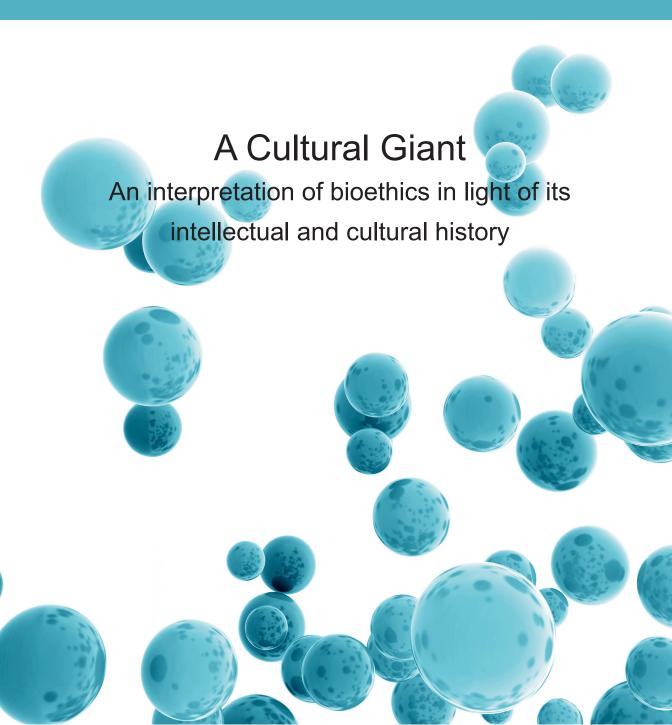HEIKKI SAXÉN

A Cultural Giant

An interpretation of bioethics in light of its

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UNIVERSITY OF TAMPERE

HEIKKI SAXÉN

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Cover design by
Mikko Reinikka

For Salla

ABSTRACT

The field of bioethics was established in the United States during the sixties and early seventies. The field addresses the ethical challenges of life sciences—the science of living organisms, from plants to humans—and tries to incorporate various perspectives in doing this. It mostly came into being as a radical challenge to the medical profession and its age-old tradition of ethics, which were seen as exclusivist and elitist. A lot has changed since the early days. Today, bioethics is a broad and somewhat established field in its country of origin and in many places throughout the world.

However, despite its past successes, bioethics now appears to be undergoing a middle age crisis in which people in the field, along with others, are asking perplexing questions about its meaning, essence, and even its reason for being. Bioethics has clearly arrived at some kind of turning point.

As the dust has settled from the early days, many are asking whether bioethics was, after all, a welcome addition to prevailing intellectual vocabulary and what precise purpose it serves in academia and in society today. Much criticism has been raised: to some, bioethics has never been a real thing, at least in any positive sense. Rather, for them bioethics is only a nuisance that gets in life sciences' and their application's way, especially in health care. Others strongly disagree with this. And then there are other views. All in all, everyone seems to have her own conception of the way things are. However, what is certain is that the outcome of this debate will have a significant impact on determining the future of the field. The stakes are high.

This study seeks to offer fresh answers to the ongoing debate about the nature of bioethics by exploring bioethics' past and current state from the perspective of intellectual and cultural history. Under this umbrella, a range of theories from political decay to political philosophy to social capital are applied to unearth the deeper nature of the field, especially its cultural essence.

A central argument revolves around two identified core characteristics of bioethics: its aspirations to be intellectually open-ended and to be socially inclusive. This observation leads to further identification of the field's features such as the "deliberative shallowness of bioethics." The study argues that by appreciating these aspects of bioethics, a clear challenge to embrace and support them emerges. At the same

time, this offers a potential way for bioethics to move forward from its early and present schemes and for it to flourish in the future.

Eventually, the study argues that bioethics could, and should, be seen as a "cultural giant," an important part of at least Western culture—a cultural force that could help, for its part, to renew political and social institutions according to present needs. Besides this, bioethics is also argued to have an intrinsic cultural value, in other words, bioethics should not only be judged by its merits; rather, it should be accepted as a matter of fact of the current cultural landscape.

Moreover, to assist bioethics to move forward, the study sketches a few more precise suggestions of how this could be done. Particular emphasis is placed on developing a genuinely new kind of body of thought to support this endeavor. To this end, preliminarily, the study coins a new term, "organic bioethics," to help in better conceptualizing and embracing the nature of the field and its best qualities.

TIIVISTELMÄ

Bioetiikan tieteenala syntyi 1960- ja 1970-luvuilla Yhdysvalloissa. Bioetiikka käsittelee lääke-, terveys- ja biotieteiden eettisiä, moraalisia ja yhteiskunnallisia kysymyksiä. Keskeistä alalle on pyrkimys näiden teemojen moniääniseen ja -arvoiseen pohtimiseen. Bioetiikan syntyyn johti erityisesti radikaali pyrkimys haastaa lääketiedettä ja sen ikiaikaista etiikkaa, jotka koettiin aikanaan yksiäänisiksi ja elitistisiksi. Sitten bioetiikan alkuaikojen paljon on muuttunut. Nykyisin bioetiikka on laaja ja varsin vakiintunut ala synnyinmaassaan ja monin paikoin ympäri maailmaa. Suomessa bioetiikka on tosin yhä suhteellisen tuntemattomassa ja vähäisessä roolissa niin akateemisesti kuin yhteiskunnallisestikin.

Menneestä menestyksestään huolimatta bioetiikka käy parhaillaan läpi keski-iän kriisiä, jonka myötä monet tahot alalla ja sen ulkopuolella kysyvät keskeisiä kysymyksiä bioetiikan merkityksestä ja olemuksesta, jopa sen olemassaolon oikeutuksesta. Bioetiikka on selvästi saapunut eräänlaiseen kehityksensä taitekohtaan.

Pölyn laskeuduttua bioetiikan alkuaikojen jäljiltä monet kysyvät nykyisin, oliko bioetiikka loppujen lopuksi tervetullut lisä vallitsevaan henkiseen ilmastoon ja mitä tarkoitusta ala tarkalleen ottaen palvelee sekä akateemisessa maailmassa että tämän ulkopuolella. Paljon kritiikkiä on esitetty: joillekin bioetiikka ei ole ikinä ollut mitään todellista, ainakaan myönteisessä mielessä. Pikemmin näille kriitikoille bioetiikka on näyttäytynyt lähinnä rasitteena, joka on ollut lääke-, terveys- ja biotieteiden ja niiden soveltamisen tiellä, varsinkin terveydenhuollon piirissä. Toiset keskustelijat taas ovat vahvasti eri mieltä. Kaikkineen ilmassa on paljon erilaisia näkemyksiä eikä yhteistä maaperää ole paljon. Joka tapauksessa on varmaa, että tämän keskustelun lopputulos tulee keskeisesti vaikuttamaan alan tulevaisuuden kehitykseen, joten panokset ovat korkeat.

Tämä tutkimus pyrkii tarjoamaan tuoreita vastauksia käynnissä olevaan keskusteluun bioetiikan luonteesta valottamalla alan menneisyyttä ja nykyistä tilaa aate- ja oppihistorian sekä kulttuurihistorian näkökulmasta. Tämän viitekehyksen puitteissa sovelletaan yhä kattavaa teoreettista kirjoa, johon ammennetaan muun muassa poliittisten instituutioiden rappion, poliittisen filosofian sekä sosiaalisen pääoman tutkimuksen parista. Tarkoituksena on kaivaa esille syvempi bioetiikan luonne, erityisesti alan kulttuurillinen ydinolemus.

