certain part of our moral thinking does not mean that one cannot gain reliable moral knowledge by applying appropriate procedures. Such appropriate procedures are processes that either start with a priori findings – such as the Thomasian formula "bonum est faciendum et [...] malum vitandum"[24] – or which are reflective procedures. Similar to the extra-moral domain the reliability of the result increases when different independent processes lead to the same or at least to similar findings.

Whether the use of reflective methods is sufficient to develop a viable and critical bioethics cannot be decided here. And, of course, the question of what weight to attach to individual values or even of dividing them into 'right' and 'wrong' remains a precarious one. For asserting that values exist in ways that cannot be reduced to subjective opinion, does not necessarily mean that we will succeed in identifying them and in bringing them into a hierarchical relationship to one another. In other words, the fact that something exists does not mean that I am able to (correctly) perceive it.

Accordingly, the search for such values that can be used as a viable basis for bioethics can only be an approximation. Engelhardt, however, is not satisfied with that because he expects more than an approximation; in fact, he expects Truth, a truth that becomes manifest in a personal vis-à-vis: "Just as ultimate Truth is not a what but a Who, the Holy Trinity, Tradition is not a what but a Who, the Holy Spirit."[25] This extremely high claim leads me to the second question I will ask in this article, name-

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[22] For a detailed evaluation of our understanding of moral knowledge, see Jan-Hendrik Heinrichs, *Moralisches Wissen. Grundriss einer reliabilistischen Moralepistemologie* (Münster: Mentis Verlag, 2013).

[23] Heinrichs, *Moralisches Wissen*, 194, writes: "Wahrheit ist das erste epistemische Ziel, sie ist aber nicht das einzige Ziel, dem Überzeugungsbildungsprozesse verpflichtet sind. In zahlreichen Aufgaben ist es wichtiger, innerhalb bestimmter Fristen zu ungefähr zutreffenden als zu exakten Ergebnissen zu gelangen. In einigen Fragen ist es sogar wichtiger, zu einheitlichen Ergebnissen zu kommen, als zu wahren – zuweilen gibt es nur Einheitlichkeit und keine Wahrheit, etwa in der Frage, auf welcher Straßenseite wir alle fahren sollten." (English: Truth is the first epistemic goal, but it is not the only goal to which belief-building processes are committed. In many tasks, it is more important to arrive, within certain deadlines, to roughly appropriate results than to precise ones. On some issues it is even more important to arrive at uniform than to true results – sometimes there is only uniformity and no truth, for example, on which side of the road we should all drive).

[24] For the full quote and a detailed discussion, see Heinrichs, *Moralisches Wissen*, 78.

[25] Engelhardt, *Christian Bioethics*, 391-392.

ly the question with what sort of Christian bioethics we are confronted in Tristram Engelhardt's work.

II. Different kinds of Christian Bioethics

The concept of a Christian bioethics, as Engelhardt develops it, does not only meet with recognition but also with massive criticism. This seems mainly due to the lack of a distinct understanding of what Christian Bioethics is and what it can provide. The discomfort with Tristram Engelhardt's position derives from the fact that unclear expectations prevail within the scientific community. In order to gain clarity here, we should first consider what different types of Christian bioethics we are dealing with.

In fact, there are at least two very different types of Christian philosophy and, consequently (if bioethics is understood as a discipline of philosophy), of Christian bioethics. Following Winfried Löffler I call these two types 'Augustinian' and 'Thomistic'[26], but in contrast to Löffler I will again subdivide the Thomistic approach and therefore distinguish three different kinds of Christian bioethics. They basically differ in their methodology.

The method of a Thomistic philosopher is to argue as long as possible with 'worldview-neutral' premises, that is, with premises that are basically comprehensible to everyone, regardless of his or her religious convictions, which he or she believes to be true. Philosophers who follow the Thomistic tradition are convinced that they must not use premises that can only be known through divine revelation. But at this point of our argumentation it is important to differentiate again. Some Thomistic philosophers would say that they never use arguments other than those that can be comprehended by reason (Type I). Others try to argue by using ideologically neutral premises as long as possible and by then resorting to religious premises if important questions would remain unanswered otherwise (Type II). They are aware of the fact that they no longer act as philosophers but as theologians. They accept this change of perspective in order to be able to provide answers where reason alone would not allow to make decisions.

By contrast, Type I bioethicists would state that questions that can only be answered on religious premises must remain open. Of course, one could ask to what extent Type I philosophers may then be called Christian bioethicists at all. Let me answer as follows: Type I Christian bioethicists methodologically pretend that they are secular philosophers. Still, their faith functions as a ´ guiding star" (as Franz Brentano and Jacques Maritain put it). These philosophers show a certain preference for questions in which a bridge may be built between rational reasoning and Christian convictions. Or, quoting Löffler, they tend "toward philosophical opinions which

[26] Winfried Löffler, "Two Kinds of 'Christian Philosophy'", *European Journal for Philosophy of Religion* 5, no. 2 (2013): 111-127.

seem compatible with their worldview."[27]

While Type I and Type II Thomistic bioethicists seek to demonstrate that the Christian faith is compatible with up-to-date bioethics, Augustinian bioethicists propose a totally different methodology. In fact, they do not seek to present their arguments as externally plausible but use premises we can only know from revelation. As a next step they try to develop and defend a consistent, comprehensive and coherent Christian worldview. Tristram Engelhardt offers such kind of Christian bioethics and this is also the reason why he has often been sharply criticized. For the much greater appreciation of the scientific community for the Thomistic tradition of Christian philosophy has led this community to partially forget that the Augustinian tradition, which can pride itself of many well-known representatives in the past, *does* exist at all. What happens then is that the representatives of the Augustinian school are judged by criteria of the Thomistic school (above all with regard to their external plausibility), that is, criteria Augustinian Christian philosophers cannot fulfill.

In fact, Engelhardt does not want to be externally convincing because he is persuaded that Christian ethics in a post-Christian age must emphasize what is distinct, particular, and special. In his founding of a Christian bioethics in an orthodox tradition, he distinguishes between an Eastern (traditional) and a Western (post-traditional) theology. He starts from a theory of historical decadence, which in his opinion begins with the schism of 1054, continues during Reformation and Enlightenment and finds its negative climax in the present post-modern de-Christianization of society. He interprets the struggle for a rational justification of ethics as the doomed attempt to preserve some elements of the Christian tradition.[28]

In contrast, he wants to establish and justify ethics in transcendence, that is, in its direct relationship to the triune God[29]. With this anchoring in the noetic (knowledge mediating) experience of God he clearly distinguishes himself from most Catholic Thomistic-inspired colleagues. His approach to bioethics does not begin with defining terms and sharp logical inferences, but with prayer, asceticism, and worship. On this basis, he seeks to develop a rational perception of the revelation while at the same time remaining faithful to the ongoing experience of divine revelation. The goal of such bioethics is not primarily a concrete answer, but the purification and the sanctity of the bioethicist himself.

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[27] Löffler, "Two Kinds of 'Christian Philosophy'", 120.

[28] Zimmermann-Acklin, *Bioethik*, 60-63.

[29] H. Tristram Engelhardt JR, *The Foundation of Bioethics* (Oxford: Oxford Univesity Press, 1996), 210: "An approach to Christian bioethics firmly anchored in the concerns of immanence will primarily engage philosophy, historical analysis, and biblical study. Discursive rational analysis and text-critical examination of Scriptures will be central to its very understanding of the legitimacy of its theological claims. A bioethics firmly anchored in a noetic experiences of God will begin with prayer, asceticism and worship. This ascetical, liturgical core will not preclude analytic, discursive account of its undertaking. In this sense, it would never be anti-rationalistic."

Whatever one's opinion of the above-mentioned possibilities of doing Christian bioethics, Engelhardt should be given the credit of having revealed his own convictions, which is a proof of honesty and transparency. Of course, any philosopher, whether Christian or secular, is influenced by his worldview but few will make their "ideological" convictions explicit and, thus, a possible subject for discussion. And there certainly is a second positive aspect in Engelhardt's Christian bioethics, irrespective of whether you agree with regard to his methodology or not: With his content-full answers in the field of bioethics he renders intellectual service not only to the Christian community and its intellectuals, but also to people of other religious beliefs. He invites them to pursue his thought, under the assumption of the hypothetical acceptance of his premises. He who inquires what would follow for modern bioethics if Christian doctrines (as presented by Engelhardt) were true, may read his work with profit, as a source of inspiration, even if he is not a Christian himself. In this sense, Engelhardt's so-called particularism can indeed be related to other normative theories and may therefore in the long run also receive appreciation outside the Christian communities.

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H. Tristram Engelhardt Junior: A Moral Friend and Moral Stranger

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Abstract

This paper is a tribute to H.T. Engelhardt Jr. for the intellectual resources he provided to challenge cosmopolitan liberalism as the foundation of an overarching global bioethics in the post-modern world. It is a also a tribute to the moral pluralism and cultural diversity which he argued so forcefully in all his works and which have inspired the flourishing of fierce bioethical debates across the world, including in the non-Western and Asian societies.

