Bioethics and International Human Rights

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Increasingly, the world seems to shrink due to our ever-expanding technological and communication capacities. Correspondingly, our awareness of other cultures increases. This is especially true in the field of bioethics because the technological progress of medicine throughout the world is causing dramatic and challenging intersections with traditionally held values. Think of the use of pregnancy monitoring technologies like ultrasound to abort fetuses of the “wrong” sex in India (where a female’s dowry can be a tremendous burden to the family), the sale of human organs in and between countries, or the disjunction between the haves and the have-nots in South America when it comes to bone marrow transplants, while thousands of other children die for want of fundamental goods and services like clean water, basic inoculations, and food itself.

With increased global awareness and the importance of different cultural values, bioethics is more self-reflective than in the past. Among self-reflective questions now raised are: On what basis have decisions traditionally been made? Can that basis, so culturally rooted and driven, be extrapolated to other cultures? Specifically, can the principle of autonomy, which is so rich with meaning for Americans, be transferred to other countries as they grapple with ethical issues in clinical practice and research? Conversely, could the communitarianism of many European bioethicists find a home in the United States? What of less individualistic views of persons in Asian cultures, or even in Native American cultures?

Generally speaking, norms and principles in ethics are thought to transcend specific cultural and ethical beliefs. Although for centuries theology was considered the “queen of the sciences,” in a pluralistic age, as Tristam Engelhardt has argued, it is philosophy that seeks to transcend culturally driven values. Yet, as we become more cognizant of various cultures and the values embedded in them, we see that norms are specified, as Patrick Norris argues, “within a context which integrates culture, religion, the law, professional standards, and organizational policies.” What challenges bioethics today is to discover the appropriate integration of these contexts with more abstract norms that may transcend them. Could bioethics worldwide be based on some other principle than patient rights?

Human rights

The human rights movement worldwide faces the same pluralistic quandary. In the past, agencies such as Human Rights Watch were successful on a case-by-case basis in eliminating killings, disappearances, and torture from many countries, especially in the Western hemisphere. Amnesty International documented in 1992 that 62 countries held “prisoners of conscience,” that more than 110 governments used torture in their prisons or jails, and that 45 countries executed political prisoners or “troublemakers.” The 1992 report cited an “appalling catastrophe of human rights violations.” The basic rights violated were the right to dissent, the right to trial, and the right to repatriate. Human rights warnings appeal to culturally transcendent “rights” that were widely held and individually violated.

Yet the challenge to rights-based ethics by Asian nations attending the United Nations (U.N.)-sponsored conference on human rights in Vienna in 1993 raised questions of cultural bigotry about such rights themselves. Representatives of these nations questioned the very notion of human rights, put forth as international standards based on the U.N. Charter, as imposing Western cultural norms on their societies. Specific to this problem is the observa-
tion made by Catharine MacKinnon, at the 1993 Amnesty International lecture at Oxford University, that human rights as generally understood offer little protection to women.10

These charges can also be inspired by post-structuralist thinking. The very concept of human rights is thought to be a fiction, designed, strangely enough, to keep the poor, the marginalized, and the colonized in their miserable condition. How does this strange convolution occur? According to the French intellectual Alain Finkielkraut, the more we push ourselves to be enlightened and sensitive to multicultural perspectives, the more we end up acquiescing to the very things we oppose. In an effort to be just and fair, and thereby to avoid any taint of cultural imperialism, we seize on the principles of modern anthropology that often regard one culture as equivalent to another. Following this reasoning, we admit that the ideas of human rights and freedom we regard as so precious are really only cultural artifacts of one form of civilization, and should not be foisted on other cultures, at least not without their consent. Hence, at the end of the path of cultural pluralistic reasoning, we wind up acknowledging that human rights are fine for us in the West, but oppression is alright for people in other cultures precisely because we must respect their own anthropological traits!

This irony occurs when the world community is faced with complaints that it imposes concepts of human rights on more communitarian societies that stress social altruism rather than individual rights. Moreover, within such (largely Asian) societies, economic resurgence creates a double bind, such that economic opportunity is seen as the nemesis of the concept that controlled development should benefit all. The resultant individualism spawned by the new economy is considered by these countries to be an anathema. The Russian experience with democracy is another example of this experience. Some of the biggest promoters of democracy appear to be entrepreneurs who profit the most from the transition to free markets, while so many others have lost their jobs or their buying power has been eroded by inflation. (Of course, many of the profiteers are former communists who espoused communitarian ideals.)

Even though we must be cautious about the tyranny of the modern, secular state, its benefits in terms of individual freedom of expression are obvious. Hence, we rather happily no longer share the basic, social common denominator of medieval society (and of fundamentalist movements anywhere), a common faith that is reinforced in all social structures. Instead, the moral voice is now one of persuasion with the force of international sanctions based on human rights. If fundamental rights in bioethics are to be the moral basis of our actions in health care, then these must be proposed and adopted by international bodies like the U.N. or the World Health Organization. This important dialogue will require intense effort because intercultural communication is a most difficult and inadequate tool at present.

