BIOETHICS AND DEMOCRACY*

By Bruce Jennings

BIOETHICS, like other areas of applied and professional ethics, has many different voices, and no single, unitary ideology. But it does have a social ontology and a politics: a conception of the nature of the human good and society, and a conception of how freedom, justice, community, equality, and other public values should fit together. In the main, the ontology and politics informing bioethics comes from the tradition of western philosophical liberalism. This is important, both for bioethics and for liberalism, because many of the quandaries and controversies posed by biomedical science, technology, and health care are social and moral anomalies challenging the liberal paradigm. The quest for a normative consensus and workable public policy in the medical domain also provides one medium through which philosophical liberalism is reshaped and transformed. Bioethics is thus at once a school for liberalism and a stage where liberal morality, ontology, and political theory face some of the sternest, most perplexing tests of their philosophical adequacy and continuing viability. These are very important issues. It is surprising how rarely they are discussed.

How can we get a purchase on such questions? In what follows I approach the problem in two steps. The first step is to consider how we understand what bioethics (and professional ethics) is all about. What kind of discourse is it? What are its latent goals and functions? From whence comes its intellectual and normative authority? I distinguish two alternative models of professional ethics—the judicial and the civic—that answer these questions in different ways. The next step, following a line of inquiry opened up by the civic model, is to consider the function of professional ethics in what I call discourses of interpretation and legitimation, and to look at the substantive theoretical subtexts which provide an orientation for the contribution professional ethics makes to these discourses. In bioethics these theoretical underpinnings can best be revealed by contrasting liberal and demo-

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*Early versions of this paper were presented at the University of Minnesota and the University of Pittsburgh, and I am grateful to numerous people who discussed it with me on those occasions. I would also like to thank Stephen Esquith and Daniel Callahan for helpful comments on a previous draft.

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cratic values. I show some of the ways that liberal values do shape bioethics and that democratic values might shape it, and I make a case for a new bioethics with democratic moorings.

I. Judicial and Civic Models of Professional Ethics
The task of professional ethics is usually taken to be the application of general moral principles to specific dilemmas and decisions arising in professional practice. Let us call this the judicial model of professional ethics. Central to this conception of professional ethics are three ideas that merit careful scrutiny. First, the primary unit of analysis for professional ethics is the activity of the individual professional practitioner, rather than the collective practices of many practitioners or the traditions, norms, and institutions of the profession as a whole. Professional ethics is concerned with individual moral agency, not communal moral practice. Second, the focus of professional ethics is not on the professional’s activity in a broad sense—“activity” as the shape of a life, a pattern of conduct revealing character, a vocation, a praxis of virtue and excellence. Instead, the focus is on activity understood as decision making and choice. The moral agent envisioned by professional ethics is a weigher of options, a balancer of conflicting values and interests.

Finally, the conception of applying principles to choice situations is fundamentally juridical in method and spirit; the professional ethicist is supposed to stand in judgment on professional decision making, and the ground of this evaluation is supposed to come from outside the field of knowledge circumscribed by the profession under scrutiny. The principles applied by professional ethicists are both universal moral principles and principles of universal morality; as such their justification can come only from some exogenous or archimedean standpoint of enlightened reason. Indeed, professional ethics (at least during recent years) has been built on the assumption that endogenous sources of moral authority within the professions are incapable of grounding the necessary evaluations and judgments. Thus the professional ethicist provides the moral view from nowhere, or at least the moral view from afar. Even if professional ethics were to focus on a community of moral practice rather than individual acts of moral choice, according to the judicial conception the ethicist qua ethicist is in but not of that community.

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Individualism, agency as rational choice, and ethics as the judicial gaze of universal reason—there is much to recommend and much to criticize in these pervasive assumptions underlying mainstream work in professional ethics. What interests me here, however, is the fact that there is a great deal going on in the discourse of applied and professional ethics that the judicial model simply renders invisible.

The aim of this essay is to explore some of the functions and theoretical entanglements, so to speak, that the judicial model obscures and to highlight what might be called the civic or political dimensions of professional ethics, using the field of bioethics as my focal point. I offer here a first step in building a civic model of professional ethics (professional ethics as civic discourse) as an alternative to the judicial model (professional ethics as juridical reason).