Key-words: *global bioethics, cosmopolitan liberalism, pluralism, diversity, moral friends, moral strangers*

I. Moral Agreement

The important legacy left by H. Tristram Engelhardt Jr. to the field of Bioethics is to move the bioethical discourse beyond a Western paradigm by challenging cosmopolitan liberalism as the foundation of global Bioethics to guide ethical decision making in all countries and cultures.[1]

In his numerous philosophical treatises and bioethical works, Engelhardt confronted us with the inconvenient truth that instead of a shared common morality in the field of Bioethics, there are numerous moral visions. Each moral perspective makes plausible a different understanding of Bioethics, reflecting intense differences in theoretical perspectives and moral commitments, and involving deep and substantive disagreements.

Morality is plural and diversity is real, despite desperate claims of consensus and

[1] Tristram Engelhardt Jr., *The Foundations of Bioethics* (New York: Oxford University Press, 1996[2]).

impassioned attempts to impose uniform moral views by philosophers, politicians and policy makers.[2] Engelhardt offered forceful arguments to show that cosmopolitan liberalism is but one among other particular views of human flourishing, and as such is on similar footing as other substantive views such as particular religions and cultural accounts. His penetrating analyses demonstrated how the cosmopolitan liberal world view "has no more right to be imposed on unconsenting persons than thick traditional moral views."[3]

Engelhardt had proved himself right in declaring that "Bioethics of the next millennium will find itself plural in character and in its foundations", and that as we go into the future, "we must learn to take moral diversity seriously and to nurture the conditions under which it can flourish."[4] He invited us to embrace disagreement as a defining characteristic of our moral life in a multi-cultural, post-modern world. I agree with him that the courage to embrace disagreement is a triumph of the human spirit.

As the co-founder of the Journal of *Medicine & Philosophy*, Engelhardt had played a pivotal role in creating the intellectual space and nurturing the conditions for bringing together different voices from across the world for the pursuit of open debate and divergent understandings of bioethical concerns from different cultural and moral perspectives. As the editor of the *Philosophy and Medicine* book series, he had inspired and supported the publication of many cross-cultural dialogues on global Bioethics which drew on important insights from east and west, from both traditional and modern resources.

The debates and the divergent understandings Engelhardt promoted has created a propelling force for the growth and flourishing of Bioethics particularly in non-Western and Asian societies in recent decades, on an equal footing with their Western counterparts, free from the illusions and constraints of an overarching moral consensus. The freedom has enabled us to explore and debate important bioethical issues, e.g. genetic engineering, third-party-assisted reproduction, abortion, physician-assisted suicide, cloning, enhancement and the requirements of justice in health care etc., from multiple perspectives and traditions. The explorations and debates have made available for our understanding deep philosophical reflections on issues about the universality of ethics, the meaning and justifiability of ethical claims, the nature of moral reasoning and the very idea of morality.

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[2] Tristram Engelhardt Jr. (ed.), *Global Bioethics: The Collapse of Consensus* (Salem, MA: M7M Scrivener Press, 2006).

[3] Tristram Engelhardt Jr., "Morality, Universality, and Particularity: Rethinking the Role of Community in the Foundations of Bioethics", in *Cross-Cultural Perspectives on the (Im)Possibility of Global Bioethics*, ed. Julia Tao Lai Po-Wah (Dordrecht: Kluwer Academic Publishers, 2002), 35.

[4] Tristram Engelhardt Jr., "Morality, Universality, and Particularity: Rethinking the Role of Community in the Foundations of Bioethics", in *Cross-Cultural Perspectives*, 36.

II. Moral Disagreement

The upshot of the lack of a single moral vocabulary and a single set of moral beliefs which claim universal objectivity and validity is the difficulty to resolve moral controversies or to settle bioethical disputes. Engelhardt was skeptical about the authority of moral rationality or that deep moral disagreements could be settled by sound rational argument.[5] He believed that there was a need to anchor morality and Bioethics in a transcendent God to unify morality and to provide a grounding for its ultimate authority. Moral truth, from Engelhardt's perspective, can only be disclosed by the non-discursive experience of God, it cannot be disclosed through rational discursive arguments.

This led him to use the term moral strangers[6] to identify individuals with whom one cannot resolve moral controversies by sound rational argument because of lack of common moral premises or common moral authorities. To Engelhardt, moral friends are those who share with him the moral vision of a traditional Christian Bioethics as a point of final perspective, from which bioethical issues including suffering, illness, disability are interpreted in terms of the central Christian task of transfiguring union with God. Such a point of final perspective enables moral friends to resolve moral controversies either by sound rational argument or through appeal to a commonly acknowledged moral authority.

I share Engelhardt's view that there is no guarantee that rational reflections will lead all rational inquiries to the same conclusions on central moral issues. But the absence of a universal morality and a global Bioethics does not have to imply that any morality is but a local (and temporary) custom and that sources of morality are purely accidental and contingent.

Neither does the impossibility of moral consensus have to imply the impossibility of moral truth, or that such moral truth cannot be attained by rational discursive reasoning, or that it is not justifiable in discursive, rational terms. Failure of the quest for moral consensus or moral agreement does not have to mean failure of our philosophical enterprise.

As Renzong Qiu wrote in *Bioethics: Asian Perspectives A Quest for Moral Diversity*: "The diversity or plurality of bioethical views will promote the growth of Bioethics just as late philosopher of science, Paul Feyerabend, argued that the proliferation of scientific theories promotes the growth of knowledge."[7]

There is no escape into a realm of entirely universal maxims. Instead of seeking to establish a comprehensive unitary global Bioethics, we should create a continuing global dialogue based on respect for local differences, carried out through open,

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[5] Tristram Engelhardt Jr., *The Foundations of Christian Bioethics*.

[6] Ibid., xxi.

[7] Qiu, Ren-zong (Ed.), *Bioethics: Asian Perspectives A Quest for Moral Diversity* (Dordrecht: Kluwer Academic Publishers, 2004), 2.

self-critical and rational discourse. We should reflect critically upon the meaning and significance of practices within our own tradition and culture, without any pretension to "universal". We should emphasize "dialogical openness", in which prejudices are challenged and horizons broadened, and revisions made possible. It is in moving forward from such "particularity" that the search for the "universal" consists and begins.

Moral life thrives on disagreements as much as on agreements. Notwithstanding the distinction drawn by Engelhardt between moral friends and moral strangers, I will always regard Engelhardt as a moral friend although to him I must necessarily be a moral stranger. Our agreements and disagreements had been intense and inspiring. They prompted deep philosophical reflections which have deeply enriched our lives as authentic moral beings, notwithstanding the absence of a common moral authority or a shared moral tradition.

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Meeting and Working with H.T. Engelhardt Jr.: An Inspiring Experience for a (once young) European Scholar

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Abstract

The author – a European "companion" of H. T. Engelhardt during the two last decades of the 20th century – describes his meetings with and impressions of Tris Engelhardt. He clarifies how open mindedness was the main concern in their common activities.

Key-words: *H. T. Engelhardt, obituary, crazy universe, social security system, Christianity*

This narrative is a purely personal obituary to Tris Engelhardt. I do hope it might be insightful for non-Europeans to read what kind of impression he could make on a – at that time, young – scholar in the Western European Bioethics scene (in casu: Belgium).

I will first contextualize my meetings with Tris: the KU Leuven (Catholic University of Leuven) decided in 1980 to create a separate academic chair for Medical Ethics inside the School of Medicine. The Centre for Biomedical Ethics and Law was opened in 1986 (starting with an honorary degree for the Georgetown professor of Moral Theology, Richard A. McCormick). In light of many emerging technologies in medicine, the intention was to collaborate with other Catholic Universities and with Schools of Medicine inside these Universities. The International Federation of Catholic Universities created therefore a separate group for representatives of University Hospitals.

After my nomination in 1984, I therefore quickly received an invitation to share that group and to become an active member of it. I was at that moment a young scholar, only 34 years old, and supposed to learn from the real masters, like John Collins Harvey and Edmund Pellegrino (Georgetown), Francesc Abel (Barcelona), John Mahoney (London), Patrick Verspieren (Paris), Edouard Boné (Brussels) and Maurice de Wachter (Montreal, Maastricht). The publication of the Roman Instruction on reproductive medicine in 1987, *Donum Vitae*, strengthened the decision to collaborate, share ideas and promote dialogue with the Magisterium.

Almost out of the blue the group was joined by a scholar with a great reputation already in Bioethics, namely H. T. Engelhardt (having published his *Foundations of Bioethics* in 1986). He joined several meetings, spoke at conferences (e.g. Barcelona) and other informal sessions. He challenged continuously taken-for-granted opinions. His presence functioned as a continuous disruption of the dialogue, even in such a way that the group finally decided not to invite him to their meetings (in order to make progress in their real task, writing opinions for Church Leaders).

In any way, I felt like meeting someone with great intelligence, but unfortunately, also without any constructivism to make a dialogue going on. I even was anxious meeting him and trying to start a dialogue with him. Ana Smith Iltis describes this as the "crazy universe" (p. 257).[1] We were shocked by the way he interacted with his personal collaborators and *doctorandi*, calling them "slaves". He also shared with us his so-called "Texan" ideas on property and – gun-loaded – defense of it. He was extremely religious (even highly conservative) and at the same time extremely secular ... indeed, a "crazy universe", leaving us in total confusion.

