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Hans-Martin Sass: Comment on Ignacio Ellacuría's
===== "Fundamentacion Biologica de la Etica"

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Biological Foundations of Bioethics

1. Francois Rabelais (1483-1553), Doctor of Medicine, who taught as Full Professor of Medicine at the prestigious Department at Montpellier in 1537 and is said to have made a public anatomical dissection in November of the same year, had a literary offspring named Gargantua, an eleven-month -baby. The eleven-month baby was born in Lyon in 1934 in the fourth chapter of Dr. Rabelais's "Vie inestimable du grand Gargantua, père du Pantaguel"¹. The eleven months pregnancy provided Gargantua with a long and adventurous life in four subsequent volumes. Gargantua still is very much alive in the history of ideas. Why did Dr. Rabelais produce an eleven-months baby intentionally? Dr. Rabelais like other Doctors of Medicine had ethical reasons for that. They gave Biology an Ethical Foundation. Intestate succession was a difficult legal, political and personal problem in cases when the testator died without an already born heir. Doctors of Medicine were nearer to the personal problems of widows who had lost their husbands than lawyers or politicians. Evaluating the private and public rumors associated with legal contests concerning succession, they solved the problem or at least minimized it by giving the mourning widow another chance for social and economical survival by confronting the public with a definite biological law of eleven-months pregnancy. In 1630 Alfonso A. Carranza states that the eleven-months-pregnancy is an extreme limit for pregnancy among humans and is commonly assented to by all scholars.² Carranza quotes the Corpus Hippocraticum. Aristotle in "Peri zoon geneseos" speaks about seven-, eight-, and ten-months pregnancies. Aristotle also is quoted for the biological law that the soul enters the body of the fetus just at the end of the fortieth day of the



pregnancy or - very important! at the end of the eightieth day if the fetus should be female.³ It is not by accident that up to the fortieth day of pregnancy an abortion is less dangerous and less difficult than in later stages. A precise biological date for the embodiment of the soul allows legal abortion, because a fetus in its first three months is not a human being biologically, and therefore not at all legally. The merging of body and soul after three months and the eleven-months-pregnancy are paradigms for Bioethical Foundations of Biology. We can put the thesis of such a Bioethical Foundation more precisely: The ethos of insiders - medicorum communis - resting on professional knowledge and having developed a code of how to use the esoteric professional knowledge only for ethical purposes, uses (abuses) the reputation of science for exoteric claims about what they call biological laws in nature. Such scientific laws make legal decisions comfortable and do not interfere with the already established system of moral values in society. Medical ethics created so-called biological laws.

2. In modern times we tend to make Science the the framework and platform for Ethics. To use the reputation of Science is^a quite comfortable way of establishing standards and values in society which otherwise have to be established by common sense or dialog or by political decision-making. Modern Biology, e.g. served in different ways in creating fundamental values which are basic to Ethics, i.e. in creating ideologies. Social Darwinism generalized Darwin's "Struggle for Life" into a basic standard in human behavior while Kropotkin generalized Darwin's hint on "Mutual Aid" in communities of some species as effective for survival to a general theory of cooperative



anarchism.⁴ Lyssenko's genetic theory on the inheritance of learned behavior backed a totalitarian system of education⁵, while Skinner's research on the behavior of rats has been transferred to the behavior of humans unrestrictedly.⁶ These are examples for unjustifiable generalizations of scientific theses to general worldviews establishing platforms for ethical reasoning. But Biology like History or Sociology or Economy, never can be the foundation of ethics or bioethics. General patterns drawn from the particular results of sciences only serve as a framework for ideational orientation and for predisposing ethical standards and for setting up goals in society. They are a product of culture and philosophy but they do not represent science. It seems that in modern times man has replaced the authority of God by a questionable and selective appeal to the authority of Science in giving reasons for his moral values.