The civic model emphasizes the ways in which professional ethics is embedded in two broader forms of cultural/normative discourse: one involves the interpretation of professional power and of the social uses of technologies created and controlled by the professions; the other involves the legitimation of such power and technology. Interpretation and legitimation, it should be noted, are closely intertwined. The civic model also stresses the ways in which work in professional ethics—as it reflects and refines discourses of interpretation and legitimation vis-a-vis professional power and technology—reveals a subtext of political ideals and ontological conceptions. This subtext creates, in other words, a connection between professional ethics and political theory.

To develop this line of inquiry, it is illuminating to examine two theoretical subtexts of bioethics—liberalism and democratic theory—and to explore the different shapes that bioethics takes when it is informed by liberal and democratic values. While both liberal and democratic subtexts are present in bioethics today, liberal values predominate. What would it mean to take democratic values seriously in bioethics?

I believe that future work in bioethics must critically rethink these underlying conceptions, for professional ethics can no more be "neutral" in regard to ontological and political assumptions than it can cut itself adrift from ethical theory. Bioethics, as well as other areas of professional ethics, needs to be more reflective
and self-conscious about its basic philosophical commitments. In particular, the next generation of work in the field should create a bioethics informed by democratic values as a supplement, and a corrective, to liberal bioethics. Doing so will give bioethics a richer and more relevant agenda, a more critical purchase on the legitimation problems posed by contemporary medicine and biomedical technology, and more defensible ground from which to claim intellectual and moral authority for its own discourse. Democratic bioethics, in short, can provide richer and more adequate answers to the questions of meaning, power, and legitimacy posed by the civic model of professional ethics.

II. Meaning and Legitimation

Every society has had something like a practice of medicine, but the variation is as striking as the universality, and there is nothing inherent in the natural facts of human biology that dictates what the practice of medicine must involve or how it must be organized. Medicine, like all the forms of highly stylized, institutionalized application of specialized knowledge we call professions, is socially constructed by the meanings people in a given culture find in it, the expectations they have about it, and the normative demands they make of it. The meaning and legitimacy of a profession is a dynamic, not static, cultural or discursive formation; norms and meanings must be negotiated and renegotiated over time in an ongoing process of analysis, argument, and narration. As the discourses of interpretation and legitimation surrounding the professions shift through conceptual elaboration and realignment, the nature of the practice changes, as do the intentions and self-identities of practitioners.

To give a practice meaning is to locate it in relation to a broader scheme of society, history, and individual experience; to give it meaning is to see how it fits into the various patterns that people use to create order and structure in their lives. Often the interpretive activity of seeing meaning in—and seeing the meaning of—a profession involves a process of normalization or familiarization. We make sense of a professional practice by comprehending it through the lens of relatively stable and well-understood categories and expectations; we make the practice continuous with our past experience. By narrating our personal and social experience with the technologies and resources the professions
control and the interests they serve, we create these continuities. By telling stories about professional altruism or professional venality, for example, we assimilate the role of professionals to well-understood character types and moral exemplars with whom we know how to deal appropriately.

Similarly, to give a profession legitimacy is to identify the goal and effects of (at least most) professional activity with something that has significant moral value. Professional legitimacy also involves the moral values served by the means the professions use to attain these valued goals or goods. We tell stories of legitimation when we make connections between professional practice or the use of professionally created and controlled technology and these goods; stories that deny such connections have the opposite effect.

Interpretation and legitimation are closely related in as much as giving a profession significance by locating it in an orderly and familiar structure of experience also involves locating it in relation to those ends considered good or worthy. For example, one way to interpret the meaning of medical practice is to see it as something that will lead to health or to the relief of suffering; when faced with a new kind of treatment or therapy we will generally only place it within the domain of medicine (as opposed to superstition or fraud) if the connection with health, healing, and relief can be made plausibly. This gives the unknown treatment a name, a classification, and hence a meaning. The further fact that health, the restoration of wholeness, and the relief of suffering are considered morally valuable is what gives this treatment legitimacy. And it also legitimates the power exercised by the expert who controls access to this treatment.