Tutkimuksen keskeinen argumentti tiivistyy kahteen havainnoituun bioetiikan ydinpiirteeseen: alan pyrkimykseen olla avoin erilaisille henkisille lähestymistavoille sekä sosiaalisesti uusille osanottajille: siis toisin sanoen alan pyrkimykseen olla moniääninen ja -arvoinen. Nämä havainnot johtavat tutkimuksessa yhä uusien bioetiikan alan puolien valottamiseen, joista mainittakoon esimerkiksi bioetiikan pyrkimys pysytellä tarkoituksellisesti tietyssä mielessä henkisesti pinnalla, menemättä liian syvälle mihinkään tiettyihin eettisiin, moraalisiin ja yhteiskunnallisiin näkemyksiin. Tutkimuksessa argumentoidaan, että tällaisten bioetiikan piirteiden kokonaisvaltaisempi ymmärtäminen auttaa samalla hahmottamaan selvän haasteen näiden ominaisuuksien kattavammaksi hyväksymiseksi ja tukemiseksi. Samalla tässä haasteessa muotoutuu eräs mahdollinen tie bioetiikalle siirtyä pois sen alun ja nykyisten ajatusmallien parista ja kukoistaa paremmin tulevaisuudessa.

Syvimmiltään tutkimuksessa puolustetaan näkemystä, jonka mukaan bioetiikka voidaan – ja se pitäisi – nähdä kulttuurillisena jättiläisenä, joka on tärkeä osa ainakin länsimaista kulttuuripiiriä. Toisin sanoen bioetiikka nähdään kulttuurillisena voimana, joka voi osaltaan auttaa poliittisia ja sosiaalisia instituutioita uudistumaan nykyisin vallitsevien yhteiskunnallisten tarpeiden mukaan. Tämän ohella tutkimuksessa argumentoidaan, että bioetiikka on kulttuurillisesti itseisarvoinen asia, jota ei tulisi arvioida ainoastaan sen hyötyjen kautta vaan pikemmin hyväksyä vallitsevana kulttuurin osana.

Lisäksi tutkimuksessa pyritään auttamaan bioetiikkaa kehittymään tulevaisuudessa hahmottelemalla joitakin konkreettisempia ehdotuksia etenemiselle. Erityinen painoarvo asetetaan aidosti uuden ajatusjärjestelmän kehittämiselle tämän pyrkimyksen tukemiseksi. Tässä hengessä tutkimuksessa luodaan alustavasti "orgaanisen bioetiikan" käsite, jonka tarkoitus on auttaa paremmin käsitteellistämään ja omaksumaan bioetiikan luonnetta ja alan parhaita puolia.

Table of Contents

Acknowledgements

It has been a long journey and I am still astonished that I have finally completed it. It is a marvel. During this journey, I have carved myself out of the raw academic wood I now realize I was before embarking on this path. It feels that words do not do justice to my feeling of amazement. Nevertheless, I know that I could have not reached this point without the help of innumerable people and institutions.

First, I want to express my gratitude to my dissertation supervisors, historians Pertti Haapala and Markku Hyrkkänen from the University of Tampere. The journey has been long but I have always received unconditional and encouraging support to continue, which is really the cornerstone of the fickle process of searching for and establishing one's academic identity, in other words, of preparing a Ph.D. dissertation. At the University of Tampere, I have also found support elsewhere; particularly I have had numerous insightful discussions with scholars Risto Harisalo and Jani Rajaniemi. Beyond my own university, there has been a host of academics in Finland who have been vital to enriching this work and my thinking more broadly. My warmest thanks to all of you.

Furthermore, the U.S. has occupied a central place in my life during recent years. The Hastings Center, N.Y., where I was a visiting scholar for two weeks in the spring of 2012, and in the summer of 2015 together with my wife Salla, offered me a possibility to benefit of its near magical and bioethically infused atmosphere. For this I want to thank the whole staff of the Center. I especially remember the generous personal interaction, encouragement and support I received from Dan Callahan and Millie Solomon.

Moreover, Norman Daniels has played a key role during this journey. I first met Norman at Harvard in 2012 and later had the honor of hosting him as a keynote speaker at a Finnish bioethics conference in 2013. This interaction led to an invitation by Norman for me to spend the academic year 2014–2015 at Harvard, preparing my dissertation under his guidance. I admired the dedication and skill Norman has for creating good theory and while it was tough at times, he really set me on a path of learning what it means to challenge one's preconceptions and to think through various topics.

There are innumerable others who I could thank as well here, but understandably the space is limited. Nevertheless, I truly value all the help I have received during the years. Moreover, I want to emphasize that any shortcomings or mistakes one can find in this study are naturally my own.

Finally, and most importantly, I want to thank my family for all the thorough and unwavering support. Preparing the dissertation has been a privilege and a delight, but, understandably, it has also been a taxing challenge. But here we are! So, my deepest thanks go to my family: to my mother and everyone else, especially to my loving and supporting wife Salla.

Introduction

> Bioethics transcends peculiarities of place and policy, yet inevitably reflects and incorporates those peculiarities. It is an ideal object of study for the historian or social scientist.[1]

This work is an *exploration* of the field of bioethics in light of its intellectual and cultural history. In other words, the work will track down where and when bioethics was born and how it has evolved since then, intellectually and culturally speaking—which is to say that the focus will not be as much on actual events and people as it will be on broader intellectual and cultural developments. Furthermore, by "exploration" I mean something beyond a simple "investigation" or "study"; rather, I aspire to find new and wider perspectives to apply to, and within, the field. At times, this will take us beyond what is strictly justified by evidence; I want to challenge the reader to consider *new ideas*, for I think this is what the field of bioethics desperately needs at this point.

The reason I see such a need for rethinking bioethics is that this fairly young field appears to be undergoing a kind of middle age crisis in which people in the field, along with others, are asking perplexing questions about its meaning, essence, and even its reason for being. A few elementary coordinates of the nature of bioethics seem clear but the finer details are still very much unresolved and under dispute. First things first, the background story is this: The field—and to me bioethics is indeed a field, purely by virtue of being widely considered as one[2]—was born in the United States during the sixties and early seventies. It addresses the ethical challenges of life sciences—the science of living organisms, from plants to humans—and tries to incorporate various perspectives in doing this. It more or less came into being as

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[1] Charles E. Rosenberg, *Our Present Complaint: American Medicine, Then and Now* (Baltimore: The Johns Hopkins University Press, 2007), 167.

[2] For example, see Albert R. Jonsen, *The Birth of Bioethics* (Oxford: Oxford University Press, 1998), 345–346. Broadly speaking, my position on this matter belongs to the theoretical families of social constructivism and social constructionism; see Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (Garden City: Anchor Books, 1966); Vivien Burr, *Social Constructionism*, 3rd ed. (London: Routledge, 2015).

a radical challenge to the medical profession and its age-old tradition of ethics, which were seen as exclusivist and elitist. However, a lot has changed since the early days. Today, bioethics is a broad and somewhat established field in its country of origin and in many places throughout the world.

So, bioethics has clearly arrived at some kind of turning point. As the dust has settled from the early days, many are asking whether bioethics was, after all, a welcome addition to prevailing intellectual vocabulary and what precise purpose it serves in academia and in society today. Much criticism has been raised: to some, bioethics has never been a real thing, at least in any positive sense. Rather, bioethics for them is only a nuisance that gets in life sciences' and their application's way, especially in health care. Others strongly disagree with this. And then there are other views. All in all, everyone seems to have her own conception of the way things are. However, what is certain is that the outcome of this debate will more or less determine the future of the field. The stakes are high.