It was therefore an enormous surprise for me to be invited to share a research project on "Allocating Scarce Medical Resources. Roman Catholic Perspectives."[2] The purpose of the project (1997-2002) was to share – from different belief systems inside the religious context in general and the Roman Catholic Church in particular – our views on how to approach the upcoming reality of scarce medical resources. The first meeting took place in Liechtenstein (sic), ending the weekend with the shocking news on the death of Lady Diana (August 31, 1997). We met several times at Baylor College in Houston. The last meeting took place nearby Dublin, where representatives of several denominations were invited to make their final contribution, of course with the necessary moments of joyful sharing the fruits of life (whisky tasting etc.).

Eminent scholars were invited, to name some of them: Kevin Wildes, Joseph Boyle, George Khushf, M. Cathleen Kaveny, and others. There were not many Europeans present, except Ludger Honnefelder (Bonn, Germany) and Josef Seifert (an Austrian philosopher, inspired by Dietrich von Hildebrand, working in Texas, later in Chile). The difference of opinions of Honnefelder and myself with those of Tris could not be greater. In any case, I was regularly accused of defending a communist system: I tried to make clear that Christianity was at the basis of one of the greatest achievements in society, namely the creation of a democratic social security system in Western Europe ("Equal Care as the Best of Care. A Personalist Approach", was finally my contribution to the book). Afterwards, observing the debate in the USA on the Obama Health Care Plan, I understood how difficult it must have been for him

[1] Lisa M. Rasmusen, Ana Smith Iltis & Mark J. Cherry (eds.), "At the Foundations of Bioethics and Biopolitics: Critical Essays on the Thought of H. Tristram Engelhardt, Jr.", *Philosophy and Medicine* 125 (2015): 1-275.

[2] H. Tristram Engelhardt, Jr. & Mark J. Cherry (eds.), *Allocating Scarce Medical Resources. Roman Catholic Perspectives* (Washington DC: Georgetown University Press, 2002), 331.

to really "understand" the solidarity based health care system in Western Europe. I could not convince him and finally did not meet him any more since the end of our project meetings.

However, here I discovered what so many students of Tris describe: he was a charming host, being concerned about the wellbeing of all the members of the project group, taking care of providing a creative interchange, and finally, also publishing an excellent book with inspiring contributions. Therefore, I now can testify that my meetings with Tris opened my mind ... and is that not what we all should realize in our life?

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The Church's Prayer on Deathbed and the Moral Reflection on Euthanasia

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Abstract

Associating a prayer that belongs to the long-standing tradition of the Orthodox Church with a contemporary theme, such as euthanasia, may seem strange, as at the time the prayer was written, the ethical consideration of euthanasia was certainly unknown. However, the timelessness of illness, pain and death, the existential agony of human at the end of life and the unwavering commitment of the Church to the suffering and dying person allow, in our view, the exploration of the Church's prayer on deathbed in the context of the good and desirable death. It is noteworthy that, while in all liturgical texts the cure from illness is pleaded for, in this specific prayer the desire of death is expressed, in order to redeem human from the "unbearable suffering due to the bitter illness". In this perspective the content of the prayer is presented, which seems to have important elements in common with the modern demand for a positive response to euthanasia, namely the free will of the patient and the desire for a quick and painless death. Despite these, the prayer on deathbed does not favor the acceptance of euthanasia for two reasons: Firstly, the request for a painless death is addressed to God and its fulfillment is expected only from Him and not from the doctor or the relatives. And second, this request is accompanied by a plea for the forgiveness of the sins of the moribund, expressing his faith and hope in eternal life, his trust in God and not despair and distress. The article is concluded with some remarks concerning the understanding of good death from the point of view of orthodox ethics.

Key-words: *euthanasia, suffering, illness, prayer on deathbed, orthodox ethics, Tristram Engelhardt Jr.*

I. Introduction

Associating a prayer that belongs to the long-standing tradition of the Orthodox Church with a contemporary theme, such as euthanasia, may seem strange, as at the time the prayer was written, the ethical consideration of euthanasia was certainly unknown. Can a prayer with liturgical use since the first millennium respond to the management of a painful and incurable disease at the end of

life? If the sought out answer relates to the use of modern medical applications for the extension of life, then obviously the study of the prayer on deathbed (εὐχή εἰς ψυχορραγοῦντα) is futile. If, however, the answers we seek relate to what the term euthanasia stands for, i.e. the good death, and in this context to the questions, "if", "when" and "how" is it good for man to intervene in the natural occurrence of death, then this specific prayer of the Church is, in our personal view, particularly useful for the exploration of the theological approach to the issue of euthanasia. Besides, the illness, pain, death and existential agony of human at the end of life are not contemporary phenomena, but are of timeless nature. The prayer on deathbed does not simply reveal the unwavering commitment of the Church to the suffering and dying person, but is a valuable liturgical text expressing in a genuine way the teaching, tradition and experience of the Church regarding the end of life. It refers to the exact context, in which the issue of good death and euthanasia is dealt with today. So, we will present the essence of the prayer, with emphasis on those elements that can be utilized in the contemporary reflections. Furthermore, the contribution of the theological approach to euthanasia will be explored and finally, the article concludes with the formulation of certain remarks.

II. Presentation of the prayer on deathbed

Before we present the content of the prayer on deathbed, we consider it necessary to refer briefly to the position of prayer in the orthodox liturgical tradition. Praying to God at the end of life is an ancient Christian tradition, which expresses man's agony at that crucial moment, as well as his faith in God. This practice is followed from the example of Christ, who prays both in the garden of Gethsemane before his arrest, as well as on the cross. Christ, as a human, is agitated in the face of his imminent death and asks the Father to avoid this difficult experience, but in the end asks for His will be done.[1] Christ's words on the cross have a prayerful nature, by which he forgives his crucifiers (Luke 23:34), he expresses the experiencing of the abandonment of the Father (Matthew 27: 46-47, Mark 15:34) and he delivers His Spirit to the Father (Luke 23:47, John 19:30). A similar example in the Bible is the Archdeacon and First Martyr Stephen, who at the time of his stoning prays to God to accept his spirit and to forgive the sin of his killing (Acts 7:59-60). On the basis of these biblical testimonies, the ancient Church developed impromptu prayers for the last moments of a person's earthly life, which are recorded in patristic and hagiological sources.[2] When later on, the various prayers acquired liturgical identity and comprised the missal, the prayer on deathbed was included in them in several variations and with different titles. It is noteworthy that after the 13th century the prayer

[1] Mathew 26:39-40; Mark 14:35-36; Luke 22:41-42; John 12:27.

[2] Dimitrios Tzerpos, *Η Ώρα του Θανάτου και η Ακολουθία εις Ψυχορραγούντα: Συμβολή στη Μελέτη του Βυζαντινού Ευχολογίου* (Athens: 2007), 34-45.

developed into a procession on deathbed (ἀκολουθία εἰς ψυχορραγοῦντα), even with its own iconographic cycle.[3]

The content of the prayer can be divided in four thematic sections: a) viewing of death as an expression of divine philanthropy; b) pleading for death to come, in order to redeem human from the unbearable suffering and pain of the bitter illness; c) asking for the forgiveness of the sins of the dying person and his rest in the kingdom of heaven along with the righteous and finally; d) believing that God is the repose of souls and bodies and the hope of the believers.

The prayer firstly refers to the creation of man by God "from the earth", that is to say from the soil, which is reformed "in nature and beauty" and is beautified "in glory and righteousness" of the divine "glory and kingdom."[4] While human is created and derived from soil, he is asserted to carry the image of God and have the prospect of likeness with Him. The prayer does not further explain the teaching of man's creation in the image of God, which refers according to the Church Fathers to the free will and dominion over creation[5], however, emphasis is given on the disobedience of God's commandment, which led the first-created humans to blacken the image of God and to experience death. Death enters the world because man "violated the commandment" of God and "received the image but did not preserve it". Therefore, the responsibility for the coming of death weights on the first-created humans, who had been given a specific commandment and had been warned that the consequence of its violation is death. However, although death is attributed to the misuse of the freedom of human and occurs as a consequence of disobedience, it is presented in the prayer as a mean of the divine love and philanthropy. God "charitably", as it is said, defines the separation of the soul from the body "*so that the evil shall not become immortal*". With this justification, which is encountered in many patristic texts[6], death is presented as the factor that prevents the perpetuation of evil and confines the egoism and arrogance of man. Thus, while God created man as a psychosomatic entity, death allows the temporary separation of the soul from the body which is decaying "*to what it was created of*" and ends up in the soil, from where it initially derived. This separation, however, is temporary for the benefit of man, since God will once

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[3] Dimitrios Tzerpos, *Η Ώρα του Θανάτου*, 47-108.

[4] For the text of the prayer on deathbed see *Μικρόν Ευχολόγιον ή Αγιασματάριον* (Athens: Apostoliki Diakonia of the Church of Greece, 2009[18]), 230-231.

[5] Saint John the Chrysostom connects the image of God mainly to the task of managing the creation. See John the Chrysostom, *Πρός Σταγείριον* 1, 2, PG 47, 427-428, and *Εἰς Ἀνδριάντας* 7, 2, PG 49, 93. Saint John of Damascus connects the image of God mainly with the freedom of man to shape the course of his life by having the ability to accept the will of God and to lead to His likeness or to discard it and be led afar from Him. John of Damascus, *Ἔκδοσις ἀκριβής τῆς ὀρθοδόξου πίστεως* 2, 12, PG 94, 920.