Stigmatizing violators of human rights with international sanctions and public outcries, although necessary, does not seem to be enough to ensure the protection of human rights. The atrocities in Sarajevo and Rwanda are a matter of public view on television, courtesy of CNN. In the earlier days of global struggle for supremacy, violations of human rights usually occurred in nations subsidized monetarily by larger nations that did not want to be tainted by association with such violations and that might have to be urged to insist, as a condition of economic support, that they stop. But this is less effective when the violators abuse human rights "in the name of some particular ethnic or religious group," as Kenneth Roth, executive director of Human Rights Watch, noted about the challenges ahead. In short, governments impelled by a specific cultural or religious value themselves are the source of evil when they turn the machinery of the state against their own citizens.14

Yet there are few mechanisms available other than human rights to function as a global ethical foundation, a Weltethik, if you will. The argument for human rights as a general agreement of society begins on the world stage with the Spanish conquest of the New World and the development of international law to protect the rights of natives as full persons.15 The reason the notion of human rights can be so powerful is that it rests on a concept of the individual as having a human nature with embedded rights, metaphorically prior to any rights provided by cultural and political recognition. This assumption, too, grounds the notion that norms and principles in ethics are also founded on more fundamental bases than culture and politics. Not until the nineteenth century did the concept of a natural law come into question. Greater understanding of cultural variations and historicism led to this questioning, along with the discoveries of evolutionary biology.17

Human rights and bioethics

China is widely viewed as a country that violates human rights.18 China also provides a good example of the problems with interpreting violations of human rights in bioethics. Accusations have been made that China's organ transplant program involves organs taken from condemned prisoners. This accusation is so serious that Human Rights Watch/Asia has called on all governments to suspend organ transplant research programs with China. The international medical community has condemned this practice, too, because transplants require direct cooperation of Chinese physicians with scheduled executions. For a while, China denied that condemned prisoners' organs were used for transplants; recently, however, China has acknowledged that some organs are occasionally harvested from prisoners, but only with their consent. Nonetheless, one Chinese police official, Gao Pei Qui, has reportedly testified.
that he never saw or heard of such an informed consent document in his ten years of service with the Public Security Bureau, which oversees such arrests and convictions. China has also claimed that the charge is a fabrication of the British Broadcasting Corporation (BBC), which aired a story by a reporter posing as a supplicant for an organ for a sick relative. The reporter was told it would cost $30,000.00. To this international condemnation it should be added that persons in China are regularly condemned to death for infractions that would only lead to probation in the West. For example, three persons in China were condemned to death for stealing a total of ten dollars among them.

If, indeed, consent is required to harvest organs from condemned prisoners, one can readily imagine the quality of that consent process compared with what we would require in the West. Yet, in principle, how would such a program differ from obtaining organs from women in India, to whom a fee is paid? How does their consent differ from the more suspect and coerced consent of Chinese "criminals if it too is consistently impelled?" In India, for example, the sale of organs is not quite that simple. Instead, it resembles a thanksgiving offering from the recipient's family to the donor, which is part of the cultural expectation for exceptional service, especially between classes. Until recently, organs were not available any other way. If the Chinese were to admit to this practice, could they not defend it as a cultural means by which the family of the condemned person partially eliminates the shame of the crime their loved one has committed?

A second example of intercultural difficulties comes from the International Conference on Population and Development, sponsored by the U.N. in Egypt. Controversy arose, before the conference convened, over the draft statement developed by the U.N. This statement proposed universal reproductive rights that included abortion and access to family planning as two of many strategies for controlling population growth. Some Moslem countries boycotted the conference because of these provisions, and the Vatican condemned the draft statement. In fact, the draft statement did not mention abortion explicitly, but critics said it was implied by the language. People in Cairo, when interviewed before the conference about the need to control population and to provide for economic development, said "This is sinful. God will provide for us all," and "People say this is a conference for homosexuals and for the allowing of abortion, and it's against religious law."

Note the twofold objection. First, the very idea of intervening in reproduction to control population growth is seen as Western-influenced scientific bigotry—blasphemy even—that denies the power of God. This is a fundamental objection to scientific advancement and to the objectification of human processes for manipulation and control. Second, the objection concerns the specifics of the conference itself, the language of the draft, the goals of convening the conference, and the like. Arguably, although the second objection was resolved by negotiation about the language and by a counter-misinformation public relations campaign, the former objection cannot be met. One cannot yet imagine a cultural hermeneutic in place that would permit the Vatican or Moslems worldwide suddenly to change their thinking about human purposes, despite the enormity of economic development and ecological problems in the world.