Despite the weight of this discussion on bioethics—which might also be termed "metabioethics"[3]—only a handful of serious investigations of the topic have been conducted thus far. As the field is rather young, it is understandable that few historical, or other broader, inquiries of its birth and development have been conducted— be they more rudimentary explanations of the events that have taken place or studies that go beyond this and consider the meaning of it all. A central consequence of this state of affairs has been a tendency to oversimplify or otherwise skew the picture according to each writer's preferences, moreover, usually with considerable influence over the ensuing discussion. In other words, it appears to me that there have been many misconceptions about the nature of the field and its significance. This is my attempt to correct a number of these misconceptions and, in practice, highlight some of the good qualities of the field that seem to have been overlooked or forgotten to some extent. Concurrently, I will offer my input to the question of how the field could best move forward.

Put simply, I aspire to see the forest for the trees and then help to save the forest that is under threat—naturally, in my own way, in my exploration of bioethics. Anyone who is interested in this debate or struggle, is, or I hope for them to be, part of my primary audience. Moreover, I will aim to write so that even a person who is not acquainted with bioethics or its debates can follow my reasoning.

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[3] Bruce Jennings, "Reconceptualizing Autonomy: A Relational Turn in Bioethics," *Hastings Center Report* 46 (2016): 14.

In the following pages, I will lean on a few central assumptions. Firstly, I will concentrate on what has happened in the United States although I see bioethics as a fairly unified Western phenomenon and I wish that my observations will also have relevance in other Western countries. The first reason for this approach is that it seems to me that the same kind of broad social, political, and cultural dynamics than what I connect with bioethics have largely taken place throughout the West, roughly over the same time period, even though the details have varied considerably. For example, the term "bioethics" is exotic in some places despite the field clearly existing in many of these environments. Most notably, the terms "medical ethics" and "bioethics" are often used interchangeably despite their different origins.

The second reason for my choice is that the United States is a fascinating illustration of what bioethics stands for, and therefore forms a good case study. The United States is a good case study mainly because it is the birth place of bioethics and arguably the global leader and influencer of the field, whether one thinks of this as a positive thing or not; in other words, I do not wish for the study to be ethnocentric but focus on the United States because of the rich information on bioethics that is available from there. I will not spend too much of my time on trying to prove that this viewpoint is right; rather, I leave it to the reader to decide if I am mistaken. However, I will give some examples of how 'bioethics' crosses country borders every now and again. At the same time, I will limit my inquiry to the West, simply because I do not feel qualified to comment on other parts of the world.

Another central feature of my work is the emphasis on the concept and point of view of "culture." As my title suggests, to me bioethics is an integral and important part of Western cultural landscape—a "cultural giant." I arrive at this thesis through a few steps. My initial effort is to contextualize bioethics against the backdrop of social and political forces that surround and shape bioethics; in other words, the somewhat basic factors of social contextualization. This is a very understandable place to start. However, this effort soon leads me deeper below the surface of standard political and social explanations, to a richer environment—a synthesis that encompasses these elementary perspectives, brings something new to it, and then binds everything together into a package that could be described as a whole that is more than the sum of its parts. This, to me, is the level of culture, on which I eventually prefer to operate. I hope that this helps to illuminate the true nature of bioethics better, and, at the same time, appreciate the social, political, and cultural context surrounding and animating bioethics.

Again, as with my decision to largely rely on the United States as an illustrative and important case of bioethics in the West, I leave it to the reader to consider what

"culture" means at the end of the day. My task here is not to find an all-agreed definition of the concept; rather, I want to signal that in my pursuit to contextualize bioethics I aspire to reach deeper levels than the mere surface level of social and political reasoning; to find the intellectual and social essence of bioethics. At the same time, it is clear that my work is not a classical anthropological study; it still primarily belongs to the category of intellectual and cultural history. As before, I let the substance of my exploration to speak for itself and the reader to decide, during this journey, whether this choice seems justified or not.

All in all, this exploration that will take place in somewhat uncharted waters, makes a few sharp choices in how it proceeds: some theories, thinkers and events will be highlighted, but *much will be left out.* Put differently, I want to emphasize that this is an interpretation, not an all-encompassing explanation. My aim is to call for new ways of thinking about the meaning of bioethics although I aspire to be fair to all relevant viewpoints. This calls for open-mindedness. Moreover, I hope the reader will not only be open-minded but also patient—and enthusiastic—to develop fresh perspectives and new intellectual tools with me as it will take some time before I "get to the point" and can show what good can come out of adopting these novel ways of thinking about bioethics and its surroundings.

My method of historical inquiry, or interpretation, falls into no recognizable category or particular school of thought, but I would say that my spirit and style are most of all influenced by the well-known British historian Quentin Skinner. I try my best to heed Skinner's warnings about doing injustice to the past; while at the same time I recognize my inevitable involvement with the past. In fact, also influenced by Skinner to a degree, I even openly embrace my naturally biased position as a means to situate myself more fairly within earlier times and the ongoing discussion of them. As my main motivation for this work is merely to explore bioethics and expand the boundaries of how the field is understood, I do not see my inevitable and evident involvement with the past as such a dire problem; although, it is clear that even the reasonably innocent decision to conduct this exploration naturally carries ideological and other implications with it. Moreover, I tend to rely on fairly long quotations from various parties on the following pages, which is part of my modest attempt to preserve the original tone and content of what was spoken, written, and thought before.[4]

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[4] For example, see Quentin Skinner, *Visions of Politics*, vol. 1, *Regarding Method* (Cambridge: Cambridge University Press, 2002).

To some extent, I also want to follow in the footsteps of the French philosopher Michel Foucault. What I have in mind is well illustrated by the following quotation by the philosopher himself:

> I would like to distinguish between the "history of ideas" and the "history of thought." Most of the time a historian of ideas tries to determine when a specific concept appears, and this moment is often identified by the appearance of a new word. But what I am attempting to do as a historian of thought is something different. I am trying to analyze the way institutions, practices, habits, and behavior become a problem for people who behave in specific sorts of ways, who have certain types of habits, who engage in certain kinds of practices, and who put to work specific kinds of institutions. The history of ideas involves the analysis of a notion from its birth, through its development, and in the setting of other ideas which constitute its context. The history of thought is the analysis of the way an unproblematic field of experience, or a set of practices which were accepted without question, which were familiar and out of discussion, becomes a problem, raises discussion and debate, incites new reactions, and induces a crisis in the previously silent behavior, habits, practices, and institutions. The history of thought, understood in this way, is the history of the way people begin to take care of something, of the way they became anxious about this or that—for example, about madness, about crime, about sex, about themselves, or about truth.[5]

Lastly, as to the method—inspired in this by the Finnish historian Markku Hyrkkänen, as well as by R. G. Collingwood, and Skinner again—I see the essence and the aim of my genre of history writing, intellectual history, to seriously reflect on how we think about the past in order to deepen our intellectual and historical imagination and thought, even perhaps to learn to think better.[6]

This monograph is divided into four parts: the theoretical beginnings, the past, the present, and the future. I will begin the first part by introducing the theory of political order and political decay, by Samuel Huntington and Francis Fukuyama, which helps us to locate bioethics within the broader coordinates of social and political developments since the Second World War. This will be followed by a discussion of political philosophers John Rawls, Judith Shklar, and Philip Pettit and their

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[5] Michel Foucault, *Fearless Speech*, ed. Joseph Pearson (New York: Semiotext(e), 2001), 74.

[6] Markku Hyrkkänen, "All History is, More or Less, Intellectual History: R. G. Collingwood's Contribution to the Theory and Methodology of Intellectual History," *Intellectual History Review* 19 (2009); Markku Hyrkkänen, "The Point of Intellectual History," *Finnish Yearbook of Political Thought* 7 (2003).

thinking. Political philosophy seems to me a good tool for reaching the deeper cultural levels at which bioethics resides and I will later employ it to this end.