[6] John the Chrysostom, *Πρός Σταγείριον* 1, 3, PG 47, 429, and *Εἰς Γένεσιν Ὁμιλία ΙΗ'*, 3, PG 53, 151; Gregory the Theologian, *Λόγος ΛΗ΄ Εἰς τά Θεοφάνεια*, 12, PG 36, 324D.; Gregory of Nyssa, *Εἰς Πουλχερίαν λόγος*, PG 46, 877A.

again restore their unity in the common resurrection and judgement of all during the second advent.

Following, the three persons of the Holy Trinity are invoked at the request for death to come and the rest of the moribund patient. The relative passage is as follows:

> "For that we are praying to you the one with no beginning and eternal Father, and your only-begotten Son and your Holy Spirit that of one essence and the life-giving, to separate the soul from the body of your servant (name) and be put in rest".

The same request is repeated a little further in an even more pleading way, as it also describes the plight that the man has suffered from illness and unbearable pain:

> "Yes, God the Lord, hear me your sinful and unworthy servant in this hour, and relieve your servant (name) from this unbearable pain, and this bitter illness and put him to rest, among the spirits of the righteous".

We can, therefore, notice that in this death stage Church is not praying for the prolongation of life but, on the contrary, for the painless advent of death. The desire to relieve the patient of the pain and have him repose in death is linked with the request for forgiveness of the sins that were committed in knowledge or ignorance, so that the person is forgiven and numbered after death with the righteous of the kingdom of heaven. The emphasis on the remission of sins before the coming of death is shown by the fact that certain severe sins are named and be followed by the invocation of divine goodness for their forgiveness. The prayer is concluded with praise to the Trinitarian God and the expression of the belief that God is the rest of souls and bodies.

III. The association of the prayer to the theological approach to euthanasia

The impressive advances in medical science over recent decades have made it possible, in many cases, to support the continuation of the function of human body and implement interventions to prevent the death of the patient and prolong his life. However, this increase is often not accompanied by treatment of the disease or by improving his quality of life, but in fact it is an extension of the difficult death stage. So, concerns are often expressed about the medically proper treatment of the patient. In this context, the request for euthanasia is presented today as the patient's right to decide freely for the time and the way of his death, a decision that the doctor is obliged to respect and realize. Especially, while the main reason a patient desires the end of his life is to be liberated of the pain and to die in dignity, euthanasia is

protruded by its supporter as the right to a free, painless and dignified death.[7]

The prayer of the Church on deathbed seems to have important elements in common with the modern demand for a positive response to euthanasia, namely the free will of the patient and the desire for a quick and painless death. The prayer presupposes free will, as it is not read for every moribund patient, but only for the one who expresses the desire to be eased from the suffering the illness is causing.[8] It is characteristic that death is pleaded for with this prayer, while in other liturgical texts healing from illness is requested, as well as rehabilitation of the shattered state of the patient's health. Moreover, the same missal containing the prayer on deathbed also includes many prayers for the cure from illness, while among the holy sacraments of the Church there is also the Anointing of the sick, which is made to heal the soul and the body. It is also worth noting that among the prayers that are repeated in many Church devotionals, there is an orison for protection from sudden death, which is numbered among many other great tribulations, such as epidemic, hunger, earthquake, fire and civil war. The prayer is as follows:

> "we pray that this holy church and this city, and every city and country, may be protected from anger, plague, famine, earthquake, flood, fire, sword, foreign invasion, civil war and sudden death."

The prayer on deathbed, in our personal view, does not differentiate in regards to the view of illness and death from the rest of the liturgical tradition, but on the contrary, integrates in it very naturally. The believer prays for the healing of sickness and the preservation of health, but when the time of death comes, in the name of God and in the expectation of eternal life, expresses the request for a christian and painless end. Sudden death is therefore considered unwanted, not only because it is untimely and brings a lot of sadness to the relatives of the deceased, but especially, because it deprives the faithful of the time to prepare spiritually before death comes. This preparation is carried out with the prayer on deathbed, as it is not only painless death that is pleaded for, but also forgiveness of the dying, so that he can receive redemption and salvation from God. This dual request resembles the well-known request of Divine Liturgy "that the end of our life may be Christian, painless, unashamed and peaceful, and for a good defense at the fearful judgement seat of Christ", which

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[7] For more details about the views of the supporters of euthanasia, as well as the contradictions to them see Miltiadis Vantsos, *Η Ιερότητα της Ζωής: Παρουσίαση και Αξιολόγηση από Άποψη Ορθόδοξης Ηθικής των Θέσεων της Ρωμαιοκαθολικής Εκκλησίας για τη Βιοηθική* (Thessaloniki: 2010), 189-211.

[8] It is obvious that pastoral management on the part of the priest is very important. For more about the pastoral dimension of the subject see Serafeim Kalogeropoulos, "Η Ποιμαντική των Θνησκόντων και η Ακολουθία εις Ψυχορραγούντα", in *Το Μυστήριον του Θανάτου εις την Λατρείαν της Εκκλησίας: Πρακτικά Θ΄ Πανελληνίου Λειτουργικού Συμποσίου* (Athens: Holy Synod of the Church of Greece, 2009), 543-577.

also advocates for a painless and peaceful death. As in the prayer on deathbed, the desire for a peaceful end is accompanied by the desire also for a Christian end, so that the faithful may have a good apology before Christ. However, despite of these similarities, the request of the Divine Liturgy does not request the advent or precipitation of death, but is expresses the desirable way for death to come.

The most contiguous in meaning reference to the prayer on deathbed is, in our view, the prayer of Job, who comes to such a grave situation that he asks in death relief from his pains. As it is narrated in the homonym book in the Old Testament, Job, without knowing the cause of the trials he is suffering, suddenly loses all his property and goes from being extremely rich to being very poor, loses all ten of his children, his health is shattered, he suffers from unbearable pains, he is abandoned by his friends, and becomes the object of peoples mocking. In this situation Job prays and asks to die in order to be redeemed from his sufferings.[9] He says: "so that I prefer strangling and death, rather than this body of mine. I despise my life; I would not live forever. Let me alone; my days have no meaning."[10] Is it therefore the case of Job and the request of the prayer on deathbed two cases that can be paralleled with the contemporary request for euthanasia?

Although there are undoubtedly important common elements, both in the prayer on deathbed and Job's prayer, not only they do not favor the request for euthanasia, but offer, in our personal view, arguments in favor of its rejection, since there are two very important differences between them: Firstly, the request for a painless death is addressed to God and its acceptance is expected from Him and not from the doctor or the relatives. And second, the request for a painless death is accompanied by a plea for the forgiveness of the sins of the moribund, expressing his faith and hope in eternal life, his trust in God and not despair and distress.

These differences between the painless death of the prayer on deathbed and the painless death that is shown in the context of euthanasia reflect a radically different understanding of illness and death. In the first case the believer prays to God and asks for painless death. He does not personally decide for the end of his life, but he trusts God and puts his hope in Him. As Saint Basil the Great underlines, "death occurs when life reaches its limits, which since the beginning was judged by God's righteous judgement, who has foreseen every one of ours best interest from afar."[11] The believer therefore, places his hope in the divine providence and love, because he knows that the most merciful and all-knowing God defines the end of his life to his benefit. He does not underestimate pain – that's why he is praying for a painless death – but

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[9] As Fr. Joel Giannakopoulos remarks in his interpretation, Job wants to die in the will of God and does not commit suicide. See Joel Giannakopoulos, *Η Παλαιά Διαθήκη κατά τους Ο'*, vol. 23 (Thessaloniki: 1986[4]), 76; Joseph Tham, "Communicating with Sufferers: Lessons from the Book of Job", *Christian Bioethics* 19, no. 1 (2013): 90-91.

[10] *Job* 7:15-16, as well as 17:1.

[11] Saint Basil the Great, *Ὅτι οὐκ ἐστιν αἴτιος τῶν κακῶν ὁ Θεός*, 3, PG 31, 333B.

he endures it waiting for God's redemption. He does not just hope for discharge from pain, but anticipates the absolution of the sins and the eternal life after death.[12] This is the reason why the prayer on deathbed is not limited to the painless death, but also includes the salvation and the enjoyment of eternal life. On the contrary, the request for euthanasia is based on the belief that life is meaningless under the burden of illness and pain, that there is no longer hope and the patient has lost his dignity and therefore, what is actually left for him is a painless, free and dignified death.[13]

IV. Closing Remarks

Based on the above we can we can draw the following remarks:

a) The Church fully understands human agony regarding the end of life and shares the desire for a peaceful death. Actually, the inclusion of this request in the Divine Liturgy reveals the importance that is attributed to the end of life. And the prayer on deathbed, by which God is asked for redemption of the disease with the advent of death confirms the positive view of the desire for painless death. The human being by nature does not want to suffer pain and the orthodox theology does not hesitate to classify pain as "natural evil" as it is experienced by man as something unpleasant and bad. Meanwhile, by praying for the relief of pain the pedagogical significance and its benefit for the spiritual life is underlined, since pain brings out the frailty of human nature, restrains vanity and selfishness and helps man to achieve humiliation and repentance granting salvation. This understanding of pain as "natural evil" contradicts with the true evil, which is sin. Thus, while Church prays for the avoidance of pain, the healing of the sick and the painless death, honors in the same time the painful death of the martyrs, who endured pain and sacrificed their lives for their faith in Christ.

b) The fact that with the prayer on deathbed the painless death of the patient is requested reveals that the extension of life should not be considered as an end in itself or something to be achieved by any means or price. The exhaustion of every means for the longest possible extension of life, even if it is diametrically opposed to the decision for euthanasia, has as a common characteristic human's desire to define the end of his life.[14] Besides, according to the Christian teaching, life is not complet-

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[12] Miltiadis Vantsos, *Το Επιστημονικά Εφικτό και το Ηθικά Ορθό: Προσεγγίσεις Ορθόδοξης Βιοηθικής* (Thessaloniki: 2016), 165.