In reality, neither the first nor the second objection can be met, because the cultural gap between science and religion is so huge. Just as the gap between the rich and the poor has increased from a factor of 30 to a factor of 60 in the past 20 years, so too has the gap between scientifically sophisticated reasoning and cultural and religious beliefs increased exponentially. Many scientific articles bemoan the fact that more advanced scientific cultures are unable to bridge this gap: "The flow of information into many of these countries has been inadequate for their citizens to enjoy the beneficial effects of science and technology on human existence." A Western, scientifically based culture cannot easily dialogue with a religiously based culture, except to a very limited extent. In fact, within scientifically advanced countries, a significant minority protests the rapidity of advancement and the loss of traditional values. To a large extent, this is the sense of the citizens who currently support conservative legislative programs in the United States, such as banning late-term abortions or emphasizing family values, self-reliance, and prayer in schools.

Not so deeply hidden in any cultural gap is the paradox of traditionally religious cultures entertaining fundamentalist reactions while enjoying access to sophisticated biomedical interventions, especially among the elite. Iraq, Egypt, Saudi Arabia, Oman, and the Sudan are all examples of countries with a disparity between scientific and traditional cultures.

A third example of the challenge of human rights in health care follows from the second. The major thrust of the Egyptian conference on population was to empower women worldwide, and, despite cultural objections (which lie at the heart of the abortion and birth control debates), to elevate the reproductive rights of women and to provide for the right of a child to be born into a decent and loving environment. But the primary goal was the empowerment of women. Prime Minister Benazir Bhutto of Pakistan, defying Muslim reactions to the conference, gave a stirring speech: "All individuals are equal before the eyes of Almighty God.... I dream of a Pakistan, an Asia, a world, where we all devote ourselves to human life and not to its destruction." Should Western cultures violate other cultural values to promote such empowerment of women? If so, on what basis? Prime Minister Bhutto invoked God, as did America's founding fathers. How can one reconcile
the values of two such disparate cultures, especially when the scientific one leads to objectification and manipulation of living beings and their body parts.

Finally, science and technology are rapidly advancing beyond discussions of the political struggles over women’s reproductive rights, leaving those debates behind. This rapid development of science is at odds with the principle of sustained development that calls for measured and thoughtful planning, such that no new idea should rupture the delicate fabric of communities and environment (and cultural evolution).

Cloning, assisted reproduction, and embryo research are good examples of this exponential progress of science while debates about the role of women in society continue, even in the United States. For example, guidelines are just now emerging about research on embryos. The Warnock Commission in England argued that embryos should have “special status.” The French and Canadian governments want to limit strictly such research. The United States would permit research under an “amber light” of caution. However, a new class of beings, called “research embryos,” will be created. These beings would be conceived in test tubes for the purpose of experimentation, and discarded before the process of individuation (cell specification) advances to the point that they become separate, individual beings. Cross-species fertilization, creation of embryos solely for research material (for example, stem cells), and twinning and cloning will be ruled out for now.

What is interesting is that throughout the Canadian Commission Report appeal is made to Canadian “ethical and social values.” How are these determined? Can those values be extrapolated to all countries, so that some set of international human values can be formed in bioethics? Where to turn?

Rights and autonomy

Perhaps the greatest challenge will be the search for a bioethics incorporating human rights that can be broader and richer than that yet to be accepted in all cultures, even traditional cultures that stress community over individuals. The preoccupation with autonomy and self-determination in Western bioethics, especially among American bioethicists, is indicative of the extent to which cultural values influence our orientation to biomedical morality. Our beliefs about personhood and autonomy inform every aspect of medical transactions, including notions about consent and confidentiality in the patient-physician relationship. For example, in the United States and other Western nations, the individual is identified as the locus of decisional capacity for informed consent, even though in many of these countries indigenous populations use a communal or family model of decision making.

Hence, the very concept of informed consent is almost meaningless in societies that stress the overriding importance of an individual’s relationship with family and community. In these contexts, decisional capacity may only be socially expressed. Similarly, the notion that one’s privacy and confidentiality ought to be respected is thought to be a shared ideal in Western cultures. However, this does not necessarily constitute a universal value. Social science research on beliefs and norms associated with the cultural construction of the self indicate significant variability concerning the relative importance of privacy. More empirical work is needed to improve our understanding of the moral nuances associated with personhood. Thus, the priority of autonomy is not a resolution in worldwide bioethics, but part of a more fundamental problem for most cultures.

Post-modern relational thought

A world ethic must take into account the strengths and weaknesses of at least three major cultural responses to human relationships, as Archie Bahm argues. The first is the Western emphasis on the will and reason, and the goodness of desiring, searching, and change. This is done under the assurance of preexisting norms and standards that limit the excesses of such desire. The second response is found in Indian civilization, which stresses the dangers of willfulness and the evils of desiring and of being different, indeed, the evils of any demarcation of the individual from the whole. The third is found in Chinese culture. It emphasizes the union of all opposites, the virtues of not going to extremes, of learning from one’s family, and of participating in the lessons of practicality without becoming too abstract.