The second part, "the past," offers the reader the basic story of how bioethics came into being—the purpose of this part is to follow especially the reasoning of early bioethicists, to understand their rationale for developing the field, and to establish a clear storyline that can be affirmed or questioned on the subsequent pages. I will also return to my theoretical apparatus in this part, and add another layer to it, namely, a perspective on social capital, which I especially borrow from the political scientist Robert D. Putnam. The following part, "the present," then catalogs current viewpoints and debates on the meaning of the field. To a great degree, a tension between the optimism of the past and the pessimism of the present arises at this point. Finally, in "the future," based on the previous analysis, I mostly concentrate on offering the reader my own thoughts of how bioethics could and should develop in order to let the field flourish and enrich society—however, indeed, this is not to say this will necessarily happen. Regardless, during this part, my main intention is to provoke and broaden the reader's imagination as to these questions and the possibilities of the field's development—a task I hope will constitute a large part of the contribution of this work to the ongoing discussion on the essence and place of bioethics.

Reflecting this structure and practical approach, I draw on various sources. I do not make a sharp distinction between primary and secondary types in this regard as is often customary in historical studies. Some of my sources are obviously closer to bioethics—be it legal documents, substantive writing on bioethical questions, broader commentary on the nature and meaning of the field, or something else in this vein—some are situated a little further and help to contextualize the previous material. At the end of the day, however, there is no clear distinction between such categories as it is very difficult to separate the subject matter from the interpretative framework applied in this case; thus, almost all my sources are classified under a broad heading "literature."

Lastly, I want to summarize and expand on a theme that I have touched on a few times already: my aims. With this work, I hope to achieve different ends on several levels. I wish that my investigation of current understandings of bioethics and how they can be criticized against the backdrop of the past would be my basic, and somewhat freestanding, contribution to the prevailing discussion about bioethics. Second, I aim to sketch a set of new intellectual tools to better understand bioethics, and its cultural surroundings. Third, based on the previous two themes, I aspire to offer my own ideas on what is essential for bioethics to thrive, and how the field could be

helped to develop further. All in all, in its pursuit of enriching current debates about the essence and meaning of bioethics, my work has three different ends, and at times these different aspects are interrelated, while at other times they are more clearly freestanding. Naturally, I hope that these different underlining themes of my exploration will form a single unified perspective on the subject matter but I let the reader be the ultimate judge on this. I hope that even without full coherence, I will succeed in broadening the prevailing bioethical imagination.

PART ONE: THEORETICAL BEGINNINGS

1. A Possible Way Forward: A Broad Political and Societal Picture

One possible way to better understand the field of bioethics is to consider it in the context of some ideas that have been put forward by two eminent American political scientists, Samuel P. Huntington (1927–2008) and Francis Fukuyama (1952–). This might be a little surprising since these two thinkers do not necessarily come into one's mind first when thinking about bioethics. Huntington and Fukuyama, who considers Huntington his mentor, are usually associated with somewhat different themes, such as political order[7], the clash of civilizations[8], the end of history[9], and proclaiming liberal democracy to be the very endpoint of history[10]. Though, admittedly, Fukuyama is no stranger to bioethics as he sat in the President's Council on Bioethics under George W. Bush and has also written a book about bioethics, *Our Posthuman Future: Consequences of the Biotechnology Revolution[11]*. Then again, introducing this fact hardly helps to connect Fukuyama closer to bioethics since his brief venture into the field was an anathema to many bioethicists, labeled only as neoconservative narrow-mindedness.

One needs to judge ideas by their merit rather than by their appearances. This I intend to do for the Huntington-Fukuyama point of view in a preliminary way during this chapter—preliminary in the sense that I will only aim to introduce the reader to some key concepts in order to prepare to put these concepts to the test later during this study. I also want to emphasize that this particular point of view on bioethics is

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[7] Samuel P. Huntington, *Political Order in Changing Societies*, repr. ed. with a new foreword by Francis Fukuyama (1968; New Haven: Yale University Press, 2006); Francis Fukuyama, *The Origins of Political Order: From Prehuman Times to the French Revolution* (London: Profile Books, 2011); Francis Fukuyama, *Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy* (New York: Farrar, Straus and Giroux, 2014).

[8] Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996).

[9] Francis Fukuyama, *The End of History and the Last Man* (New York: Free Press, 1992).

[10] Ibid.

[11] Francis Fukuyama, *Our Posthuman Future: Consequences of the Biotechnology Revolution* (London: Profile Books, 2002).

only *one* possible way to examine the field that I intend to develop in this work, and it should not be taken as my whole investigation's point of view. Yet, I do hope that by considering this topic we could move closer to a fuller appreciation of the richness of bioethics, which I think the field truly deserves.

1.1   The Theory of Political Order and Decay

First I need to clarify what part of Huntington's and Fukuyama's thinking I have in mind. I am mostly interested in their thoughts about *political order*, and in trying to see if this concept could inform our understanding of the political and social context where bioethics originated. I also want to apply this concept to bioethics in the hope that it would help to illuminate how the field has developed in relation to this context since the early days. I will attempt to connect bioethics to the larger dynamics of political and social life, aspiring to overcome the confinement of bioethics to the mere world of ethical thought. In the following pages, I will tentatively put forward a claim that bioethics was born out of a potential political crisis as a genuinely new kind of institutional solution, one seeking to accommodate, for its part, this challenge in a democratically sustainable way.

The concept of political order was originally introduced and elaborated on by Samuel Huntington in his seminal 1968 book *Political Order in Changing Societies*[12]. When Huntington wrote his book, the so-called "modernization theory" was living its heyday, and he sought to resist this trend. Modernization theory, which was powerful in the United States during the 1950s and 1960s, argued that society evolved in a way in which economic, social, political, and other such advances would all go hand in hand, seamlessly reinforcing one another, toward a better future. To Huntington, in contrast, the political aspect was very much a creature of its own. In his view, the political sphere was related to, but somewhat distinct from, society, a claim that might feel more or less self-evident now. This observation bore practical implications. First of all, Huntington claimed that a political system could degenerate as well as progress. Second, according to him, the system might particularly decay when the rest of society progressed. To sharpen his thesis, Huntington dubbed the political system "political order," ideally a stable and working political framework for whatever the relevant society was that it worked for.[13]

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[12] Huntington, *Political Order.*
[13] Francis Fukyama, foreword to Huntington, *Political Order*, xi–xii.

Huntington viewed the possibility of achieving an ideal political order in rather grim terms. Ample evidence to this end was provided by the developing world of the post-war era where violent protests and unstable regimes were recurrent; all the while these societies were actually developing in many respects. Thus, there was a constant danger that political order could begin decaying, eventually resulting in a total societal collapse if not stopped in time. In other words, there was a very real possibility of the decay of political order, or, *political decay* for short.

This brings us to the second key concept that I borrow from Huntington and which I want to introduce in this chapter, namely, political decay. The concept needs to be explicated. Most of all, in this respect, it is vital to acknowledge how Huntington connected political decay with political order. For me, the essence of both concepts largely lies in this connection.

At the core of Huntington's argument for political decay is his claim that political institutions can easily lose touch with the rest of society. To be more exact, the political institutionalization of underlying social forces—the cornerstone of political order—may become severely lacking. According to Huntington, the cause for this ultimately lies in the nature of institutions themselves because, deep down, institutions are "stable, valued, recurring patterns of behavior."[14] Put differently, institutions are, already by definition, rigid and sticky, which also means, most importantly, that they are slow to change. Then, it does not take much to see that rigid political institutions can create enormous problems for society.[15]

According to Huntington's theory, one of the most typical situations, if not the paragon case, for the possibility of political decay is the empowerment of new social groups. For instance, political decay can start when greater economic resources are dispersed throughout society, which at the same time provokes social mobilization, which in turn fuels demands for enhanced political representation by the new social forces. This political participation, however, is often not so swiftly available as institutions are indeed rigid. Naturally, this in turn causes massive frustration and unrest. This is the point when political order may begin to decay, and if nothing is effectively done to prevent this, it can lead to a full-scale societal collapse in a chaotic and violent way. The irony here is that it seems that often it is precisely progress within

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[14] Huntington, *Political Order*, 12.
[15] Ibid., 8–32.

society, happening too fast, that jeopardizes political order, which is so vital for society.[16]

The theory in practice

What does all of this have to do with bioethics? Was bioethics not born in the post-war United States, far away from the political turmoil of the developing world that Huntington had in mind when he formulated his theory of political order?[17] This is admittedly an important point. However, to my mind, the theory may still offer an interesting perspective on the field of bioethics. To clarify what I mean by this, let us first consider what the social circumstances were when bioethics was taking its first steps.