[13] For more on euthanasia from the point of view of orthodox ethics see Christodoulos Paraskevaidis, *Νεώτερες Απόψεις περί της Ευθανασίας* (Athens: 1986); Georgios Mantzaridis, *Χριστιανική Ηθική*, vol. II (Thessaloniki: 2003), 653-660; Apostolos Nikolaidis, *Από τη Γένεση στη Γενετική: Εγχειρίδιο Βιοηθικής* (Athens: 2006), 236-262; Miltiadis Vantsos, "Euthanasie als Sinnfrage von Leben und Tod", *Orthodoxes Forum* 15 (2011): 173-179; Miltiadis Vantsos, "Η Αφαίρεση της Ζωής: Ο Βιοηθικός Προβληματισμός στα Ζητήματα της Έκτρωσης και της Ευθανασίας", *Πνευματική Διακονία* 4 (2011): 42-52; Konstantinos Kornarakis, "Ευθανασία: Ηθικά Διλήμματα Πολιτισμικής Αυτοσυνειδησίας", *Βιοηθικά* 3, no. 2 (2017): 81-94.

[14] Eberhardt Schockenhoff, *Ethik des Lebens: Ein theologischer Grundriß* (Mainz: 1998[2]), 332-333.

ed in the contact of present, since it is followed by the eternal life after death. For these reasons, the Church does not require the utilization of all medical means for the prolongation of life. As it is pointed out in the text published by the Bioethics Committee of the Church of Greece on euthanasia,

> "The use of medical intervention should be extended to the point where the emerging complications and additional problems alleviate the patient's pain and do not prolong his suffering. God is the one Who allows pain; therefore, it should be neither generated nor intensified by medicine. The prolongation of life and alleviation of pain should coincide with the volition of God; it should not become an end in itself."[15]

c) The prayer on deathbed highlights the importance of the last moments of human life. The patient can pray, ask God for the forgiveness of his sins and for redemption. Furthermore, he can confess, receive the Divine Eucharist, can reconcile with people with whom he had fallen apart, can forgive and be forgiven, can receive love and can teach with his word and example. The last stage of life holds therefore great importance for the spiritual life both for the dying and for his loved ones, so it must be dealt with accordingly.

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Bioethics and Reason in a Secular Society: Reclaiming Christian Bioethics

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Abstract

Bioethics evolved from traditional physician ethics and theological ethics. It has become important in contemporary discussions of Medicine and ethics. But in contemporary secular societies the foundations of Bioethics are minimal in their content and often rely on procedural ethics. The Bioethics of particular communities, particularly religious communities, are richer than the procedural ethics of a secular society. Religious Bioethics, situated within religious communities, are richer in content in general and in the lived reality.

Key-words: *secular, multicultural, Bioethics, consent, faith*

Bioethics provides a fascinating starting point to study contemporary cultures, public argument, and intellectual history in the West. Bioethics emerged, in part, as a result of the scientific and technological developments in medicine. Another influence on the emergence of Bioethics in secular societies has been the emergence of moral pluralism that comes from respect for individuals and cultures. In tracing the evolution of the field one can more cleanly understand the challenges for secular Bioethics and the appeal, for many people, for a religious basis for Bioethics. I will argue that Bioethics in a morally pluralistic society will be limited in terms of its content. So, it is not surmising that people will also look to their own religious traditions to give content to their decisions.

I. Defining Bioethics: The Emergence of the Field

In recent years there has been a good deal of reflection on the development of Bioethics as a distinct field.[1] These reflections, though diverse, can serve as a basis

[1] Jennifer K. Walter, MD and Eran P. Klein, MD, Eds, *The Story of Bioethics: From Seminal Works*

for understanding the field and can help us understand the challenges for developing public Bioethics in a secular society.

If someone knew nothing about the history of medicine or Bioethics that person might wonder about the relationship of ethics and medicine before the emergence of Bioethics in the late 1960s.[2] Contemporary discussions in Bioethics can sometimes leave the impression that there was no ethical reflection in medicine before the emergence of Bioethics. Of course, this is a false impression which is easy to correct. There has been long association of philosophy, ethics, and medicine dating to the ancient Greek schools of medicine and many of these associations have been about ethics. In the ancient world there were several different schools of philosophical reflection about medicine. One thinks of Hippocrates, Galen, Democrates, Plato, and Aristotle[3] as examples of ancient philosophical reflections on medicine. However, these schools, though they differed in many respects, were primarily concerned about the conduct of the physician's conduct in a paternalistic relationship. In addition to philosophical and medical reflection there has also been extensive theological reflections on ethics and medicine in many religious traditions.[4] Indeed, one can argue that contemporary Bioethics emerged from the writing and reflections of theologians and religious thinkers.[5]

In light of this long history of ethical reflection involving medicine, one might ask: Why was there a need to develop a new area of ethical reflection that has been named Bioethics? Why not simply rely on the various traditions of medical ethics which already existed? I would argue that there are at least three developments that encouraged the emergence of Bioethics as a field distinct from the traditional sources of medical ethics.

First, I will argue that traditional medical ethics was really physician ethics[6] and

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to Contemporary Explorations (Washington, DC: Georgetown University Press, 2018).

[2] I use the term field consciously to distinguish Bioethics from specific disciplines. While Bioethics has been dominated by philosophical and legal thinking it is an interdisciplinary field engaging medicine, law, philosophy, theology, and many other disciplines. See Albert Jonsen, *The Birth of Bioethics* (New York: Oxford University Press, 1998).

[3] Paul J. Carrick, *Medical Ethics in the Ancient World* (Washington, D.C.: Georgetown University Press, 2001).

[4] Joseph Fletcher, *Morals and Medicine* (Boston: Beacon Press, 1960); Edwin F. Healy, *Medical Ethics* (Chicago: Loyola University Press, 1956); Immanuel Jakobvits, *Jewish Medical Ethics* (New York: Block, 1958); Paul Ramsey, *Fabricated Man* (New Haven: Yale University Press, 1970); James Gustafson, *The Contributions of Theology in Medical Ethics* (Milwaukee: Marquette University Press, 1975); Richard McCormick, *Health and Medicine in the Catholic Tradition* (New York: Crossroad Press, 1984).

[5] Lisa Sowle Cahill, *Theological Bioethics Participation, Justice, and Change* (Washington, DC: Georgetown University Press, 2006).

[6] H. Tristram Engelhardt Jr. and Kevin Wm. Wildes, "In The Beginning: The Emergence of Secular Bioethics", in *Advances in Bioethics: Bioethics for Medical Education*, eds. R. Edwards and E.E. Bittar, (Stamford, CT: JAI Press, 1995).

that the field emerged in response to the new choices and challenges brought about by the development of medical knowledge and technology. In the development of real choices in medicine there came a recognition that there are other people, beyond physicians, who are involved in medical decision making. A key influence in the development of Bioethics was the development of scientific medicine. The nineteenth and twentieth century witnessed the grounding of medical epistemology in the basic sciences. The modern understanding of illness is rooted in an anatomical, physiological, bacteriological, and now genetic causal factors. Changes in medical epistemology in the modern age have been tied to new, scientific standards for the acquisition and validation of knowledge. One could argue, more accurately, that modern medicine was born when the clinic and the laboratory became conjoined.[7] This union of the clinic and the laboratory transformed medicine in a number of ways. The union of the clinic and the laboratory provided a basis for the development of scientific medical knowledge and related technological interventions. Laboratory research became essential to clinical practice and research.

In the contemporary world of medical miracles, we often forget the radical impact of the scientific model on medical epistemology and medical practice. The joining of the laboratory and the clinic led to a transformation of medical knowledge and to the development of medical technology and interventions. From the development of effective surgery to the manipulation of human genes, the physician, as medical scientist, has been transformed from an observer to a manipulator of nature and the body. These scientific possibilities have led to the transformation of expectations and goals of medicine.[8]

For most of its history there was very little that medicine could actually do to help patients. Gradually, with each success, the social expectations of medicine have changed. In contemporary first world nations, people have come to think of medicine as curative.[9] In the past people looked to god, or the gods, primarily for a cure. Cures often were thought to be miraculous. Medicine was looked to alleviate the suffering of patients but not, necessarily, to cure them. Today, in first world medicine, we expect medicine to cure patients. Some have argued that with the development of knowledge and technology the very purpose of medicine has changed.

The changes that have taken place in medicine have not only been driven by the development of medical knowledge and technology. They have also been driven, in part, by development of other technologies, like the automobile or the computer, or sociological developments like the urbanization of society. These types of changes

[7] H.T. Engelhardt Jr., "Recent Developments in the Philosophy of Medicine: The Dialectic of Theory and Practice and the Moral-Political Authority of Bioethicists", paper APA Eastern Meeting, 28 December 2000.