Perhaps the only way these contrasting cultures can be reconciled would be for a more relational conception of human being and consequent human rights to be developed. This would require rethinking Western individualism, yet retaining the focus of the self within uniqueness and difference from others. In part, at least, people are the products of their own fictions. They are public narratives—stories constructed from their experience. The greater the personage, the greater the hidden experiences that have not been portrayed in his/her own story. In a post-modern era, persons are not defined by their substance and individuality. In the thinking of Jacques Derrida, for example, the connections of persons are stressed over their individualities. This would be a fruitful avenue for development in bioethics as well.

In the West, change is always explained in terms of
what is, of Being, and measured against it. In different philosophies, what is, can be Being, substance, subject, person, mind, and the like. The effect of this thinking on bioethics is to distill one from one's circumstances, from one's actual life. Instead of privileging "presence" or identity or sameness, one emphasizes the importance of what is as "different" from other presences, from which emerges the much vaunted notion of personal autonomy. Yet by arguing that difference is what is unique about individual entities, Derrida posits that the task of the individual is to articulate this difference. As this is done, one is inextricably tied to the context of the others by which one defines oneself. There is an interplay here, a dialogue or a narrative that is required within the very definition of one's being. Autonomy in bioethics thus cannot support individualism, but must intrude itself with others in the community.

Common language

Although in bioethics discourse we often assume that conversation and dialogue can net positive results, particularly if, as Engelhardt argues, we all desire a "peaceable dialogue." The fact is that such conversation among people with opposite beliefs is extremely hard. Erik Parens, describing a project of the Hastings Center that was to create consensus through multicultural dialogue in one institution in New York, notes:

[W]e found out how difficult it is for people who are significantly different to participate in mutually respectful conversation. Indeed, if one surveys the current shape of public intercourse across tables such as ours, across protest lines in Buffalo, or across disputed borders in the former Yugoslavia, it looks like human animals are hard-wired for suspicion and mistrust, if not fear and hatred; it looks like we are biologically constituted to detect and repel difference.

One of the most disputed questions in an increasingly communications-unified world concerns in what direction multiculturalism should head. Because we are required by the modern world to critique our own cultural assumptions, should we retreat to the lost values of the past, embodied in our predominately White, Western society, African American or Native American roots, the Hinduism of India, Chinese social values, and so on? Or should we abandon those lost values for a new set of international rules that govern free social intercourse? After all, in the arts, it is not just the culture from which a work arises that is admired by others; it is the ability of that work to speak to something universal in the human experience.

Similarly, in ethical dialogue, if we stick to our cultural values and assumptions, and are unwilling to negotiate on some of the fundamentals, then we condemn multiculturalism in the best sense to a kind of multifractionalism. There is a common language that is rooted in cross-cultural and transhistorical values, but it takes more to ferret that language out in conversation. Often the discourse method of bioethics is faulted for being too lax on analysis. If we reach consensus, what do principles and rules or cultural values and even consequences matter? Exactly the opposite is true. Discourse and consensus are very hard and necessary work if we truly value a solid intercultural foundation for bioethics.

Cross-cultural human rights principles

This hard work can result in some cross-cultural principles based on the Golden Rule, that is, based on human efforts to determine how we would want to be treated by others ("Do unto others as you would have them do unto you"). Early in the Common Sense philosophical movement that took place during the Enlightenment, natural law was resurrected by appeal to the concept of an objective observer. This strategy can now be globalized. Recall earlier reference to the first conference on human rights in twenty-five years, sponsored by the U.N. in Vienna in 1993. Representatives of some countries argued that nations with a different, more communal tradition should be exempt from now standard international expectations about respecting human rights. The Chinese argued, for example, that human rights should be secondary to the needs of the state (such as law and order). This objection was rejected by the majority of countries. In fact, the conference ended with a proposal that the U.N. establish an office of high commissioner to protect and promote human rights around the world and a reaffirmation of the universality of human rights against a concerted effort to subordinate them to state or cultural considerations. The same conference recognized that "women's rights are an inalienable, integral and indivisible part of universal human rights."

Such widespread theoretical acceptance of fundamental human rights demonstrates that, to a large degree, our international expectations of individual rights help shape progress in developing our conceptions about how these rights are to be implemented.

Is there a basis in the structures of human existence for such rights? Yes, and a good example of a new and more sophisticated theory of natural law can be found in Erich Loewy's efforts to ground a universal ethics in the physiological capacity to suffer. Loewy's argument is that, by nature, all higher animals, including humans, can suffer. The basis of morality lies in this capacity and the obligation it imposes on us to respond to that suffering. Should this process prove too philosophically cumbersome, then bioethics based on international human rights might still
be carved out using contractarian theory, that is, a human rights ethic could be developed by persons accepting the duties they inscribe.

On either basis, I now propose two types of rules—procedural (1 to 3) and substantive (4 to 7)—that could form the basis of international, multicultural bioethics.