During the 1950s, 1960s and 1970s, the time when bioethics was nascent, the United States and the rest of the Western world were experiencing considerable economic, technological and social progress *on the whole*. For example, the vast baby-boom generation was brought up into an abundant world without recurrent catastrophes, such as famine, in stark contrast to so many previous generations. For the first time in history, women were also genuinely seen, at least roughly, as equal to men, and able to live independent lives outside the family. Furthermore, various minority groups were empowered. Of course, everything was not only bright and shiny, but generally speaking, Western societies were progressing at a pretty impressive pace—in fact, creating a prerequisite for potential political decay.

Quite fittingly, then, came the political protests, most notably against the Vietnam War. Yet, despite many ferocious political protests, political systems generally stayed relatively stable in the West. From the perspective of the concept of political decay, however, this is somewhat puzzling. Were the political institutions of the West really so impressive that all the rapid progress could be smoothly endured and accommodated by them? Or is the theory misplaced, or just plain wrong here?

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[16] Ibid., 32–78. Broadly on this theme, see also Fukuyama, *Political Order and Political Decay*, 461–464 & 47–51.

[17] However, note that Huntington comes close to applying his theory to the post-war United States in Michel Crozier, Samuel P. Huntington, and Joji Watanuki, *The Crisis of Democracy: Report on the Governability of Democracies to the Trilateral Commission* (New York: New York University Press, 1975). Curiously, nevertheless, he does not, to my mind, apply the theory but employs a somewhat more complicated way to account for the political and social developments of the post-war era. This is a point of divergence between Huntington and the approach adopted in this work.

First of all, I would argue that the absence of considerable political decay does not by itself prove the theory wrong. The theory might indeed very well prove to be wrong, but there are also different possibilities, for example that the tensions that could have led to political decay were adequately resolved, or, that they were somehow suppressed for the time being. Obviously, these possibilities should be investigated before abandoning the theory.

With regard to the first option, the adequate resolution thesis, we can consult Francis Fukuyama, who follows in Huntington's footsteps. It has been Fukuyama's mission to declare that modern liberal democracy has discovered sufficient means to safeguard its political stability, to maintain its political order—at least until quite recently. In his book *The Origins of Political Order: From Prehuman Times to the French Revolution*[18], Fukuyama digs deep into the past to understand why modern liberal democracy came into being and how it took its particular form. Through his investigation, he finds the existence of modern liberal democracy to be embodied in three institutional building blocks; these are the state, the rule of law, and accountable government. According to Fukuyama, together in a delicate balance, these three institutional elements should ensure stable political order to support liberal democracy.[19] Thus, it should be no wonder that Western societies were able to accommodate the rapid progress following the Second World War; they possessed such institutional frameworks, thereby they had sufficient means to confront the social challenges. It seems that the only threat during this time could have been presented by outside shocks, mainly by the Soviet Union and its allies. Therefore, in this vein, it is no surprise that the fall of the Eastern Block led Fukuyama, at the time, to proclaim almost the omnipotence of modern liberal democracy in his famous book *The End of History and the Last Man*[20].

Perhaps Fukuyama is right here—who knows? However, to me, a more plausible explanation seems to revolve around the second option; that the pressure for political change was largely *suppressed*, for the time being. At least two possible explanations for this option readily come to mind. The first explanation is based on fear. This brings us back to the Cold War and to the fear of the Eastern Bloc it brought with it. Fear, especially of the unknown and strange, binds people together effectively. Naturally, this all changed when the Cold War ended. It does not surprise me

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[18] Fukuyama, *The Origins of Political Order*.

[19] Ibid., 14–19. For somewhat similar thinking about these themes, see Niall Ferguson, *The Great Degeneration: How Institutions Decay and Economies Die* (London: Allen Lane, 2012).

[20] Fukuyama, *The End of History*; cf. Fukuyama, *Political Order and Political Decay*, 540–548.

so much, then, that there has been a feeling of very troubling uncertainty in the air ever since. Now we also know what has happened in terms of foreign policy conflicts afterwards. New "enemies" have indeed appeared, or perhaps have been imagined. However, I would argue that the end of the Cold War inevitably started some kind of change that was more profound than has often been perceived. Some sort of unraveling of Western political institutions began to happen, and the end of this is yet to be seen.

Another convincing argument as to why the West stayed so stable seems to lie in the deep social psychological nature of institutions and the belief they entail. It was noted before that institutions tend to change slowly. One important reason for this is that the need and means for institutional change are not that readily perceived. People tend to stick by their institutions stubbornly, which is very understandable because there is a great deal of belief invested in these institutions. Therefore, even armed with the best intentions and deepest craving for change, it is difficult to recognize proper collective action. Put simply, it is just emotionally and intellectually demanding to take a leap into the institutional unknown.[21]

All in all, perhaps the stability of the West during the post-war period, leading up to the end of the Cold War, was based more on compelling illusions of some kind than the actual workings of political institutions. Naturally, these types of situations do not tend to remain stable forever. Political decay could well have been already lurking beneath the surface.

Interestingly, in his recent work even Fukuyama has become very skeptical about the near omnipotence of modern liberal democracy. According to him, modern liberal democracies—especially the United States—have indeed begun to experience political decay and are in danger of heading down this path dramatically in the future.[22] For Fukuyama, the two main culprits of this trend are "institutional rigidity" and "repatrimonialization." With institutional rigidity he has in mind "a series of rules that lead to outcomes that are commonly acknowledged to be bad and yet are regarded as essentially unreformable," and with repatrimonialization he means "the capture of ostensibly impersonal state institutions by powerful elites."[23] In essence,

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[21] A classic in this field is Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (Garden City: Anchor Books, 1966); see also Fukuyama, *The Origins of Political Order*, 452–453.

[22] Fukuyama, *Political Order and Political Decay*, especially 540–548.

[23] Ibid., 35, 28, respectively.

what Fukuyama depicts is "vetocracy," in which powerful elite groups can increasingly manipulate the state in their own favor, inviting dysfunction and political decay.[24]

Fukuyama's recent interpretation of the past is obviously only one possible application of the theory, and there can be other ways of application too. Indeed, I want to distance myself from Fukuyama's conclusions and consider the topic in my own way.[25] My only starting point is the thought that it is fascinating to ponder whether political decay was indeed "lurking beneath the surface" during the postwar period, leading up to the present. If this seems plausible, we could conclude that there was a growing tension between progress and stable political institutions in the West during these years—and that this might have something, or maybe even a good amount, to do with bioethics. Perhaps the rise of bioethics, for its part, embodies this very process? In this case, we could also approach this topic from the opposite direction; to some extent discover political decay by investigating bioethics. Minimally, we could at least state that bioethics appeared on the stage when political order was factually beginning to decay, or perhaps when decay was already well under way. Accepting such claims would definitely cast the field of bioethics in a new light. What this might mean for interpreting bioethics is a question to which I will turn my attention next.