Both interpretation and legitimation involve argument and analysis. One can argue, for example, about how to draw the line between acceptable medical treatment and practice that is beyond the pale in cases such as genetic therapy, the transplant of a baboon heart into a human infant, the extracorporeal manipulation of human embryos for eugenic purposes, and so on. A large portion of bioethical discussion, of course, is devoted to just such analytic argumentation—giving reasons why certain meanings should be given to something and why the ends and means of something are morally valuable. But again much, perhaps most, of our everyday discourse of meaning and morality concerning the pro-
fessions is narrational rather than analytic in form. We tell stories about our encounters with professionals, their techniques and technologies, and about the meaning and value in our lives of the goods professionals distribute. One measure of how central and how dominant the professions have become in contemporary society is the fact that storytelling about professional encounters is ubiquitous both in individual lives and in the lives of institutions; it has become an important component of contemporary mythology, by which I mean the public, collective attempt to give sense and identity to our social lifeworld. Professional ethics trafficks in this mythology and these stories. That, I think, is one of its most overlooked features and important functions. By stressing and privileging analytic modes of discourse, the judicial model overlooks one important point of contact, through narrative storytelling, between “professional” professional ethics and ordinary moral talk about the professions.

Now, interpretive and legitimating discourse, whether in analytic or narrative form, cannot take place in a theoretical vacuum. All work in professional ethics draws upon what I referred to above as a theoretical subtext. That is, the reality of the power, authority, technology, and expertise of the professions has to be interpreted in the light of some basic conceptions of moral agency, human interest, flourishing, personhood, the nature and purpose of communal institutions and associations, and the like. Only thus can moral evaluations of particular aspects of professional influence, conduct, and practice be made. Work in professional ethics usually does not announce or explicitly embrace these fundamental conceptions, to be sure. But these conceptions are there, nonetheless, in the interstices of the descriptive analyses and normative arguments professional ethics makes. Moreover, not only are interstitial conceptions present, they also comprise a pattern, a theoretical grid that can be identified and its implications traced.

This brings me to a second point of contrast between the civic model and the judicial model. When professional ethics is conceived as juridical reason, its contribution to a discourse of legitimation can only be to provide criteria (moral principles and rules) used to test whether a given act or pattern of professional conduct is legitimate. This assumes an external relationship between legitimacy and discourse about it, as though the discourse were discovering something there or referring to something about
professional activity. The civic model, by contrast, posits an internal relationship between legitimacy and its discourse, such that the contribution that professional ethics makes to the discourse of professional legitimation is active and constitutive rather than detached, judgmental, and referential.

Legitimacy, according to the civic model, has to do with the meaning that the professions have to people generally and how professional activity is perceived and experienced. It has to do with what is tolerable and what will be tolerated, with the justifications, excuses, and condemnations that are embedded in the narratives of the public stories in our repertoire of folk wisdom about the professions. Legitimacy, therefore, is not an inherent property of a profession ordered in a particular way, as Aristotle thought the virtues were inherent properties of the conduct of good men. Nor is it a condition logically antecedent to and independent of social communication about it. (The same thing could be said about the designation, “profession,” itself.)

This, I hasten to add, is not meant as a nominalistic or subjectivist argument. The point is not that when enough people in a society think a professional practice (e.g., Nazi euthanasia) is legitimate then it ipso facto becomes so. The point is that we cannot coherently separate professional practices—or any social practices—from the publicly available languages and meanings within which they are embedded. How we talk about professional legitimacy—the vocabulary of concepts we have, the stories we tell, the moral exemplars we employ—matters because it shapes the purposes and intentionality of those who wield professional power and those who react to, counter, and limit the use of that power. In this way, discourse about legitimacy does not simply presuppose but actively produces and reproduces (constitutes) the conditions of its own validity.

It is therefore essential to gain some clear and critical purchase on how professional ethics stands vis-a-vis the broader discourses about the professions at any given time. Here one is tempted to say that professional ethics should be better informed, more enlightened, more analytically rigorous in its normative judgments, evaluations, and recommendations concerning professional practice and the governance of the professions than more ordinary, non-academic, “non-professional” attitudes and opinions toward the professions. Professional ethics, in other words,
should not only guide the professions and professionals in their conduct, nor only guide public policy in its regulation of the professions. It should also instruct laypersons, citizens, in how they should think about the professions and in what their moral expectations and demands should be. This is a tempting thing to say about the critical role of professional ethics as the arbiter of legitimating discourse, but I think it is deeply problematic and ultimately wrong. Saying why is not simple; it relates to the point made earlier about the exogenous stance of the ethicist as the voice of juridical reason, and it is something we must return to in the end.