1. The rule of peaceful dialogue

The virtue of multicultural discussion must be peaceful dialogue so that any underlying universal human experiences, like suffering, incapacitation, illness, and death, can be explored in a mutual fashion. Only then can an inductive process occur that could form the basis of universal human rights in bioethics. We should agree with Engelhardt about the respect due to each individual in this process, but suspend any commitment to relativism as a solution to the problem.34 Although each individual is grounded in successive layers of relationships, the highest empirically available one is that of a citizen of the world and of its physical and social ecology. Work must be done to develop human rights in health care from the platform of such a dialogue.

Imagination plays a major role in misunderstanding different cultural expectations. These impede the free exchange of ideas that is required to develop adequate resolution of ethical dilemmas in the United States and elsewhere.

How can one temporarily suspend deeply held values and listen to another's values, much less compromise one's commitments in some planned outcome? To do so requires more than openness to new ideas and perspectives, as Parens already intimated. The world of diversity also requires a virtue of suspended animation, where one's own commitments are held, but where one also learns to appreciate other points of view. In essence, this is the virtue of restraint—restraint from making moral judgments about others' beliefs. Religion scholar Lee Yearley calls this "spiritual wandering" as opposed to "sophisticated parochialism."55 The latter describes how we isolate ourselves from other experiences by considering them less well developed than our own, leading to intentional rejection of alternative perspectives. We choose to emphasize our differences to the point of separation. Not surprisingly, in light of his past support of the autonomy principle, this is the direction taken by Engelhardt in his newest religious thinking.46 Even though he rejects the Enlightenment Project, an attempt by bioethicists and philosophers to describe the effort to ground secular ethics in rational principle, Engelhardt still stresses differences over similarities.

The former strategy, by contrast, is a new multicultural virtue. It emphasizes how we are rooted in the world, and that this is the best of all possible places.37 It plays to the strengths of the human capacity to remain open to new experiences while maintaining one's grounding in one's own cultural and religious traditions.48 Note what John Dunne said of this virtue:

The holy man of our time, it seems, is not a figure like Gotama (Buddha) or Jesus or Mohammed, a man who could found a world religion, but a figure like Ghandi, a man who passes over by sympathetic understanding from his own religion to other religions and comes back again to new insights about his own. Passing over and coming back, it seems, is the spiritual adventure of our time.49

"Passing over and coming back" is actually the spiritual requirement of any time. In 1219, amid the Crusades against the Infidel, St. Francis of Assisi made a pilgrimage to the Holy Land. In Egypt, he bravely crossed the Crusader's lines to talk to the Sultan. After a friendly theological discussion, he accompanied the Sultan's nephew to a mosque and prayed there, saying "God is everywhere."60 I shall return to this virtue of openness in a moment. At this point, note that "passing over" seems to imply having a great and profound faith (like St. Francis's) that relativizes the cultural convictions to which we normally cling.

2. Rule against xenophobia

As a matter of survival, cultures cannot remain closed to one another, nor can the relativism of cultural insights provoke a reaction so strong as to veer into cultural myopia or xenophobia. Myopia at least retains the illusion of being open to other insights; it is just that no one can be convinced of the merits of another viewpoint. As one commentator put it, "When you have different people with a different culture, you should expect clashes and arguments."61 Xenophobia, on the other hand, represents active disregard (even hatred) of other races or cultures.62 Once again, it represents the stressing of differences to the point of forgetting how all people are rooted together in the world.

In this respect, we can judge as false the overemphasis on individualism and on communitarianism. No individual is an island; no culture or community is the only true society. The truth lies in the mean. The power of a vision can impel us to forget our connections to one another; that is because, in the words of Charles Taylor, "high ethical and spiritual ideals are often interwoven with exclusions and relations of domination ... the great spiritual visions of human history have also been poisoned chalices, the causes of untold misery and even savagery."63

3. Rule of respect for cultural pluralism

There must be a commitment to discerning cultural context. Yet it is important to recognize that culture is not a
solid, impenetrable inheritance. Culture is more than a set of anthropological features. It is not like a genetic code that may determine behavior at all times. Rather, culture is the product of conversing, reading, writing, and commerce. It is something for which people in each nation strive. Culture can be defined as "the body of learned values, beliefs, and behaviors that characterize a group of people." In this way, culture provides a set of perspectives by which groups of people interpret their lives and what happens to them, including sickness and death. Bioethicists can be the beneficiaries of their richness of cultural perspectives if opportunities are created to experience the challenge of transcultural dialogue. And this challenge will require a new and perhaps uneasy acceptance (for some) of pluralism. As Patricia Marshall points out:

One person’s truth is another’s conundrum.... this perhaps is the key to understanding the subjective phenomenology and cultural diversity in questions of medical ethics. Whose judgment is correct? Where does the ownership of legitimacy reside? At the individual level, the answers to these questions are easier: the “right” morality is an expression of the heart as much as it is the head, and here we can all claim authority. But in matters of public policy, both nationally and internationally, the answers become distressingly clouded and ambiguous. Individuals may experience an abandonment of their particular “truth,” and the struggle for ethical dominance and control over medical discourse and technology becomes voluble.