1.2   Bioethics and Political Decay

How does the political decay thesis fit together with bioethics? To answer this question, let us first recall some features of political decay. To summarize Huntington's thought, political decay happens when the political institutionalization of underlying social forces becomes deficient—a possibility that is virtually inherent in the nature of institutions. In practice, this usually means that newly empowered social groups are denied of proper political representation, which in turn provokes massive frustration and unrest; basically political opposition in every way. This is a crossroads moment when political institutions either need to renew accordingly or end up being subject to growing opposition that seeks to overthrow them.

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[24] Ibid. 487–505.

[25] Perhaps my main difference with Fukuyama is my more optimistic view of democratic participation. For Fukuyama, at least in the U.S., there is already *too much* participation, or at least avenues for this, which is a major source of political decay; see for example ibid. 504.

A classic example of political decay running its course is a revolution against a state that is perceived as tyrannical. However, as we know, there are all sorts of revolutions that can happen; the state does not always have to be the target. In fact, it is obvious that "political" here needs to be understood fairly broadly, denoting a comprehensive range of institutions that govern everyday life, not just those that are traditionally considered part of politics. To complicate matters a little more, it is good to keep in mind how revolutions often provoke other revolutions. This is why in the end there are often multiple revolutions happening simultaneously, greater and smaller ones side by side. Accordingly, in order to avoid such revolutions and other instances of instability, critical voices need to be adequately addressed and incorporated into decision-making on a variety of fronts.

Now, could the appearance of bioethics be seen as one of such crossroads moments, a case for either an institutional renewal or revolution? Furthermore, could we say that bioethics emerged together with a greater force of similar nature? The greater force would of course be the potential political decay of post-war Western societies; powered by all the economic, technological and social progress and the newly empowered social groups that this progress entailed. Where would this hypothesis lead us? I think that if these claims seem credible, we could perceive bioethics as a kind of forerunner of a new wave of political institutions that began to emerge during the post-war era. This would be a conclusion that enables many new interesting possibilities for interpreting bioethics.

Considering bioethics as an institutional forerunner in this vein seems an exciting endeavor. First of all, accepting this interpretation would obviously mean that bioethics bears major social importance; bioethics would seem more like a social movement than a mere new branch of ethical thinking. Second, this would underline and shed light on the important context surrounding bioethics, a context in which Western political institutions genuinely need to accommodate new voices and renew accordingly or eventually face tumultuous political decay. Third, based on the first two points, bioethics, being a child of this age, could be viewed as a source of fresh institutional thinking, which would have implications even beyond the field. Put shortly, if bioethics was built upon the sands of modern political and social ambiguity, this might also be where its true potential lies. Then, we could also ask if this potential is already fulfilled.

Of course, these are only high-flying speculations at this point. Yet I think that this line of thinking is intuitively reasonable and something that should be investigated more thoroughly. This I will do later in my analysis. I must also already admit that it will be virtually impossible for me to prove whether the grand thesis about

the political decay of the post-war West holds true or not. I simply do not have enough resources to investigate this claim at full length, and this is not even what I am trying to do in this study. However, this is something that I will try to examine whenever possible.

Perhaps the theory will not prove its full worth; this still does not make it worthless because at least it can direct us to raise important questions—and to conduct our investigation in a more suitable manner. By this I mean that the theory of political order and decay will remind us about the need to connect bioethics to its larger political and social context, which is vital, in my mind, for fully appreciating the field. In any case, what seems certain to me is that bioethics cannot be confined to the old way of thinking about ethics, namely, just leaving the discussion to professional ethicists residing in their ivory towers. This is not what bioethics is about.

Keeping in tune with the agenda that I am setting here, I will now continue my journey and try to establish another approach to understanding bioethics by discussing political philosophy. This time, the political philosophy of the latter part of the twentieth century, and up to our days, will help me to comprehend how the Western world changed over this period of time. Primarily, I will track down how the notions of freedom and justice, two essential cornerstones of political philosophy, changed along with bioethics. This I will do only in a preliminary manner, in order to create appropriate tools for my ensuing discussion—in which I will aspire to understand the field of bioethics as a comprehensive cultural phenomenon.

2. A View from Political Philosophy: Deepening the Framework

I have emphasized several times already how important I think it is to connect bio-ethics to its surroundings—to break free from the ivory tower, so to speak. In the previous chapter, I introduced one possible way of doing this. I considered the larger dynamics of political and social life that might help to understand bioethics, and this I did by looking at one possible explanation of how political institutions tend to work. Now, I want to try to set forth a more culturally-oriented approach by considering the general sentiments that have been related to bioethics more deeply. Thus, I will be aiming for the same goal but from a somewhat different perspective, namely, that of post-war Western political philosophy.

Let me first explain why political philosophy could help us. To my eye, central to the field of Western political philosophy is that it aims to conceptualize and articulate, first and foremost, the *ideals* of political life; especially those of freedom and justice. Put differently, political philosophy, at its best, crystallizes—and challenges—what people hold dear in this respect. I want to underline this focus on clear-cut ideals, in contrast to all the usual ambiguities of everything "political." What I have in mind is that we seem to have an excellent way of accessing the larger realms of political life through these clearly formulated ideals. This political life is a life that almost mysteriously lies at the heart of Western society, appearing to be connected with all of its vital aspects. Therefore, one could say that political philosophy is a field that has a very socially informative, or reflective, quality to it—which obviously makes it very valuable to us.

Furthermore, for me these traits reveal the key strength of political philosophy that should not go unnoticed: its flexible ability to work as a natural bridge-builder between different fields of thought, from deep philosophical rigor to shared sentiments of everyday life. Moreover, the current state of Western political philosophy is simply fascinating; it is a field that practically has undergone a death and rebirth since the Second World War. Based on all these observations, it seems that political philosophy is a wonderful source of cultural knowledge and wisdom—and something that could shed important light on bioethics.

Post-war political philosophy is of course a vast field. Therefore, it is essential to select a clear point of entry into its world. This is the reason I will focus on three thinkers who seem especially interesting to me: John Rawls, Judith Shklar, and Philip Pettit. Where will this lead us? First of all, Rawls is an obvious choice. For many there has been no more influential figure in post-war political philosophy than Harvard scholar John Rawls (1921–2002), who published his *magnum opus*, *A Theory of Justice*[26], in 1971. Today, virtually everyone in the field needs to at least somehow acknowledge Rawls' philosophy. Thus, it seems reasonable to start the following chapter by investigating Rawls' thought and its context, which I hope will, at the same time, illuminate post-war political philosophy as a whole. After this, I will introduce political philosophers Judith Shklar (1928–1992) and Philip Pettit (1945–) in order to add some deeper layers of interpretation to this somewhat generalized account. I think that these two scholars represent interesting and prominent ways to do political philosophy. To be more precise, I will take a look at Rawls' Harvard colleague Judith Shklar's thinking about the "liberalism of fear," and I will introduce the reader to an influential new branch of political philosophy, to Philip Pettit's version of republicanism.

After touring these post-war political philosophers and especially their notions of freedom and justice, I will tentatively try to see how this all could connect to bioethics. I will try to lay the basis for defending a claim that modern political philosophy, as a way of reasoning, connects very naturally and integrally to bioethics, simultaneously creating a window for all sorts of new ideas. Together with this claim, I will aspire also to put forth another claim, namely, that many of the ideals that are prevalent in modern political philosophy are almost inherent for bioethics; and that by acknowledging this fact we could enrich our understanding of bioethics.

In any case, I want to emphasize how I intend this chapter to be only preliminary for my ensuing full investigation of bioethics. In other words, I will be raising more questions than offering answers at this point. However, I hope that I can prove the worth of these questions and reward the patience of the reader later as I proceed with this study.

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[26] John Rawls, *A Theory of Justice*, rev. ed. (1971; Cambridge, MA: The Belknap Press of Harvard University Press, 1999).