III. Liberal Cries, Democratic Whispers
The preceding discussion has gone some way, I hope, toward opening some large questions about the nature of professional ethics and the way we should understand that enterprise. In the remainder of this essay I want to turn to a pattern in the subtext of bioethics, wherein fundamental conceptions of moral agency and social membership, human personhood, interests, and well-being are brought to bear on the problem of fashioning a coherent moral and collective response to the challenges of medical power and technology. In this pattern liberal values and ideals predominate over democratic values and ideals. The latter are not altogether silent, of course; how could they be in the hybrid liberal-democratic political culture in the United States? But there is no parity between these two voices, and this too echoes our wider civic discourse. Bioethics, like American politics as a whole, gives us liberal cries and democratic whispers.

This will not do. A stronger timbre and articulation must be given to democratic voices in bioethics; a bioethical discourse more clearly, self-consciously, and self-critically embedded in democratic conceptions and values must be nurtured in the field. Unless this is done, I believe, bioethics will be hobbled in its capacity to provide a critical and philosophically adequate discourse of legitimation for medicine and biomedical technology, and in its ability to explicate the values that should guide the governance of professional biomedical power and expertise. The characteristic liberal preoccupations of bioethics over the past twenty-odd years will no longer provide a serviceable perspective for these tasks, at least not standing alone.
The social controversies and policy disputes that occupy the surface of bioethics are not easy to parse into conventional left/right, liberal/conservative terms. The abortion issue probably comes closest, and the trade-off between public safety concerns and civil liberties in the AIDS crisis also draws familiar battle lines. Beyond that, though, the issues of science, technology, and professional practice to which bioethics has been most attentive have produced some very unconventional and politically bewildering coalitions. Free marketeers and prostitutes (through an organization called Coyote) at one time lined up against radical feminists and the Vatican in the controversy over the practice of commercial surrogate reproduction. In debates over the intensive life-sustaining treatment of severely impaired newborns, very conservative right-to-life organizations joined forces with liberal disability rights groups and with prominent civil libertarians. Current debates about voluntary active euthanasia, organ transplantation, animal experimentation, genetic screening, and health care rationing on the basis of age are no easier to sort out.

Nonetheless, the fact that "bioethics issues" often defy classification on the normal ideological spectrum should not be allowed to obscure the extent to which bioethics characteristically taps into a deep current of liberal ideas in fashioning a moral response to the ongoing revolution in medical science and technology. The liberal undercurrent of bioethics shows up in two different, but related, guises. These are: (1) a cluster of ideas about the nature of the self, society, and the relation between them; and (2) an abiding mistrust of public discourse on ideals of the human good.

The first, and most obvious manifestation of liberalism in bioethics is the central role played by the notion of autonomy. Autonomy, of course, is a very complex notion, and the understanding of autonomy (or self-determination) influential in bioethics is only one among many. However that may be, bioethics has come to employ the notion of autonomy to mean roughly: uncoerced choice in accordance with the individual's subjective perception of her particularistic interests. Those interests may be altruistic or other-regarding rather than self-regarding, but they are her interests, her choices, a part of her life plan, and an expression of her adult personhood that is intrinsically valuable and worthy of respect.
In addition, autonomy involves a conception of self that stresses the uniqueness of each person, and values precisely the individuality of each person—that which symbolizes difference and separation rather than sameness and commonality. Relational ties with others are morally permissible to an autonomy ethic, when they are instrumental to the achievement of individual ends and when they are entered into voluntarily. But even when social bonds are thus justified, there remains a wariness in the autonomy perspective about claims asserting the intrinsic value of belonging, communal membership, or public life, because connection with others is primarily seen as a source of threats, limits, or the effacement for the self, rather than as an enabling or empowering medium of self-realization. This is one of the most fundamental differences of value perspective between liberalism and democratic theory. To modify a phrase from Benjamin Nelson, the characteristic blindness of liberalism is that it cannot tell the difference between brotherhood and otherhood; the characteristic blindness of democratic theory is just the reverse.

Autonomy is the touchstone of bioethics in that the primary question asked about all exercises of professional power and all contemplated developments or uses of biomedical technology involves the impact on the private possibilities of the self in a mode of difference or separation (which does not mean isolation) from others. The impact of such power and technology on the public possibilities of the self, the self in a mode of connection with others, is much less often a question at the forefront of bioethics.