Tolerance is a necessary and hard-won virtue. It can start with self-interest, that is, a kind of mercantile necessity. World trade and open markets foster tolerance. Technology is also a contributing factor; it can make each person a center of the universe through media access and ready communication with others around the globe. If we accept the notion that knowledge is power, tolerance leads to a diffusion rather than a centralization of power. A good example is patients’ rising use of the Internet for direct advice about their diseases, thereby bypassing the traditional authority of their physicians.

4. The rule of the common good

An alternative to autonomy as the basis of human rights and bioethical resolutions is the common good tradition that has influenced Western thought since Aristotle. In this tradition, individual good and rights coincide with the community’s good. One cannot have one without the other. Rather than pitting autonomy against communitarianism, both are synthesized in a new common good methodology of bioethics analysis. A caveat is in order here, however. My argument has been that American bioethics, in particular, needs to open itself to other cultures; hence, a broader base than Western civilization would be a necessary second step, which would include reassessment of Greco-Roman traditions.

The reluctance to succumb wholly to a communitarian model reflects ambivalence toward civilization itself; we may feel that we have sacrificed too much natural and individual vigor for the sake of public order. Some cultures tolerate this sacrifice better than others. Most likely, however, it is the advance of a technology and its requirements for a coordinated and committed work force, which give rise to a more secularized, urban culture, that conflict with traditional family and social values in any civilization.

Any recognition of pluralism, too, can move in two directions. The first is the book-burning or heavy-handed reaction—there can be only one way of coping with a challenge: reassert the traditional value system. Most often, such an assertion, when combined with political authority, leads to despotism. The other way is to fragment into parties, interests, caucuses, each of which scramble for power and imagines that it alone possesses the truth. This, too, is a political solution to a profoundly personal and familial problem. We are left with either a coerced unity or a series of isolated camps, both dominated by certitude of the highest order. By contrast, experience in ethics committees suggests that persons of conviction can work out real-life challenges when working together.

There is another way to consider. Generally speaking, a via media suggests itself in any clash of cultures. If one can be self-possessed enough to analyze carefully the sources of morality, one should see that reactions to change throughout human history are based on a complex of personal proclivities, fears and hopes, family and social values, traditional coping mechanisms in one’s culture and religion, and, more important for this essay, an ethics and a metaphysics that either does or does not incorporate change or development.

In any case, the ethical and religious sources of morality stress the fact that reality is transactional, that it requires individuals to rub shoulders with one another and to be influenced by one another. Even authoritarian cultures are doomed to fail because they must receive gifts from others, other individuals who do not accept the idea that there is only one way, or from other cultures with which it must trade and do business. These gifts, however unwelcome, not only are the undoing of any monolithic response to change, but also may lead to demands for change. As Walter Brueggemann has argued:

In our time, it has been the voices of suffering and marginality that have kept available for us the urge that well-lived life is inescapably transactional... the transactions of respect, dignity, and openness between
be autonomy or community, but dialectical respect for persons and enculturated values. This dialectical respect would be constructed similar to John Dewey’s methodology of “reflective equilibrium,” a method of balancing values without topping one with another *a priori.* Negotiation should not require that people abandon their cultural traditions and replace them with another culture’s successes; rather, their cultural traditions should assist them and others to circumscribe an action or initiative with the values they profess. This means that we settle for tiny rather than giant steps.

American culture has a tendency to abandon its traditions, these cultural traditions being among the youngest in the world, in favor of others’. This is a necessary component for the first stages of correction for cultural myopia that is more common among the fundamentalists of any society. What seems repulsive about fundamentalists is their lack of cultural sensitivity, of self-critical assessment, of awareness that other, perhaps better, ways of perceiving things exist.

This trend toward dialectic respect should be encouraged, but not to the point where the cultural tradition of republican democracy is abandoned, because that tradition has much to offer international bioethics debates, in particular, republican democracy’s emphasis on compromise.

In a decade of anxiety about the twenty-first century, a tendency arises to romanticize the past and to characterize it as simpler or more fundamentally secure than the present. In this essay, I have criticized two mainstream romanticizations about the United States: libertarianism and communitarianism. Although they are set against each other, the former stressing the individual and the latter the community, ironically, as Christopher Lasch has pointed out, both are grounded in a flawed understanding of the human person.

Libertarians begin with a false assumption, Lasch holds, that human beings are like a nugget or bundle of needs and rights. Their communities merely exist both to ensure the fulfillment of their needs and to respond properly to their rights. Communitarians hold that communities exist to be compassionate to all citizens, although they tend to think, rather romantically, that the last innocents on earth are the lower working classes.