2.1   The Rawlsian Turn: The Post-War Rebirth of Political Philosophy

In political philosophy, deep paralysis characterized the immediate situation following the Second World War. This was especially caused by the horrific war and abundant evidence it had offered against the field that had previously held such strong beliefs about the normative betterment of human society. Now, when it came to political philosophy, or to its cousin moral philosophy, nearly the only thing that seemed left to do was meta-ethics; to merely ponder the subtleties of speech concerning right and wrong, not asking what these notions might actually mean or how they might affect society. The age-old traditions had virtually died. But they did not stay dormant for long; they were far too resilient not to be reborn, and little by little the indications of rebirth started to appear.[27] There were many who contributed to this process, but eventually—to my eye, at least—one was above the rest. Harvard scholar John Rawls (1921–2002) with his seminal 1971 *A Theory of Justice* marked a final watershed in the new coming of political and moral philosophy.

Most of all, Rawls reinforced a belief in moral reasoning about human affairs. According to him, these affairs were not, after all, just matters of incommensurable personal opinions or blind customs, as many then thought. They could be addressed through reasoning; there was still common ground from which to judge right and wrong, albeit this ground had narrowed down considerably. Rawls also claimed that these considerations could be put to work at a societal level. Political philosophy, and eventually the political process, could benefit from this line of thought.

To be precise, Rawls had been practicing political philosophy already from the very beginning since he linked the two traditions of political and moral philosophy so closely together. His moral thinking sprang from a democratic political mindset—that of a decidedly modern type, shaped by modern horrors as well as aspirations. In a modern vein, this was also a markedly Western mindset, characterized by a healthy sense of self-limitation only to Western experiences and the rendition of these experiences for self-improvement. Put differently, to avoid the perils of Western universalism, Rawls did not aim to address the whole world. It would have been enough if Western wisdom could be employed in the West.

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[27] For example, see Albert R. Jonsen, *The Birth of Bioethics* (Oxford: Oxford University Press, 1998), 71–77; Petri Koikkalainen, *The Life of Political Philosophy After its Death: History of an Argument Concerning the Possibility of a Theoretical Approach to Politics* (Ph.D. diss; Rovaniemi: University of Lapland, 2005), 59–114.

Rawls was not alone in his quest. There was almost a generation of Rawlsians, the like-minded, and the critics of his thought and proponents of competing views. Despite differences, looking from a distance, all these Rawls' contemporaries, as well as later thinkers, appear to share rather many common traits. After all, even opposing sides have been part of the same discussion. However, it also seems that Rawls is the very embodiment of this common ground, as I will aim to show later. Therefore, it feels reasonable to presume, as I do, that an examination of Rawls' thought can offer at least a good glimpse of the landscape of post-war political philosophy.[28]

Furthermore, Rawls is not only illustrative of the philosophical landscape because of his work that lies in the middle of post-war political philosophy, but also because his personal experiences seem to reflect the social origins of this line of thought so well. Coming from a well-to-do background, yet being hurled into the fierce and brutal battles of the Second World War, Rawls had to confront and overcome deep pessimism and cynicism about human existence. This made him rather candid about modern perils but still not a pessimist or cynic. Eventually, Rawls, drawing on the hard lessons learned, found reasons to believe in the possibility of meaningful political philosophy and the ideals it had held. For me, this personal story seems to be deeply embedded in his thought, and even more broadly, it seems to illustrate larger post-war political philosophy very well. This makes considering such experiences especially interesting—and something that I intend to integrate into my account of Rawls' thoughts. Thus, let us delve into John Rawls' fascinating life story for a moment.

The years leading to the publication of *TJ*[29]

John (Jack) Bordley Rawls was born into a socially active and moderately wealthy family in Baltimore in 1921. His father pursued a career as a successful lawyer and

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[28] For example, the founding of *Philosophy & Public Affairs* in the fall of 1971 was also a significant landmark in this process that I have labeled the "Rawlsian turn." The journal, which included Rawls in its editorial board among many other notable philosophers, called for a more activist role for philosophy in society. Its statement of purpose read: "Issues of public concern often have an important philosophical dimension. *Philosophy & Public Affairs* is founded in the belief that a philosophical examination of these issues can contribute to their clarification and to their resolution." On this, see the statement of purpose of already the very first issue; *Philosophy & Public Affairs* 1, no. 1 (1971).

[29] References to John Rawls's biography in this chapter are primarily based on two accounts by Rawls' close acquaintances. References to these sources are not indicated individually in order to

his mother was politically active, in particular in advocating for women's rights in politics. Despite social successes, the family's life was far from ideal. During childhood, a major crisis occurred when Jack lost two of his four brothers because of diseases, which were, worst of all, contracted from him. Following these terrible events, and probably caused by them, he started to stammer, continuing to do so throughout the rest of his life. This hindered the philosopher's public performances, which he then largely avoided, besides for lecturing. In addition, his father was a relatively distant figure at home, intensifying the feeling of hardships during Jack's early years. Instead, Jack relied on his mother, who at the same time instigated deep social awareness in him in a highly segregated Baltimore. Thus, already early on, it became clear for Jack what wealth and social privileges meant, and how they did not always guarantee equal happiness; key themes of his subsequent thought.

The second major turning point during John Rawls' early years came when he left for military service in the Second World War. Rawls had just completed a B.A. in philosophy at Princeton in January 1943 and was considering studying for the priesthood. These plans were about to change when he took part in the brutal island battles of the Pacific and also got to witness the recently devastated Hiroshima. Such horrifying experiences affected him deeply. Rawls' religious beliefs and aspirations, his whole worldview, altered completely, toward a more pessimistic approach.[30] He also began to view the army as a "dismal institution." He was demoted from sergeant back to private for refusing to punish a soldier who had insulted an officer, and he declined an opportunity to continue as an officer when he was presented with a chance to do so at the end of the war.

As a result of all these events, in 1946, instead of pursuing theology, Rawls began his graduate studies in philosophy at Princeton. He could now afford this on the G.I. Bill; in the same year his father died, bankrupting the family. His mother and the youngest brother Richard were not so lucky: they were left destitute and provided for by relatives and the oldest brother. This affected the mother's mental health, and she died in 1954. All in all, the war and return back home constituted a time of various crises in John Rawls' life. Quite understandably, this all was crucial in consolidating his interest and passion toward relevant themes in philosophy.

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avoid burdening the text too much; Thomas Pogge, *John Rawls: His Life and Theory of Justice*, trans. Michelle Kosch (Oxford: Oxford University Press, 2007), 3–27; Samuel Freeman, *Rawls* (London: Routledge, 2007), 1–42.

[30] On Rawls' religious beliefs, see John Rawls, "On My Religion," in *A Brief Inquiry into the Meaning of Sin & Faith*, ed. Thomas Nagel (Cambridge, MA: Harvard University Press, 2009).

The rest of John Rawls' life story is better known. Following a number of years of patient and careful deliberation, Rawls published his famous *A Theory of Justice (TJ)* in 1971. In *TJ* he famously utilized the phrase "justice as fairness," which signaled a decidedly modern approach to justice; the phrase would also later serve as shorthand for the content of Rawls' theory. There were few important philosophical moves Rawls did to achieve this new position. First of all, he evoked justice as a normative, substantial concept, which had yet again direct moral bearing on society, as it had previously had, before the more cynical moods of political and moral philosophy had taken over. Second, despite this move, Rawls' conception of justice stayed characteristically procedural, or, intentionally shallow. This meant that even if justice now had its new bearing, it could still be a relatively open-ended concept. This effect was achieved through a largely procedural definition of justice; justice relying extensively on a proper, or fair, process. Here Rawls was applying what was essentially the notion of the modern democratic political process to questions of constitutive moral importance—which he claimed to be a continuation of the traditional social contract theory. Put together, such moves established a radically new way to look at justice, and in effect moved around the tectonic plates of political and moral philosophy.[31]

However, mere discussion of philosophical positions cannot offer a sufficient insight into what Rawls was actually promoting in *TJ*, which makes it necessary to soon revisit Rawls' early years. In this regard, one needs to note that Rawls also claimed in *TJ* that he was, for the great part of the book, sketching his conception of justice as an alternative to the utilitarian branch of justice, which had been prevailing. In contrast, his conception would be deontological, or duty-based, in the footsteps of Kant.