For example, in the doctrine of informed consent, and in virtually all discussions of the use of life-sustaining treatment or medical research involving human subjects, the individualism of the moral and intellectual focus is paramount. Here the person is taken as a distinct locus of moral value, and as a separate locus of interests and rights. The equally separate and distinct interests of “third parties” (a revealing phrase when applied to parents, a spouse, or one’s own children) are to be balanced against, and usually subordinated to, the interests of the patient, so that the relationship between the patient and others tends conceptually to be cast as an adversarial one. To cite another example, in the bioethics of newborn intensive care, and in current family law to a growing extent, the “best interests” of the child is the ruling conception. But is this a child’s interests in her family or against it? One simply
cannot answer this question solely at the level of ethical casuistry; it requires recourse to considerations of ontology and political theory, where, at some point, liberal and democratic paths will diverge. The best one can say of the theoretical state of bioethics today is that notions like “substituted judgment” (where another must represent and act out the autonomy of the self who can no longer choose and act independently) and “best interests” are systematically ambiguous. Unless we win through to a better grasp of the alternatives, liberal values and conceptions will prevail by default. But defining as they do for each of us who I am and (even worse) who we are, these conceptions deserve better treatment than a liberalism faute de mieux.

Perhaps we are now in a position to sharpen the contrast I have been alluding to throughout between liberal and democratic perspectives. Liberal bioethics, in my estimation, sees personhood primarily in terms of those interests and capacities that set one off and make one unique. It seeks self-affirmation through but not in social relations, which are at best instrumentally useful for the satisfaction of subjectively defined interests, and at worst confining. By contrast, a democratically informed bioethics, I believe, would see personhood in terms of those dimensions of human selfhood and experience, such as physical frailty or need and membership in a community of shared life and purpose, that highlight connection and commonality rather than difference. It would seek self-realization in as well as through relations of shared purpose with others.

There are a cluster of substantive and procedural values that have traditionally been associated with democratic theory—positive liberty, community, participation, civic virtue, majoritarianism, popular sovereignty, and decentralized authority, to name a few. But there are two values above all that I would single out as most essential to any robust and morally defensible democratic perspective, and as most theoretically fecund for future work in bioethics. These are equality of civic respect and a dynamic, transformational conception of human moral agency and self-realization. A few words about these values here may help pull together some strands of my argument so far.

Civic equality and transformational moral agency are notions that protect democracy from spinning off into two opposite and ultimately despotic and anti-democratic directions—anarchism
on the one side and collectivism on the other. And they are symbiotic notions in the sense that each taken in isolation is prone to problems that both taken together can handle. The notion of civic equality gives limits and a sense of public purpose to the otherwise unbridled energy contained in the transformational agency of the democratic self who does not seek security and containment behind fences, but who projects itself outward onto the world, seeking to mold that world and finding itself molded by it in turn. At the same time, the idea (and ideal) of transformational agency keeps the acting subject—the moral imagination and will of the individual—at the center of democratic theory. This counters the tendency of the notion of equality to submerge the person into the project, to lose the dancer within the dance; a tendency that historically has led away from democratic pluralism toward collectivism or radical majoritarianism, which is democratic procedural form without democratic moral substance.

Equality of civic respect is not simply a distributive notion, although it clearly has important implications for a theory of distributive justice. But this is not what most sets it apart from liberalism. What does so is the idea that it is the civic, connection-making side of our selves and our existence (and not the private, difference-affirming side) that is worthy of respect. And the idea that we should, as a matter of right, have access to a space where we are placed on an equal footing with our fellow sufferers, our fellow creatures of need and aspiration, our fellow inhabitants of the body human and the body politic.

Transformational agency is pertinent to bioethics and professional ethics in several different ways. One has to do with the agenda of ethical questions that are taken up under the rubric of the doctor-patient (or professional-client) relationship. Here liberal bioethics has characteristically focused on the tension between autonomy and paternalism, and has sought through the categories of autonomy, patients’ rights, disclosure, and informed consent to protect the freedom of the vulnerable individual from the exercise of superior professional power and expertise. The democratic notion of transformational agency, I think, would cast the doctor-patient relationship in an altogether different light. For in this dyad it would see the moral ideal not of protecting one pole of rights and interests, but of creating a mutual enterprise in which both parties are reciprocally shaping it and being shaped
by it in turn. In other words, democratic bioethics would see the professional-client relationship as a political or civic relationship in precisely this sense. Or to put it in the suggestive and thoughtful terminology introduced by William May, the professional-client relationship would cease to be "contractual" and would become "covenantal."

