

## Conclusion

Society's relationship to the new Age of Biotechnology is shared—to one degree or other—by both religion and law. Whether these two forces are reactive to or directive of the scientific advances of biomedical science is largely an open question. There can be no uncertainty, however, that religion—with faith as an inextricable value within it—and law, as the bulwark of civilized action in contemporary society, form a framework for principled decisionmaking in this new Age. The extent to which this framework presents itself as one, unyielding *a priori* reference point for analysis, contemplation and action or—alternatively—sets normative values or constructs shaped more directly by each situation giving rise to an issue of concern—remains a contentious matter of current debate.

With either approach—*a priori* or situational—the formative process of application that seeks to lessen personal suffering and achieve the greatest sustained level of social good (or the maintenance of health and the prevention of disease) and which, in turn, is guided by a spirit of humanity and love, is the preferred norm to be applied in the decisional process. The process applies equally to all aspects of the biotechnology—from the development of an ethic of free scientific investigation, the passage of laws which shape or define acceptable normative conduct within the New Biology, the placement of limits on procreational autonomy through uses of reproductive biology such as cloning and other genetic enhancements such as stem-cell research and—finally—the development of policies regarding the necessity of life supports for terminally ill patients.

In a fundamental way, the ethical and—admittedly—situational principles of fairness, justice, and love shape the framework for principled decisionmaking in applications of genetic knowledge, medicine, and biotechnology. Common sense is, as well, an important operational value.

The epistemologies and taxonomies of religion, biotechnology and law are—to be sure—separate, yet they are equal as approaches to reality. Indeed, all three share a synergetic relationship—for, they seek to understand and improve the human condition. Law sets normative standards of conduct for social discourse while religion, although building on tradition, advances sets of intellectual beliefs, not abstract ideas, and presents a way of life for its adherents. Thus, within every religious denominational community, are found communal rituals, ethical values and distinctive forms of individual experiences. At the core of the religious inquiry within these faith communities is exploration of the purpose of human life and of destiny. Today, the challenge for religion is to link these traditional areas of concern with a new relevance to the wonders of biomedical technology.

While it may be thought, initially, that faith is the capstone of religion, upon reflection, it is seen that central to religious belief is knowledge. Thus, although speaking different languages, both science and theology—when translated—are seen as seeking truth and wise judgment. The scientific experience seeks to explicate the unknown and make it reality. In spirituality, the foundational experiences tie to meaning, purpose and teleology.

The new molecular science is requiring a complete re-thinking of the scheme of the universe and of humanity's role within it. It is forcing a re-evaluation of, heretofore, accepted theological issues including determinism versus free will, the limits of reproductive biology, the meaning of personhood from its early formation to its conclusion, and distributive justice. Within this context, scriptural texts appear outdated and impractical.

Precise and concrete directives for bioethical decisionmaking are seldom found in theology. Rather than structuring specific norms, fundamental values are affirmed. The Roman Catholic Church more than any other Christian faith, has—historically—led, and often shaped, the critically important ethical, moral, and social issues of the day. Definitive teachings of the Magisterium—from the Pope and the Bishops—allow the faithful to know with certainty the position of their Church on all aspects of the New Biology. Other Christian denominations do not speak with one voice. Certainly, for example, the World Council of Churches equates in no way with the National Conference of Catholic Bishops in scope or significance of authoritative teachings and guidance.

If religion in general is to have contemporary relevance to medical science, it must offer as, observed, guidelines which shape a balanced and reasonable common sense response to it—a response which infuses religious, moral, and ethical insights and values into present scientifically-based ethics rooted in evolution and reproductive biology and even seeks to restyle itself, perhaps, as “biotheology.” Although morality and religion are not identifiable with each other, there is no question that imbedded within religion is a code of values. The extent to which modern society receives its moral compass from religion becomes the pivotal issue.

Whether deliberative democracy is a practical, as opposed, to aspirational goal in the total decisional process of the biotechnological revolution is an open question—this, because of the unwillingness of the average citizen to become educated and informed on the critical issues of the day. If freedom is seen in terms of a social contract, citizens must realize that the validity of the contract can only be sustained over the long term if they assume social responsibilities to participate in their governance; for, the more who enter the public debate of the New Biology, the greater the opportunity for biological science to become “democratized” and the more representative the whole process becomes.

On May 26, 2004, a bold, decisive step was taken by the United States Court of Appeals for the Ninth Circuit—one that affirms a lower court determination, discussed in Chapter 6, which validates the democratic principle of self governance. By sustaining the constitutional integrity of the Oregon Death with Dignity Act—passed by a 1994 voter referendum and, after a failed challenge to it, re-approved again in 1997, the Appeals Court acknowledges, unequivocally, that the federal government cannot encroach upon state authority in order to regulate medical practice at the end of life. Thus, Attorney General John Ashcroft's 2001 Directive to the Drug Enforcement Administration to pursue, and possibly revoke the licenses of physicians who prescribe lethal prescriptions for the terminally ill, is an impermissible intrusion on the very tenets of deliberative democracy. The national debate will continue and—by no means—is settled by this case. The

wisdom of the judicial holding, however, will serve to both inform and shape a new enlightened discourse on the broader right of self-determination and the primacy of state sovereignty in resolving fundamental issues of this nature. (*Oregon v. Ashcroft et al.*, 368 F.3d 1118 (9<sup>th</sup> Cir. 2004)).

The ultimate goal of law should be to promote and effect decisions which not only can be placed within the boundaries of scientifically sound knowledge, but thus reflect, approximately, the scientific state of the art. Law all too often reacts to science rather than directs it. It would be better if both became full partners in the enterprise of the new Age of Biotechnology. If law is to regulate, adequately, the progeny of the new sciences, it must begin—in the first instance—to understand more fully science and technology.

The problem of human suffering, and the task of minimizing it, is an issue of major—if not central—significance to all the religions of the world. The new genetic medicine—indeed, the underlying tenets of the new reproductive biology—may be seen, then, as a response to the very enigma of human suffering; for, both medical scientists and physicians endeavor to ameliorate it.

In the final analysis, it remains for law to serve as a mechanism or a framework for principled decisionmaking and thereby effect this duality of purpose between religion and medical science. Ideally, this goal can be realized through wise and humane legislation, administrative policies and judicial precedents designed to assume both distributive and corrective justice in the delivery of health care and the advancement of science. If achieved, this goal—in turn—will have the effect of improving the human condition by safeguarding personal dignity and upholding the value and the dignity of all persons.

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