7. The rule of existential *a prioris*

As a consequence of mistrust, envy, cultural bigotry, and fear, discourse about biomedical ethics must have some *a priori* commitments. These can be called *experiential a prioris,* because they may not be metaphysically defensible per se. These *a prioris* arise from the past experiences of a culture whose history demonstrates the evil effects of ignoring such commitments. Among candidates for such *a prioris* is the goal of assisting individuals to enhance their
autonomy in the context of their family, to enhance their moral personhood in health care decisions. Another is the rights of all women to control their own reproductive gifts and not to be used as objects. These are two broadly developing international human rights that could inform medical ethics. Still other a priori might include those that emerge from collective experiences in reaching consensus about the actions of ethics committees or national policy committees.

Some major principles or rules could be formulated from this dialogue for all cultures. They can be developed inductively from cultural and bioethical experience. Many could emerge from the process just noted. I note two possibilities.

The rule of healing
A health care professional cannot touch a patient without consent, unless it is not possible to determine whether the patient consents and the professional proceeds with the intent to heal. An excellent substantive principle is the rule of healing. Instead of pure discourse ethics, where no a priori are on the table, this a priori rests on the assumption that medicine's intention is to heal, and that, without patient consent, no other interventions can be contemplated. This principle stems from centuries of experience, but most especially from Nazi experiments on human beings without their consent.74 Recently, American and Japanese experiments on populations have come to light. The American government has admitted that radiation experiments were conducted on populations without their consent, and that the fallout from nuclear tests spread much farther than originally announced, exposing many more people than previously thought to radiation.75 According to Chinese sources, the Japanese experimented on military and civilian prisoners when they occupied China in the 1930s and 1940s.76 Given the historical evidence, lengthy argumentation of this rule does not seem necessary. The world's experience is that the goal of medicine to heal is distorted when consent is absent.

The rule of protecting the vulnerable from harm
What is the Western value set that provokes so much animosity from other cultures? Primarily, it is the objectification of matter and persons to such an extent that both become objects for manipulation. Such dominion replaces the highest power or God in many cultures and religions. This is why Western values clash so profoundly with the non-Western values. People become vulnerable.

There is an additional component to this value set: the assumption of individualism. Among Western cultures, the common belief is that governments must, as far as possible, advance the cause of individual freedom from un-

necessary constraints. Progress in civilization is measured by advancement of this cause, from rights like those in amendments to the U.S. Constitution, the French Revolution, to rights embodied in the U.N. Charter, and beyond. However, significant losses occur with such concentrations on individual liberty, losses such as universal ethics, moral and social fragmentation in place of commonly held values, a private for a public philosophy, altruism in favor of egoism and self-interest, and, most especially for bioethics, the dangers of technology's capacity to impose values that undermine community and foster a narcissistic individualism.77

Conclusion
A perfect world society would promote liberty within the community. My view in this essay is a mean between cultural relativism and antirelativism, between the undeniable differences of cultures and the undeniable basis of individual human rights.78 An intercultural communitarian ethics must rejuvenate bioethics discussion because it has become too complacent and reliant on standard autonomy analysis. Yet such an ethic does not normally bear down on human rights so much as on the common good. Human rights are grounded in the community and in nature itself. They cannot be isolated from economic and social rights. This is what bioethicists will have to explore internationally and interculturally. In fact, that process has already begun.

The movement toward international debate on ethics and biomedicine will continue to grow. Consensus on issues may not always be feasible, but several conditions for international, intercultural discourse about biomedical ethics are essential for effective development of the discipline.

• First, minimal agreement must be reached regarding the language, meaning, and value of ethical concepts and processes of moral reasoning. This will require explicit self-critical attention to the meaning of concepts and their cultural contexts in ways that have not yet been present in international dialogue. At the very least, we should accept the poverty of Enlightenment rationality, as Alasdair MacIntyre argues,79 and move to more complex methods of interpreting culture that transcend fashionable appeal and engage us in true inquiry.80
• Second, more serious philosophical work must be done on transcultural structures in human behavior and existence.
• Third, as a consequence, discourse about biomedical ethics must have some a priori commitments. I suggested two initial candidates.
• Some major principles or rules should be formulated for all cultures. These can be developed
inductively from cultural and bioethical experience. This experience should not be reduced to philosophical analysis alone. Instead, it must include, as Byron Good has argued, a robust, nonreductionist account of illness and healing.

- Finally, the U.N. should establish a commission on human rights in health care. A good start for developing international health care rights based on human rights could be the two principles of respect for healing and respect of autonomy.