This gestalt switch would lead to a much more radical critique of professional power than the liberal client's rights perspective offers. It would lead to a much more demanding and exacting set of ethical obligations on the professional, while still seeing him as a moral agent, and not reducing him to the status of a mere dispenser of information or a mere provider of technical services, which the liberal contractual notion tends to do, and is seen by many physicians as doing. It would help professional ethics recover the conception of a profession as a vocation, a commitment that takes deep roots in one's sense of self-identity and a practice that engages the self to the point of at least partially constituting and transforming it. Liberal bioethics sees the moral risks of professional practice as the commission of injustice, doing harm, or violating someone's rights (to say nothing of the risk of malpractice suits). These are morally serious matters, to be sure. But for democratic bioethics the risks of professional life are perhaps even greater, because by taking the notion of transformational agency in a shared space of common endeavor seriously for both doctor and patient, democratic bioethics has to acknowledge that what is at stake looks less like interests and more like a soul.

A second implication that the democratic value of transformational agency has for bioethics comes through the importance democratic theory gives to the structured institutional setting within which transformational agency by individuals takes place. The argument goes something like this. Transformational agency is a component of a life of human flourishing and a medium for the pursuit and realization of the good for individuals. But this kind of agency cannot be exercised without a just or well-ordered public space of institutional norms and cultural traditions. Therefore, democratic theory suggests a strong internal relation between the individual good and the common good—the stability and continuity of public institutions and cultural traditions. By "internal relation" again I mean that neither conception enjoys theoretical primacy, neither can be defined in terms of the other,
but both must be realized (to some degree) for each to be realized. This leads us to a second area where liberal and democratic bioethics have diverging orientations.

Thus far my examples have been drawn mainly from clinical bioethics. Public policy concerning biotechnology provides a second example, and another point of contrast between liberal and democratic conceptions. The influence of the medical profession and the use of biomedical technology do not just affect individual patients one at a time, they also influence the shape and quality of our social institutions and our collective life. They raise, that is to say, unavoidable questions about the public interest or the common good. In keeping with its general emphasis on individual autonomy, bioethics tends to manifest its underlying liberalism in the way it conceptualizes these questions and in the trouble it has answering them.

The problem is that bioethics can draw from liberalism only an aggregative notion of the public, so that the public interest means little more than the summation of individual interests. With only this notion of the public interest at hand, when faced with the advent of a new development in biotechnology, bioethical analysis can only ask whether the benefits to individuals outweigh the costs, and whether the benefits and burdens will be spread fairly and equitably across the population. This conceptualization makes it theoretically very difficult, and in practice virtually impossible, to say no to any new biotechnology since the initial benefits are usually more readily apparent than the burdens, and arranging equitable access is not an insurmountable obstacle in principle.

A more serious problem with this analysis, though, is that there are some kinds of moral costs (and benefits) that are conceptually invisible to it. They have to do with notions of public life and communal relationships that are not defined by the aggregation of particularistic interests but rather by the nurturing and transformation of democratic or communal interests—interests that flow directly out of institutions, customs, and practices that foster inclusiveness, solidarity, and mutual respect, as well as opportunities for the exercise of transformational agency. The introduction of new technologies or the exercise of certain kinds of elite, professional authority might disrupt or undermine the norms sustaining these democratic values and practices. New forms of social discrimination based on stigmatizing informa-
tion revealed by new technologies of genetic screening is an example. The eroding of traditions and institutions that sustain democratic values is a significant social "cost" that must somehow figure in the bioethical analysis of public policy. But is it possible even to mount this argument, let alone make a convincing public case, using the liberal vocabulary alone? I think not.