3. Culture, not Nature is a foundation of Ethics. We cannot rest on biological laws for ethics but we have to build up our ethics by cultivating nature and by overcoming biology. The Old Testament argues that it "has been told" to the humans what to do and what not to do. God does not recall man's phylogenesis but gives orders which have to be obeyed even against the temptations of the flesh.⁷ Why help people to die, why cure sick and ill people, why give medical aid against pain? Is medical aid a result of phylogenetic development or selection? Is it an instinct? It is neither. The Hippocratic Oath neither can be understood as the result of inborn instinct nor as the result of acting along natural laws. The Hippocratic Oath represents human rebellion against the rotations and temptations of birth, growing, and dying in nature, the rebellion against sickness, illness and pain. It is natural, it is our biological fate to sometimes suffer pain and to ultimately have to die. Pain starts



immediately in the process of birth and normally accompanies the process of dying. The ethos of medicine fights against sickness and pain, the foundation of which is biological. The doctor protects life against the stream of all what is bios. The professional inside into the fragile structure of human life and the natural limits to each individual's life create the ethos to use this professional knowledge for aid and not for destruction. The Hippocratic Oath represents the ideal of wedding business and ethics, professionalism and humanism, knowledge and responsibility. Such a merging is the highest possible result of culture.

Bioethics is a result of culture in a twofold manner. It presupposes the cultivating_a of herbs and the development of medical tools and the culture of masterful and right use of knowledge. The restrictions in applying professional knowledge only to medical aid requires an educated person with highest standards in humanism and culture. It is not selfevident from the professional or scientific point of view to use knowledge exclusively for ethical reasons. Medical ethics like all other sorts of professional ethics is not a gift of nature. It is a result of culture, to state it once more.

4. Culture and Ethics are blessed with wisdom if they cherish and develop the capacities of nature, if they transform them.

They will not be truly successful if they work by means of dominating natural capacities. On the other hand, Ethics is not just the prolongation of nature, even though it cannot disregard natural capacities. One may call Technogenetics the prolongation or the replacement of Biogenetics in so far as the biological order as well as the technological order have only instrumental, not ethical structures and goals. But the



world of ethics is not identical to biogenetic or technogenetic progress. Ethics is stewardship of cultivated human beings in reflecting, responding to, transforming, and gardening the world of bios and the world of techne.

I do not deny that culture has a biological aspect. The practice of gardening and farming is not just an instrumental theory-practice relationship. Important are the capacities and limitations of crops or animals which have to be developed and to be tended. It is impossible to breed an egg-, wool- and milk-producing sheep. That means there are biological capacities and limits for technological progress and for professional activities. Medical ethics, understood as stewardship in strengthening capacities and taking into account human limits as well as extending them as much as possible, are cultivated professional answers to our biological heritage. Bioethics as all sorts of professional and non-professional ethics do not rest on biological heritage, they transfigure^a it. Ethics as well as bioethics do not work for the maximum realization of plain biological instincts and forces because their roots are not biological but cultural.

Culture on the other hand has a soteriological aspect, i.e. cultural activities are performed in order to establish a better life than the natural one. Human beings act according to self-fulfilling prophecies. The paradise they struggle for may be on this earth or on the new one. In both cases, biology is neglected and idols are appraised. According to some soteriological utopias it may be justifiable to call natural and cultural behavior, e.g. sex or private property, a sin for the sake of the future. Even torturing a person in order to make him follow the goals of prophecy, may seem to be ethical and has



been called human in religious and ideological inquisitions. Pharmacy and medicine as well as other professional techniques in modern civilization have been used and abused as instruments in such soteriological strategies.

It is well-known that cultural and ethical activities do not always represent a knowledgeable and educated and worldly wise behavior in dealing with the biological resources of humans. We call the extreme form of misunderstanding or neglecting biological rules of humans inhuman or totalitarian. However, there is a broad variety of what a particular culture may call human or ethical. What is to be done with elderly people, for example? The answer to this question depends on the economical forces and cultural reflections of the society whether they call it ethical to kill the old and sick as some Eskimo tribes do or whether they put them into old-age-asylums as we do. Regarding the history of ethical ideas and the biological limits of human capacities, there may be a sort of meson as Aristotle calls it, a middle-of-the-road-ethos for cultivated and educated behavior among humans avoiding the extreme as either resting on biology or fulfilling supernatural ideals in exaggerated soteriological activities.