References

10. See id.
12. Without secular protections, religious bigotry attains too often results. Consider the Rushdie affair. Salman Rushdie wrote *The Satanic Verses*, which was highly critical of the Prophet Muhammad, and sexually offensive to Moslem leaders. Rushdie was condemned to death by Iran and the Ayatollah. This led to international withdrawals of embassies by Western European countries. Internal debates about the freedom of the press and the freedom of expression occurred especially in England and the United States. Workers at mall-based book stores were threatened by calls and bomb scares. And the book was kept off the shelves. Full-page advertisements were taken out by Waldenbooks defending its decision to sell the book. Similar advertisements were taken out by Moslems defending their religion and their religious sensibilities. A similar occurrence involved the writings of Taslima Nasrin of Bangladesh, a physician and nonbeliever who is critical of Moslem views of women and marriage. She is now in hiding in Sweden. As she said of her own life, “They’ve taken everything from me ... my innocence, my youth, now my freedom.” See M.A. Weaver, “A Fugitive from Injust
20. See Anonymous, "China: BBC Wrong About Inmate Organs," Chicago Tribune, Nov. 24, 1994, at 28. In this wire service story, Chinese officials said that the British Broadcasting Corporation’s (BBC) documentary on use of prisoners’ organs was fabricated. The BBC claimed that 90 percent of executed criminals are organ donors, while the Chinese said that they are rarely donors, and only with prisoners’ or their relatives’ consent.


22. See Boudreau, supra note 19.


28. Other strategies included birth control pills, intrauterine devices, and the like. About 90 million children are born each year, contributing to urgency.


30. Regarding efforts to reach a compromise with the Vatican on reproductive statements at the Egyptian conference, U.S. Vice President Al Gore remarked that there likely would never be "full agreement [with the Vatican] on contraception and the American woman’s right to choose." S.M. Rowley, "U.S., Vatican Seeking Compromise on Abortion," Chicago Tribune, Sept. 7, 1994, at 1, 12. Although the Vatican recognizes the difficulties women have carrying a child to term, it emphasizes counseling, free medical care, social support, and adoption. About women’s challenges today, the Vatican says, "Such difficulties do not warrant the violation of the right to life." Id. at 12.


33. Ironically, within scientifically based civilizations, there is an increasing rapprochement between science and religion. See M. Somerville, "Genetics, Reproductive Technologies, Euthanasia, and the Search for a New Social Paradigm," Social Science and Medicine, 42 (1996): ix-xii.


35. This commercialization extends to animal body parts. A good example is Baxter Healthcare Corporation’s alliance with a biotechnology company to produce pigs with hearts and other organs that can be readily transplanted into human beings. DNA Corporation, the partner, has already used pig livers to filter the blood of human patients with terminal liver disease, and has bioengineered pigs with human hemoglobin as part of their blood. This is now an experimental therapy. After all, if we can eat pigs, and already use their heart valves for transplant, the reasoning goes, why not use them to save lives in other ways as well?


37. Cross-species fertilization includes creating human beings using cow eggs and the like. Pigs and cows have already been created with human immunosystems. The creation of research embryos has not been ruled out in the United States, nor has human cloning, although these have been condemned by political leaders and others. See W. Neikirk, "Senate Opt Not to Vote on Proposed Cloning Ban," Chicago Tribune, Feb. 12, 1998, at 4; and J. Beck, "Cloning is Not the Path to Immortality," Chicago Tribune, Jan. 15, 1998, at 23.


40. See id.


43. See id.

44. See, for example, how Anthony Powell developed this idea in his writings. See J. Treglown, "Class Act," The New Yorker, Dec. 18, 1995, 108-11, esp. 110.

45. That is, as Jacques Derrida argues, the opposite of "what is" is not "what is not," but rather the difference itself. This approach keeps the individual rooted in circumstances, family, society, and culture. See J. Derrida, "Differences," in his The Margins of Philosophy, trans. by A. Bass (Chicago: University of Chicago Press, 1982): 1-27.

46. Derrida goes on to note that, by emphasizing difference, one deconstructs all efforts of establishing a kingdom. In his thinking, there can be no capital letters, not even I. No one perspective, for instance, autonomy, could govern our ethics. Rather the individual would be defined by his/her cultural context. In the post-modern view, even being as "x-ness is simply a choice. Being’s privileged place does not rest on some objective truth, but on a choice to emphasize being over nonbeing. Applying that to Western emphasis on the individual, autonomy is not a side constraint of all ethics, but simply a choice to over-emphasize human difference to the exclusion of our immanent ties to all things that are.


51. Id.


62. A brief note about traditional Chinese xenophobia bears on this point. Chinese xenophobia is so entrenched that the story is told of the 200-year-old diplomatic failure of the British mission there. The British Crown sent Lord George Mccartney to Peking in 1792 to exchange ambassadors and to improve how the Chinese were treating British merchants. Mccartney was accompanied by huge warships and a retinue of 100. Yet the Emperor of the Ming dynasty treated the British as vassals, as he would Mongolians and Tibetans, and the gifts they brought as tribute. When Mccartney arrived in Peking, according to Alain Peyrefitte, as a representative of King George III, he was herded together with many other subordinates to bring tribute for the Emperor’s birthday! The British simply did not understand the degree to which the Chinese regarded their empire as the center of the world (even though by then it had become quite poor and backward), or the degree to which the Chinese scorned business and businessmen. See generally A. Peyrefitte, *The Collision of Two Civilizations* (London: Harvill, 1993).


64. See generally Finkielkraut, *supra* note 11.