And yet increasingly as I read the bioethics literature and follow new developments in biomedicine, law, and policy, it is precisely this element that is missing, and necessary if a searching critique of biotechnological "progress" is to be carried through. Of course, one can readily bring biotechnology into the ambit of democratic concerns by focusing on the process through which science policy decisions are made, and by examining the value of more grassroots involvement and more public accountability in that process. But I also want to underscore the need to think these problems through at the slower, more indirect level of cultural change and not just at the level of democratic governmental activity.

What is distinctive—if anything—about a democratic ethos and sensibility? How can they be sustained where they still exist in our political culture? And how can they be restored where they have been eroded? Bioethics, like many other fields of inquiry, can and should ask these questions. But bioethics may have an especially important strategic role to play in answering them if, as I believe to be the case, notions of health, dependency, disability, and the technological redefinition of life and death affect at some deep level the very nature of our political imagination. Bioethics has already effectively shown how biomedical advances caused dramatic changes during the past thirty years in our understanding of aging and the significance of old age in the human life span. And how this "modernization of aging" has transformed some of our fundamental moral perceptions and expectations such as the rights of the old, the duties of families toward their members, and the obligations of the society toward those whose past productivity has made present social conditions possible. Perhaps a similar analysis can be given of how technologically driven cultural changes such as this also transform the way we comprehend the values of civic equality and transformational agency. This will not happen, though, unless another aspect of liberalism's influence on bioethics can be overcome, namely liberal-
ism's conception of the kind of discourse bioethics should be and the kinds of questions it should—and should not—address.

IV. The Limits of Civic Discourse

A second facet of bioethics that flows from its underlying liberal orientation involves its own conception of itself as a form of civic discourse, and, beyond that, its conception of the limits of morally acceptable civic discourse as such. Here the mainstream predilection is not as clear as it is with autonomy, but I do think it is fair to say that bioethics has an ambivalent attitude about the role of moral argument in public life.

The ambivalence works as follows. On the one hand, contemporary bioethics owes its very existence to the argument that medicine, science, and technology raise questions of morality and human value that society must address openly and publicly. On the other hand, public moral discourse can easily become a vehicle for some form of normative orthodoxy and intolerance that would be detrimental to our pluralistic, secular society. The dilemma is how to take moral discourse seriously in the public domain, and give it some real impact on public policy and public attitudes, while still keeping it in check. This is in fact the same dilemma that lies at the heart of a liberal morality of autonomy.8

The usual solution to this dilemma lies in an interesting distinction between public and private morality; between matters of "the right"—individual rights, justice, obligation, negative liberty—and matters of "the good"—conceptions of human excellences, self-realization, flourishing, affirmative duties, and positive liberty. Public morality, of which bioethics as civic discourse is a part, should concern itself only with matters of justice and rights—a minimal framework of moral and legal principles that enjoy wide-spread cultural agreement and support—and allow the individual maximal freedom to pursue subjectively valued interests and goals consistent with the requirements of public order and the reciprocal right of all others to enjoy the same freedom. Private morality then would be the domain for thinking about the nature of the good life and the good society. Individual conceptions of the good would be acted out only within the sphere of private life. (Exactly where that sphere is located and what institutional shape it takes often remains undefined: the family, the church, the voluntary association?)

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Once again, the underlying liberal individualism that motivates this conception in the first place, creates problems for it. One problem which deserves more attention than it has received in the many discussions of this topic, is that this distinction between public and private deprives the moral life of its middle range. At the most general and universal level, the level of the state, the rules are minimal and mostly negative in character—they involve forbearance rather than involvement, giving others a wide berth rather than engaging them. At the other extreme, where moral norms are most intense and demanding in terms of a nearly total commitment of one’s entire identity, the scope of the association is so limited that it virtually invites sectarianism, intolerance, and a closed-minded orthodoxy or traditionalism. The liberal conception of private morality as the proper domain for discourse concerning the good tends to ensure that liberalism’s worst fears about such discourse are fulfilled and institutionalized. In between the rarefied morality at the top (where the good is too thin), and the imploding moralities at the bottom (where it is too thick) stands a vast middle ground of intermediate institutions and smaller-scale associations essentially devoid of their own proper mode of moral discourse. This is precisely the domain where participatory democratic institutions can grow and prosper, giving a dimension to our moral life as well as to our politics that is sorely lacking at the present time. And this is where civic discourse may produce a measure of democratic consensus about substantive conceptions of the public good that would supplement, not supplant the constitutional rights and liberties properly cherished by the liberal tradition.