[8] See, for example, David Callahan, *False Hopes: Why America's Quest for Perfect Health is a Recipe for Failure* (New York: Simon & Schuster, 1998).

[9] Eric Cassell, *The Nature of Suffering and the Goals of Medicine* (New York: Oxford University Press, 1991).

are important factors as they have made these new medical technologies accessible to men and women in society.[10]

While the development of medical knowledge and technology are necessary conditions to understand Bioethics, these developments alone are not sufficient to explain the emergence of this field. These scientific and technological developments are only part of the story. The creation of real choices and alternatives is a major element in the emergence of the field. To understand other elements that contributed to the field it is important to recall that traditional medical ethics had relied principally on two sources of moral guidance. One source was the traditions of professional, physician ethics.[11] The other source for traditional medical ethics was theological ethics which was well developed in a number of religious traditions.[12] Why were these sources no longer able to guide the practice of medicine in its contemporary scientific practice? To understand why neither of these sources are sufficient for contemporary medicine one must, I think, take the phenomena of moral pluralism and cultural diversity into account. What I mean by moral pluralism is the phenomenon in which people hold, not only different moral views on an issue (e.g., abortion), but also that they work out of different moral frameworks and methodologies.[13]

The development of medical knowledge and technology creates real choices and decisions for people; especially patients. Traditional medical ethics had been focused on physician ethics and judgment about what was good for a patient.[14] The development of scientific medicine gave patients choices and options about the course of treatments to be pursued or refused. If the physician and patient shared the same moral values and way of thinking, such choices may not be all that problematic. However, when patients and physicians hold different views, the understanding of medical ethics needs to be transformed beyond the judgment of the physician alone.[15] Determining what is in the patient's best interest cannot be judged by the physician alone. The physician may speak to the medical best interest of the patient but not, necessarily, the overall best interest of the patient. To make such best interest judgments the patient needs to be involved. Furthermore, in secular societies there are likely to be different religious views that shape people's judgments about what is morally appropriate. That is why procedures like informed consent has come to play such a central

[10] See, K. Wildes, "Reshaping the Human: Technology, Medicine, and Bioethics", *Jahrbuch für Wissenschaft und Ethik*, ed. D. Hüber, 227-236 (Berlin: Walter de Gruyter, 2003).

[11] L. B. McCoullough, "Laying Medicine Open: Understanding Major Turning Points in the History of Medical Ethics", *Kennedy Institute of Ethics Journal* 9 (1999): 7-23.

[12] See note 7.

[13] K. Wm. Wildes, S.J., *Moral Acquaintances: Methodology in Bioethics* (Notre Dame: University of Notre Dame Press, 2000).

[14] Robert M. Veatch, "Doctor Does Not Know Best: Why in the New Century Physicians Must Stop Trying to Benefit Patients", *Journal of Medicine and Philosophy* 25 (2000): 701-721; Robert M. Veatch, *A Theory of Medical Ethics* (New York: Basic Books, 1981).

[15] See Robert M. Veatch, *Theory of Medical Ethics* (New York: Basic Books, 1981).

role in both clinical and research ethics. Such procedures allow people to exercise judgment about what is in their best interest.

Moral pluralism not only affects the relationship of patients and physicians. It also affects the profession of medicine itself. A key part of the classical notion of a profession was that there was a moral dimension to the profession. Many people still assume that professionals act in ethical ways and that it is reasonable to have fiduciary expectations of professionals. However, with a more widespread moral pluralism, there will be different view about what is appropriate or inappropriate professional conduct. From abortion to physician assisted suicide and economic structures of medicine one finds a wide range of opinions among physicians about what is appropriate behavior. So, it becomes more and more difficult to sustain claims based on an internal morality of medicine which had been a cornerstone to traditional medical ethics. The internal ethic of physicians becomes less and less tenable.

At the same time, one cannot assume, in a secular, pluralistic society, that theological ethics will supply the type of guidance that is needed. In several religious traditions there have been long, well developed reflections on medicine, its uses, and ethics. In light of these traditions it is not surprising that theologians played such an important role in the development of Bioethics. Many who first grasped the profound impact of developing medical knowledge and technologies were theologian. They were often the first voices to raise broader social questions that transcended traditional physician ethics. As the field of Bioethics began to emerge it is not surprising that many theologians, working out of faith traditions that addressed questions of medical care, would be interested in these questions. These traditions had long standing reflections on medicine and health care. They were able to easily engage the changes that were taking place in medicine. Yet, fairly quickly, theology came to play less and less of a public role in Bioethics. The role of theology and religious commitments has been a difficult question not only for Bioethics but for many areas of public life in the United States. But, as ethicist Daniel Callahan has argued, Bioethics became acceptable in America because it Apushed religion aside.[16] Callahan does not argue that religious thought became irrelevant to these questions. Rather he argues as Bioethics became a form of "public" discourse[17] it moved to more the more "neutral" languages of philosophy and law and away from the closed language of the medical profession and theological discourse.[18]

Third, the development of medical knowledge and technology often involved the investment of public resources and may be subject to public regulation. There are

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[16] Daniel Callahan, "Why America Accepted Bioethics", *Hastings Center Report,* Special Supplement (1993): 8-9.

[17] Arthur L. Caplan, "What Bioethics Brought to the Public", *Hastings Center Report,* Special Supplement (1993): 14-15.

[18] See L. B. McCullough, "Laying Medicine Open: Understanding Major Turning Points in the History of Medical Ethics", *Kennedy Institute of Ethics Journal* 9 (1999): 7-23.

questions about how much a society should invest its resources into such research and technology. And there are questions about the extent of government regulation, and the justification for it, of emerging technologies. In a secular society, with different religious traditions there will be real challenges to determine the extent and manner for religious traditions and communities to have voice in the regulatory arena.

Bioethics then emerges as the result of several developments in contemporary secular societies. First there is the development of medical knowledge and technology which expands options and creates real choices in medical care. With these choices the question arises of who is the appropriate authority to decide what is or is not appropriate treatment. Such choices involve more than medical judgment. Second, the Bioethics emerges, in part, as a response to the multiculturalism and moral pluralism in secular societies like the United States. The emergence of different moral voices and views means that there will be differing views on appropriate medical care. Again, this judgment about what is appropriate care is more than a strict medical judgment. Third, the field emerges as a way to help people from different moral views navigate these choices and cooperate together. In studying the emergence of the field one can make the claim that Bioethics provides an insight into the life and practices of a society.

The tension of global and cultural ethics is a new version of an ancient problem. It was a problem faced by the Romans with their multi-cultural empire. Multi-culturalism and moral pluralism represent a challenge for Bioethics in a secular society. The difficulty will be to avoid a complete relativism where only power wins the day or the simple assertion of a global ethic.

II. Bioethical Consensus in a Secular Society

There has been an ancient tradition which intertwines Medicine and Ethics. Contemporary Bioethics reflects not only a change in the field but also represents significant shifts in contemporary culture. There are rich traditions of medical ethics which are part of religious traditions. (examples/footnotes). And, there is an ancient tradition of medical ethics based in physician ethics (cites). Contemporary Bioethics, I would argue, drew out of these different traditions. And, I would argue that the shift came about for two reasons. One was the success and development of Medicine which offers people a wide array of choices and decisions. One of the key questions becomes the role of the patient, or her agent, in making those decisions, because contemporary Western societies are much more diverse and pluralistic.

Bioethics is often understood as a field that resolves such moral controversies by appeal to reason. In trying to understand the claims that are often made for global Bioethics it is essential to understand the claims that are often made in the name of "bioethical consensus."[19] The notion of consensus is important for those who want

[19] One can argue that given the dilemmas of modern moral philosophy to speak about moral

to claim global Bioethics. The claims about consensus are something like a bioethical Ajus gentium in a field that understands itself as resolving controversies. The field must address questions about how well it is able to mediate and resolve bioethical controversies. Success in such resolution is crucial to the idea of global Bioethics. But, in order to gage the extent of such success it's worthwhile to look below the surface of such consensus.

A. Pluralism and Consensus

Consensus can take place at a number of different levels: at the level of belief, it affects theory and cognition; at the level of action, it is pragmatic and practical; and at the level of values, it enables coherence and motivation. For consensus to play an important role in bioethical method one needs to understand which of these levels is being asserted. Thus, it becomes important to ask why a consensus exists.[20] Is it mindless conformity? Is it about a submission to or support of existing power structures? Or is the consensus driven by the weight of appropriate evidence? Nicholas Rescher suggests that one should ask whether the consensus being appealed to is an idealized version of consensus or one that is practically attainable. Philosophers tend to use the former while social scientists deploy the latter. Understanding what is meant by consensus when it is used in Bioethics is important for exploring the extent and nature of normative claims. Also, it is important to understand at what level consensus attributed. As I will argue, there are a number of judgments that are embedded in moral judgment and understanding where the consensus actually occurs is important. It could take place on a very general, broad level (e.g., Do good and avoid evil). But as a field Bioethics often addresses much more particular, specified judgments. So, when people appeal to a Abioethical consensus it is important to probe and understand what is being appealed to.