5. Bioethics as far as it rests on the Hippocratic Oath, seems not primarily to reflect a particular cultural understanding of values or moral. On the contrary, far away from fashions in culture and the cultural results in variations of ethical codices, the ethics of Hippocrate represents an elitist ethos of the medical profession. This ethos has been created within the professional circle binding the application of professional knowledge into the goals of a codex and refusing the application of professional knowledge as instruments for multiple aims set



up by culture and society, or by private interests of the professionals.

Bioethics insofar serves to protect bios against the fashion-fads in political, social, and cultural values. This is true for non-therapeutical medical practice, too. The Nuremberg-codex (1945) attacking total reification of human beings in non-therapeutical research⁹ reaffirms the Hippocratic ethos. Only Informed Consent in non-therapeutical research opens the esoteric circle of the professionals devoted to the Hippocratic Oath for partners in research, namely for persons of highest moral and cultural standards¹⁰. However, informed consent provides a platform only for traditional non-therapeutical research in which one or a limited number of persons are involved. Research in ecology or producing possible changes in ecology, cannot work on informed consent and has to obey the Hippocratic Oath in a strict sense. As far as other sciences are involved in such a research, they have to obey moral standards comparable to the Hippocratic ones.

The high standards of bioethics represented in the Hippocratic Oath, exercised the ethos over thousands of years as a binding ethos for professionals, restricting professional activities voluntarily to medical aid in a society which was not competent enough to value this voluntary ethos or to set up goals for this ethos or even to ascertain violations of it. In modern times there are people in society who are more informed about the instrumental use and abuse of medicine and pharmacy and who are no therapists. Some of them are involved in non-therapeutical research. That has been an argument for the installment of Ethical Committees. Other reasons for the installment of Ethical ~~EXE~~ Committees may be the impairment



of personal contact between doctor and patient in modern hospital technology and the factual discrepance between Hippocratic ethos and practical behavior of some doctors primarily interested in economical success. However, the Hippocratic Oath already establishes the highest standards of ethical and professional behavior which have to be met by Ethical Committees. More than that, the Hippocratic Oath may serve as an ideal paradigm for other areas of profession for developing their own business ethics. As Biology is not the foundation of Bioethics, Sociology cannot be the foundation of Ethics in interhuman relationship, and Economy cannot be understood as the foundation of Business Ethics in management. Pleading for the development of professional ethics according to the Hippocratic ethos does not mean to disrespect the influence of public culture and public opinion on ethics and the responsibility of society for ethical behavior among all citizens. But establishing, exercising, and controlling moral standards in professional behavior, requires first of all the consent of the specialists to use their special knowledge in a responsible way. It may be helpful for the development of professional ethics in modern society to teach medical students not only natural sciences and business students not only economics, but insert required courses in philosophy and humanistic studies into the curricula of all forms of professional training.¹¹

*often Because some professions, e.g. those of the jurists or politicians*are not limiting the instrumental use of their knowledge by obeying voluntary ethical standards, and because public culture sometimes produces unhuman forms of what the public calls ethics, Dr. Rabelais and the medical community have bred the eleven-month -baby. Its seed is bioethical not biological.