This point has been overlooked both by liberal thinkers and by many in bioethics because they draw mistaken inferences from the facts of ethnic, religious, and cultural pluralism. The mere existence of moral and religious diversity in our society does not make democratic civic discourse about the good impossible, especially in this middle domain of intermediate communities and associations. On the contrary, it is just this pluralism that makes civic discourse about our shared values and fundamental ends even more essential than it might be in a more homogenous society. We are neither thoroughly uniform nor thoroughly fragmented; neither a melting pot nor a crazy quilt. The proper image, I think, is that of a mosaic, or, better still, a shifting, unfinished
mosaic. In the way our differences fit together there is an underlying moral pattern, a sense of public purpose, and a vision of the good we seek. But it is a dynamic pattern that needs to be created and recreated over time by active civic involvement and by the explicit reexamination, revision, and reaffirmation of our common ends.

The question that a democratically informed bioethics would pose, then, would not be whether at some level there should be a public discourse involving substantive conceptions of the good, but how intelligent, searching, and open it will be. Moreover, if the participatory middle range of democratic institutions makes an open, inclusive, and mutually respectful civic discourse about the good possible, broaching questions raised by such a discourse also makes grassroots democratic involvement and consensus-building necessary.

In the almost technical moral idiom of justice, rights, and legal obligations, those with professional mastery of this language—judges, philosophers, and ethicists—may perhaps be trusted to keep watch over the clarity and the honesty of the conversation. But when we move away from the language of right into the domain of richer, but also more essentially contested concepts like the good, evil, human fulfillment, happiness, caring, loving, duties born of involuntary relationships, and so on, then an explicit, broadly based participatory form of civic discourse becomes absolutely essential to bioethics. And it is no less essential to the agenda of bioethics—as well as democratic theory proper—to attend to the ways in which to create the necessary institutional spaces and democratic forum opportunities where a democratically informed bioethics of the good can be developed in a critical, open civic conversation.

This will be the work of the next generation of bioethics. The opportunities and dangers of the biological revolution, and the coming dilemmas of health care in an aging society demand it, and will neither be comprehended nor controlled by anything less. And bioethicists must not only help design the democratic forum opportunities where this civic conversation can take place, they must participate in it as well. Not from an exogenous stance and not wielding the moral authority of enlightened judicial reason, but by giving voice from within to shared ideals that are already a
part of what the ethicist and her audience share. Democratic bioethics is more about re-minding than it is about judging. And it must be written in the first person plural.

NOTES

1I have borrowed this term from Amélie Oksenberg Rorty, "Three Myths of Moral Theory," in Mind in Action (Boston: Beacon P, 1988), 271-98.


3I am acutely aware of the extent to which I have been treating "professional ethics" as some monolithic entity, which it is not, and of how my discussion has thus far been pitched at a very abstract and general level. To some extent, I hope to mitigate these shortcomings in my discussion of bioethics, but only to some extent. Within the confines of space and my own present thinking about the issues, I shall be speaking quite generally about bioethics as a field too, and about what I perceive to be the mainstream of work there. I acknowledge at once that bioethics is a rich tapestry of philosophical orientation, not a uniform cloth. Still, in order to explore the questions that interest me here, it is necessary to gloss over some otherwise significant differences among arguments and thinkers, searching more for clusters of ideas and family resemblances than for originality and idiosyncratic approaches.

Thus for some other purposes I would want to stress the difference between the libertarian position of Tristram Engelhardt, and the much more egalitarian and welfarist positions of Robert Veatch and Norman Daniels. But from the point of view of the basic contrast I am concerned to draw between liberal and democratic values, the disagreements among them are quarrels within the house of liberalism. The fundamental conceptions of self, agency, and society, and the understanding of fundamental categories, like rights, interests, and obligations, that bind these bioethicists to the liberal tradition are more significant for my purposes here than their differing interpretations of principles or the different weights they place on various liberal values. Genuinely to go outside of the liberal family in bioethics today is to go into some circles of Roman Catholic or Orthodox Jewish bioethics, or to the conservative protestant theological orientation of the late Paul Ramsey, or to the neo-Aristotelian (one might even say Straussian) perspective of Leon Kass.


7Daniel Callahan, Setting Limits (New York: Simon, 1987).