One way to understand the complexities of moving from general to particular judgments is to examine moral judgment. The nature of agreement, disagreement, consensus, and dissensus is best understood through an analysis of moral judgments. Of course, the questions of judgment take us back to the assumptions people make about the field of Bioethics. Is the field to function as the clinical Aanswer person or the clinical Solomon when there are moral disputes? Moral judgments should be understood not simply as choices about what should be done in a particular situation, but as involving logically prior judgments about how one justifies such choices. One's assumptions about moral rationality are a prior judgment that commit one to

truth that philosophers have shifted claims away from truth towards consensus. In Bioethics, for example, see, Jonathan D. Moreno, *Deciding for Others* (New York: Oxford University Press, 1995).

[20] Nicholas Rescher, *Pluralism: Against the Demand for Consensus* (New York: Oxford University Press, 1993), 15.

a particular view of the moral world. For example, those in the natural law tradition understand moral rationality in a different way from those who deploy an instrumentalist view. Charting the geography of judgment reveals a number of points for potential agreement and disagreement.

The reality of moral pluralism in a secular society illustrates that there are many ways in which to construct the categories of the moral world. By distinguishing the three levels or types of judgment (object, justification, foundation) involved in moral argument, the spectrum for possible moral agreement and disagreement is greatly increased. It ranges from a strong sense of agreement, in which we are of one mind on how and why to proceed, to a weaker sense of proceeding together but only for a specific, limited venture.

The complex spectrum of relationships that lies between complete agreement at the levels of object, reason, and foundation to complete disagreement on those levels can be summarized under eight headings.

1. Object level agreement with agreement on justification and foundations.
2. Object level agreement with agreement about justification and disagreement about foundations.
3. Object level agreement with disagreement about justification.
4. Object level agreement with agreement/disagreement in part on the levels of justification.
5. Object level agreement with disagreement about both justification and foundations.
6. Object level disagreement with agreement on justification and foundations.
7. Object level disagreement with justificatory agreement/disagreement in part.
8. Object level disagreement with disagreement about justification and foundations.[21]

The possibilities and the limits of each genus of controversy resolution in Bioethics can be analyzed under these eight headings. To reach agreement regarding justification there needs to be prior agreement on what counts as a relevant moral appeal and what is a proper set of moral reasons to which one could turn. Unless moral agents stand within the same foundational framework, they will not reach agreement on how moral judgments are justified.

Boyle's essay raises the difficulties associated with moral judgment. The more carefully one examines the complexities of moral judgment the more cautious one

[21] K. Wm. Wildes, S.J., *Moral Acquaintances: Methodology in Bioethics* (South Bend: University of Notre Dame Press, 2000).

should become about the possibility of a global Bioethics. Even if there is significant agreement on a global level, which there often is not, it is hard to grasp how such agreement will help on the level of judgment which so often at the heart of Bioethics.

The different levels of judgment point out the fragility of any claim for consensus. The levels should make anyone skeptical of the depth of any consensus.

B. The Sociology of Agreement and Consensus:

The field of Bioethics has been marked by the work of numerous committees and commission on the national and international level. It is a field that has also been marked by the work of institutional ethics committees and review boards. The work of these groups has been important to establishing the credibility of the field. The work of various Bioethics commissions and committees provide examples of moral agreement in a secular, morally pluralistic culture. Given that commissions have played an inspirational role in the development of Bioethics, it is important to examine how such committees and commissions achieve agreement. The sociology of such commissions raises important and interesting questions about what conclusions can be drawn from their work. The first question bears on the composition these committees. Usually people who are selected for such work are, at least, moral acquaintances. One rarely finds individuals with strongly different views appointed to the same committee or commission. In the selection of members, the committee's agreement is already being managed. A second question focuses on the committee's process. Such groups are shaped by a dynamic toward reaching a consensus.[22] The expectation, before the commission begins work, is that the committee will reach consensus on certain recommendations. A third question focuses on the establishment of the agenda of the committee. Insofar as the committee is mandated to act in certain questions (and not in others) the possibility of disagreement is reduced. Notice how the work of such groups contrasts with the exchanges between individuals with great moral differences.

The control of the agenda is a crucial point often overlooked in the heralding of agreement by committees. A necessary condition for resolving a moral dispute is consensus regarding the essence of the dispute. So often in Bioethics the most difficult problem is the lack of a common description of a moral controversy (e.g., abortion, assisted suicide). Is abortion about rights of choice or the killing of an innocent human being? Is physician assisted suicide an act of mercy or an act of murder? If an agenda is established before a committee or commission begins its work, then the mapping of a general moral geography has already begun. The agenda not only

[22] See Jonathan Moreno, "Consensus, Contracts, and Committees", *The Journal of Medicine and Philosophy* 16 (1991): 393-408; and J. Moreno, "Consensus By Committee: Philosophical and Social The Concept Aspects of Ethics Committees", in *The Concept of Moral Consensus: The Case of Technological Interventions into Human Reproduction*, ed. K. Bayertz, 145-162 (Dordrecht: Kluwer Academic Publishers, 1994).

identifies the problem, but also provides a way whereby differences are confined and minimized.

Understanding these sociological elements should lead philosophers and ethicists to be cautious about how one should evaluate the claims of agreement and its depth. It is helpful to remember that agreements and disagreements can be found at a number of points in bioethical discussions. We simply need to be clear on what is being agreed to and not make extravagant claims.

There are a number of interesting examples of consensus ethics and statements in public Bioethics. One recent contrast is the work of President Clinton's National Bioethics Advisory Commission (NBAC) and President Bush's President's Council on Bioethics (PCB). Both groups examined the question of stem cell research. While there were similarities of opinions, each group reached differing conclusions about the direction, and ethical justification for, federal policy on stem cell research. When President Bush did not renew the terms of two members of the PCB who had dissenting views on embryo research[23] it provided an interesting example of managing bioethical consensus. James Childress gives an older, though very insightful account of ethical consensus in the public forum.[24]

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[23] Scott Smallwood, "Bush Drops 2 Supporters of Embryo Research From Bioethics Panel', *The Chronicle of Higher Educations*, 1 March 2004 http://chronicle.com/prm/daily/2004/03/2004030103n.htm and "Two Scientists From Bush's Bioethics Council Say Panel's Reports Favor Ideology Over Facts", G. Blumenstyk, *The Chronicle of Higher Education*, 8 Mach 2004 http://chronicle.com/prm/daily/2004/03/2004030801n.htm.

[24] James Childress provides an interesting and instructive case study in the management of agreement and consensus in Bioethics. Childress examines the deliberations of the Human Fetal Tissue Transplantation Research Panel (hereafter, HFTTR). In 1988 a moratorium was declared on the use of federal funds for HFTTR by Robert Windom, then Assistant Secretary for Health (U.S. Department of Health and Human Services). The National Institutes of Health appointed the HFTTR Panel in the fall of 1988 to respond to ten questions raised by Secretary Windom. Even before it began work, Secretary Windom and the NIH had given the HFTTR Panel significant help in its task since the framing of issues directs the ways in which any moral problem can be resolved. The framing process itself can make the moral pluralism of a committee more manageable. In the case of the HFTTR Panel, Assistant Secretary Windom had set the agenda in his ten questions. Childress notes that Windom's questions focused on the linkage between abortion and HFTTR practices. Indeed, Childress argues that Windom's questions constrained the Panel's deliberations. Childress himself makes the point that a different set of questions could have led to different outcomes. What is of interest here is that the process of deliberationSand its outcomeSwere helped and directed by the charge given to the Panel. As one looks to the agreements and consensus of panels, commissions, or hospital ethics committees, one needs to examine how the boundaries and agenda of deliberation were established.Childress also addresses the issue of dissent in the panel's work. He says that two of the eleven members had substantial dissent. The two dissenting Panel members produced a dissenting report, such that Apanelists in the majority later expressed their concern that such a long and eloquent dissent would simply smother the report's brief responses. Childress notes that an additional meeting of the Panel was called to structure the form of the final report so that it would not be overwhelmed by the dissenting report. The discussion of dissent raises two important questions. First, how much agreement is necessary to a consensus? If a committee is unanimous, the consensus is obvious. However, absent unanimity, and when there is strong dissent, the degree

Childress's observations remind us that when people claim agreement, it is important to know what types of questions were asked and agreed to. His account raises anew the question of how and what kinds of agreement are possible in a secular, morally pluralistic society. Contrary to the Jonsen-Toulmin experience in the work of the National Commission, Childress cites agreement on the level of principle.[25] It is possible that different methods of Bioethics may be appropriate to different activities. For example, issues of public policy, or institutional policy, may be better articulated as principles insofar as principles give broad guidelines for actions. At the same time, particular clinical issues may be better addressed by the agreement of cases. Since method and content cannot be separated it is clear that different methods reflect different moral views.

Committees and commissions have come to play a central role in Bioethics. From local hospitals and nursing home ethics committees to national policy commissions, committees have taken on important roles in moral deliberations. As one examines the work of such groups, one becomes aware, however, of the importance of power and control in guiding the resolutions of such committees. The power to set the agenda, membership, and timetable are crucial to reaching any agreement. The Childress account helps us to understand how the agreement of such commissions is managed. It relies on both the agenda of the commission being set and the members of the commission not dissenting in bad faith. That such agreements are managed should not be surprising. Governments, like the people who run them, often seek the opinions of others to support a desired policy or to suppress an unpopular one. The Health Care Task force of the Clinton Administration assembled an ethics task force. Members of the task force shared some common assumptions about society and health care that were important for their deliberations.[26] It is not hard to imagine how the conclusions of the committee would have been very different had its membership been altered in substantial ways.