Notes

1. Gargantua I,⁴ (several editions and translations).
M.A. Screech "Eleven-Months Pregnancies", Etudes Rabelaisiennes, VIII (Geneve 1969), p. 94-106
2. A.A. Carranza, De partu naturali et legitimo, Geneve 1630, p. 582
3. Thomas Aquinas repeated the biological theories of Aristotle, cf. Paul Sporcken, Darf die Medizin was sie kann (Düsseldorf 1971), p. 68. It was *communis opinio* among medieval scientists and theologians that a fetus becomes a human being not before 40 days to three months. Albertus Magnus only criticized Aquina's elaborated theory of three stages -vegetative, sensitive, rational - in the development of the fetus, a theory foreshadowing the modern understanding of phylogenesis repeating ontogenesis; Albertus calls Thomas' theories "absurda ad omnes recte philosophantes", De animalibus, ed. H. Stadler (Münster 1921), p. 1093. - As for modern theological discussion, an abortion, including the evaluation of nidation (implantation) as the beginning of individuation and discussing canonical justification of medical prevention of nidation, cf. Franz Boeckle "Um den Beginn des Lebens", Arzt und Christ, 14 (1968), p. 65-73.
4. Pjotr A. Kropotkin Mutual Aid (London 1902). Kropotkin quotes Darwin's On the Origin of Species by Means of Natural Selection, 2nd ed., p. 163. Kropotkin's general theory of mutual aid is a direct answer to Z.B. Huxley's Struggle for Existence and its Bearing upon Man (1888), who presented the strict Social-Darwinism concept. - Recently Erich Fromm Anatomie der menschlichen Destruktivität developed the thesis that humans in prehistoric times had internalized high standards of cooperation and mutual aid in order to survive



- as hunters. R.B. Livingston Brain Circuitry to Complex Behavior (1967) speaks about built-in preference to cooperation, confidence and altruism in human neuro-systems, the realization of them makes the person happy. Fromm's thesis on internalized mutual aid by means of selection seems to be a one-sided generalization. The neurophysiological thesis of Livingston can only be evaluated by neurophysiologists, however, they seem not to agree unanimously.
5. Z.A. Medvedev The Rise and Fall of T.D. Lyssenko (New York 1969)
 6. B.F. Skinner Beyond Freedom and Dignity (1971). - Philosophical theories of stratification in nature, such as X. Zubiri Sobre la Essencia (German Edition Munich 1968) or N. Hartmann Neue Wege der Ontologie (1942) are more developed than the above mentioned concepts based on generalization. But they, too, are philosophical general theories, not results of scientific research. They serve as an ideational tool for orientation and predisposing actions, including ethical ones. Philosophical Ontology may not be confused with scientific Biology, for the best sake of both, philosophy and sciences.
 7. Micha 6,8; Exodus 20,12. Only St.Paul argues that the pagans who did not get the law by revelation of the Old or the New Testament may find this law in nature, i.e. harmony in the kosmos as a paradigm for harmony among humans. The same argument for ideational and meditating orientation in kosmos is found in (Pseudo-) Aristotle Peri tou kosmou, 396b.
 8. Cf. my Introduction in Ernst Kapp, Grundlinien einer Philosophie der Technik (Reprint: Duesseldorf 1978).
 9. Cf. also the international Codices agreed on in Helsinki (1964) and Tokyo (1975) and the Belmont Paper (1978): Ethical Principles and Guidelines for Research involving



Human Subjects (National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, Draft, Washington 4-6-1978)

10. Hans Jonas "Philosophical Reflections on Experiment involving Human Subjects" _____.-
Heinz Schuler Zur ethischen Problematik psychologischer Forschung, Habilitationsschrift (Universität Augsburg 1978).
11. Cf. Hans-Martin Sass, The Quest for Humanism in a Scientific Society, Proceedings of the Albert Einstein Centenary, ed. A. Mercier (Berne 1979). The discussion about eleven-months pregnancies and on the very beginning of genuine human life of a fetus indeed are not the core items of bioethics. However, these items may serve to stress the fact that there are different understandings on what is called "normal" in biological and behavioral sciences on the one hand, and in cultural and ethical connotations on the other hand. Potler's understanding of bioethics as a "science for survival" underestimates the role of culture in setting up goals and standards for what it means to live "happy" or "productive". Bioethics, in the crossing of biological and cultural aspects, of professional ethics and public morality, of responsibility against the individual as well as mankind and ecology, should not be set into strictures by means of definition, as the Encyclopedia of Bioethics (Vol. I, p. 115) points out. Playing games in defining, however, is one of the most fruitful as well as exciting occupations among scientists and philosophers, promoting science and the evaluation of standards in applying sciences.