Again, a good example of such managed solutions in the presidential Bioethics of stem cell research. The Clinton Administration's NBAC made recommendations about the use of embryos for stem cell research which were more open and liberal than those made by President Bush's Bioethics Commission, it is clear from the guidelines that he set out that the recommendations will be much more conservative and

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of consensus is difficult to ascertain. Second, is the consensus based on the moral issues? A consensus report may play on certain ambiguities. Childress, for example, points out that the questions raised by the Assistant Secretary were empirical, legal, medical, scientific, and moral. As one listens to claims of consensus it is important to determine whether the consensus is actually about the moral questions.

[25] Childress, 165ff. It is worth noting that Albert Jonsen and Stephen Toulmin offer a different account of consensus building. They argue that the National Commission reached consensus around cases (not principles) from which principles were articulated.

[26] Norman Daniels, "The Articulation of Values and Principles Involved in Health Care Reform", *The Journal of Medicine and Philosophy* 19 (1994): 425-434.

restrictive.[27] The Commission will reach very different conclusions from the last presidential commission because the membership is decidedly different and the contours of the questions have been set in very different ways.

Members are selected and agendas are set so that a desired result may be achieved. The members of the commission, unlike the Senate (in its role to advise and consent), are bound to the agendas given them. What emerges from this account is a picture of agreement that is often carefully managed and crafted. The result may be an agreement that is more causally achieved and less rationally justified than we craved. This confusion about the nature of agreement occurs often in Bioethics. The tendency is to draw principled conclusions when the conclusions are more sociological in nature.

In many ways the very emergence of Bioethics as a field (section I) argues against any thick notion of global Bioethics. Bioethics emerged in response to questions of ethics in the clinic, medical research, and the development of public policy. It emerged, in part because there were new choices for patients and researches brought on by medical advances and the advancement of medical knowledge. But these choices highlighted the differing moral views in a morally pluralistic society. And, even when views are held in common, there are differences in moral judgment as Boyle notes. Bioethics emerges as a field precisely because there isn't a global ethic that men and women can agree to. Bioethics emerges because there is disagreement and what often passes for consensus is more a matter of illusion than substance.

Just as there has been a great deal of emphasis in Bioethics on respect for persons, and their judgments, the phenomenon of global Bioethics raises important questions about respect for cultures and cultural diversity. It is not often clear, and seldom explored, how global Bioethics do not degenerate into some form of cultural imperialism.

III. Possibilities and Limits for Public Bioethics

As one examines the controversies in Bioethics it seems that the potential for a global bioethical consensus is limited. This ought not to be surprising in a morally pluralistic, secular society. Rescher notes that any talk or use of consensus must also investigate dissensus.[28] Consensus and dissensus, like health and disease, dissensus are dialectical terms, and one cannot be understood without the other. In general, the over emphasis on consensus has led to an over emphasis on agreement and not enough attention being paid to disagreement.

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[27] See National Bioethics Advisory Commission, *Ethical Issues In Stem Cell Research*, June 2000. For current documents by The President's Council on Bioethics go to http://www.Bioethics.gov.

[28] Nicholas Rescher, *Pluralism: Against the Demand for Consensus* (New York: Oxford University Press, 1993).

That there should be dissensus in Bioethics is not surprising. If morality is part of a way of life and ethical reflection is grounded in moral experience, then different experiences will lead to different views of what is or is not morally appropriate behavior. One way to understand these different bioethical views is by using a moral relativist view. Often, when people use terms like moral pluralism they are employing a relativist position. The relativist view is that it really does not matter which position one holds on any matter. However, a problem with this view is that if one holds it, he or she will have no incentive to reach a consensus with anyone who holds different views. There is no reason for anyone to negotiate a consensus if he or she has no reasons to hold any position whatsoever. Furthermore, the relativist view also leaves us with no intellectual or moral argument against the use of power simply to impose a position. We are left in a position where might makes right. An alternative argument would be that in a secular world, which may have many differing moralities, the only source of moral authority will rest with the human person. People are able to work together, morally, by consent and agreement. It is the web of agreement and consent that becomes the basis of moral authority in a secular world filled with many gods and commandments.

In thinking through the language of global Bioethics it might be helpful to make a distinction. Morality is part of a way of life. It is often tied to particular cultures and communities. If one thinks about global Bioethics from this perspective it does not seem very useful. But, if one view the question in terms of respect for persons as moral agents, then one can talk about a thin sense of global Bioethics in terms of respect for persons and cultures. In such a view of the world one can talk of moral friends, who live in a moral community and share a thick moral world view, moral strangers who have differing world views but who can cooperate in moral endeavors by using public, agree upon procedures of agreement and consent, and moral acquaintances who rely on proceeds but share some overlapping moral views. In such a world of respect and moral pluralism a person, and a community, needs to understand his/her moral commitments. In such world a person and community will often face a question of cooperating with others in different moral enterprises. To maintain their integrity they will need to know their moral values so they can understand what can and cannot be compromised.

An alternative approach, articulated by Rescher and helpful for Bioethics, is perspectival pluralism.[29] This position holds that a person needs to have the Acourage of one's convictions. One needs to know the positions she or he holds and how they differ from other positions. Such knowledge is crucial to compromise and consensus. These are essential to living out a notion of integrity. Any meaningful practice of global Bioethics will involve a respect for these differences, often significant, in a multi-cultural world.

[29] Childress, 105.

IV. Faith Based Bioethics

It is very understandable why, in a secular, pluralistic society like the United States a philosophical Bioethics would emerge. However, as one examines the content of such a Bioethics one will find it is very empty of meaningful content. And, in contrast, one will find that most religious traditions have very thick and rich contentful Bioethics for members of their communities. The challenge, for those religious traditions will be to decide how they want to interact with a contemporary morally diverse world. Some traditions will ignore the rest of society and live within their own frameworks and faith. Other traditions will try to convert others to their way of life and Bioethics.

No matter how a community will encounter the broader society in which it lives, it will be important for communities most importantly to know their moral traditions. A moral tradition is to be lived and to be lived it must be known and understood. So, it will be important for members of a community to know and understand their tradition. That will be important for the members and the community. It will also be important for the broader, diverse society. A multicultural society is enriched by the communities which live within it. So, understanding and respect will help to enrich the society. At the same time, the society will be enriched, morally, by the diversity and living respectfully of other traditions and communities.

Conclusions

Bioethics has emerged for a number of reasons. The development of medical technology has created choices where once there was only chance. Also, there are real moral differences about what choices should or should not be made. Yet, there is a need to find ways for people with different moral views to work together in medical research and delivery. As one examines the agreement in the bioethical consensus one recognizes that the consensus may not be what people often hope that it is. Agreements in the field are not all the same. Nor are all disagreements the same. The more one understands the complexity of moral judgments, and the various types and degrees of agreement, the more one understands how limited the force of agreements often is and how important disagreements are often masked. Scrutiny of the bioethical consensus reveals more dissensus than first appeared.

A natural law method to Bioethics will yield general moral guidance but not specific judgments. An analysis of moral judgement leads to more modest views on the possibilities for a global Bioethics. Solomon also raises important questions about the possibilities for global Bioethics by posing the export problem. One can turn the problem around and see the essential dilemma in a different light. If there is really global Bioethics, can we import as well as export Bioethics or is there a Bioethics trade surplus? Even if there is “thick” agreement concerning a moral view of the

world, the application of the view will vary in particular judgments. Some may argue that this criticism is unfair as it is a problem for every systematic moral view. This would be a fair objection except that many in the field of Bioethics have portrayed the field as responding to very particular questions and moral controversies.

Even in the midst of moral pluralism and fragmentation many scholars hope to find some common moral ground. But, in contemporary societies marked by moral pluralism one can ask to what extent a jus gentium exists. One could argue that what does bind people of different moral views together is the role of consent of free individuals. Such a view also limits government intervention and regulation in bioethical matters. This common ground allows others, outside a moral community, to raise questions about the moral practices of a community. I have argued elsewhere that the realm of procedural ethics, based on consent and agreement, provides our best hope of a common ground. This procedural ethics will not provide the rich, think ethic that many long for in a global ethics. But it can provide a thin framework for limited, common moral conversation. One can understand the thin agreements of procedural ethics only if they are built on thicker, richer understandings of the moral life. Absent such overlapping values the procedures could not succeed ethically. Procedures need some form of moral justification if they are to be moral. If there are procedures that transcend moral communities then they may provide a way to identify the common ground of moral acquaintances. The agreement about procedures provides a way to articulate the overlapping agreements that exist for moral strangers and acquaintances.

In the end we are left with as many questions as answers. How might we explore, and respond, to the global questions that Boyle has raised about the ability to critique a particular moral community. How might we respond to the export problems raised by Solomon? If the domestic problems are as significant as he argues, can we even speak of a Aregional Bioethics? These questions are not trivial. As Bioethics continues to play a role in the development of health care policy, the way the field is conceived will have a direct bearing on the evolution of policy and the authority given to policy makers.

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