According to Rawls, utilitarianism, in its various forms, did not take seriously enough the fact that society consisted of separate human beings, or politically speaking citizens, owing a duty to show and foster basic respect toward one another; to give decent and fundamentally equal recognition to all. This was what Kant had called for; to treat people as 'ends' in themselves rather than mere 'means' for getting someone else's desire. Instead of all this, utilitarianism tended to conflate everyone and everything together into one giant society, where one could be, in the name of overall effectiveness, quite easily sacrificed for the greater good. To be sure, there were various branches of utilitarianism as well as different ways to implement this

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[31] Rawls, *A Theory of Justice*, 3–168; besides *TJ*, Rawls' conception of justice as fairness is available in a revised and summarized form in John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, MA: The Belknap Press of Harvard University Press, 2001).

thought—some of these taking strong precautions in order to avoid such dire outcomes—nevertheless Rawls felt that this was what utilitarianism, as a whole, had in effect inflicted upon society.[32] Why did he think this? To me, the reason stands out when one considers what Rawls had witnessed and personally experienced during his early years.

Rawls' childhood and youth were very typical to others in the context of the Western societies of the first half of the twentieth century. The time was characterized by ever more rapid technological and economic progress, which eventually led to all the boom and doom of the century. In this scheme of things, everyone had a place in the making of the brave new world. Very understandably, in this context, utilitarianism, which aimed at maximizing overall happiness through social calculus, was flying high as a political and moral approach to society. In fact, it was virtually unrivaled; even the need for the traditions of political and moral philosophy, with their various, competing schools of thought, seemed outdated.

The problem, nevertheless, was that while the system, or mass society, worked its miracles and blessings, it would also tend to forget everyone and everything that did not fit into the latest trend of the day. In other words, it was effectively sidelining all alternative voices, which was perhaps best characterized by its lack of empathy—an apparent cornerstone of the devastating two World Wars, among other atrocities. To put things a little bluntly, these societies worked like factories, and they were striving to work at full steam.

Many of the less bright sides of such a mixed blessing were felt in young Rawls' life, very personally indeed. And while he survived his early years, even finding success in many respects, he still had to witness all the tragedies cast upon people around him. In all this, there was a lesson to be learned. Even if all the tragedies and crises themselves were just strokes of bad luck or unfortunate anomalies, what was definitely not that was the general lack of human compassion strikingly accompanying them, at home as well as overseas. Society seemed to offer little support for the less affluent and disadvantaged; in fact, it could rather utilize the masses in its *own* support, to wage wars for example, without much democratic qualms. This all was perhaps most evident in the aftermath of the Second World War: following the dropping of the bomb, utilitarian society just seemed to calmly carry on with its projects in an even more determined fashion. Then, it was exactly against such moods that Rawls started to prepare his *magnum opus*.

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[32] Rawls, *A Theory of Justice*, xvii–xviii; 3–30.

The influence and later Rawls

When Rawls finally published *TJ* in 1971, the time was ripe for it. Much had changed since he began the work, and he could now observe the increased pressures for social change. Most of all, the civil rights movement was living its heyday. The protests against various forms of political and social segregation and inequality occupied the streets and headlines. Recognition and fair equality were demanded on all fronts, protesters were striving for ethnic, gender, sexual, occupational, economic, and minority rights, among others—the public outcry against the Vietnam War perhaps being a kind of climax of all such sentiments.[33] Then, it was hardly a surprise that in this context Rawls' new theory found an eager audience. The theory could offer many an important tool that they could use for articulating their aspirations for a fairer society in a more reasoned way. It also offered an entry into the exclusive worlds of political and moral philosophy, which had stayed aloof from the matters of the day, in practice serving as bastions for more conservative thought.

As a consequence, through his well-timed theory, the Harvard professor now virtually became an icon for the radical re-emergence of such notions as freedom and justice as the centerpieces of intellectual debate. *TJ* was considered an instant classic, and it soon served as a reference point for subsequent discussion. All in all, the change was so considerable that one could call this intellectual transformation the "Rawlsian turn," which was felt not only in political philosophy but throughout democratic thought. This was a democratic thought full of fresh aspirations.

Following the publication of *TJ*, Rawls stayed at Harvard, where he had been since 1962, until 1995 when he officially retired. He continued to develop his thought further, which culminated in his 1993 book *Political Liberalism*[34] *(PL)*, which was largely comprised of previously published essays. In *PL*, Rawls repositioned his theory more explicitly against the liberal tradition of Western politics. He placed the theory under a branch of liberalism that he coined as "political liberalism" in a somewhat novel way, virtually adding this term to the vocabulary of modern political

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[33] All these reformist aspirations of the time are often placed under the label of "New Left." However, to me it seems that this categorization is culturally too narrow as it is obviously too narrow for John Rawls as well, which is well illustrated later in this work by observing Rawls' place at the nexus of various political traditions and philosophies. Thus, I tend to resist using the label, even if it might be justified on occasion.

[34] John Rawls, *Political Liberalism*, exp. ed. (1993 & 1996; New York: Columbia University Press, 2005).

thought. According to Rawls, this was a branch of liberalism that aimed to be politically neutral, or "freestanding"; acceptable to many different moral perspectives as purely political means for guaranteeing essential freedoms in society. Thus, Rawls framed his conception of justice in liberal terms, basing it on an expectation and duty of "reasonable" conduct, or rather public discussion and decision-making, "deliberation," between citizens; citizenship understood in inclusive terms.

To many it seemed that with *PL*, or, since his "political liberalism" turn, Rawls had abandoned his earlier ideas, but many also recognized the continuum between Rawls' earlier thought and the new emphasis set forth in the book.[35] In my view, the continuum indeed exists. I see that in *PL* Rawls was simply more aware of how culturally contextual his earlier theory had been. In other words, the whole idea of advocating for clearly procedural justice, embracing its open-ended nature, had always been fairly liberal. Most of all, it had been very political, too, which now became very evident in *PL*.

During the 1990s, Rawls also turned his attention to international justice, which led to his third and last major work. *The Law of Peoples[36] (LP)*, originally published in 1993 as a short article and then expanded into a book in 1999, emphasized Rawls' intention to explicitly associate his conception of justice with the Western perspective. According to Rawls, when it came to issues of justice, the Western world needed to remain fairly impartial in its dealings with the rest of the world. Rather, it would do well to first crystallize its own principles of justice and then act accordingly in an organized manner. In time, this might cause a positive convergence around the world. To achieve this end, Rawls now offered his theory of international justice, which was essentially a global adjustment of his earlier ideas, originally meant for a single society. As always, with *LP*, Rawls sparked enthusiastic reception as well as tough criticism. However, the work with international justice was left somewhat unfinished and its criticism unanswered because of Rawls' ailing health—one of the foremost philosophers of the latter part of the twentieth century passed away in 2002.

The story of John Rawls and his thought seems elementary for a full appreciation of the political and social movement of the last half a century. Most of all, it brings

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[35] For an interesting and recent examination of Rawlsian political liberalism, see Paul Weithman, *Why Political Liberalism? On John Rawls's Political Turn* (Oxford: Oxford University Press, 2010); see also Thom Brooks and Martha C. Nussbaum, eds., *Rawls's Political Liberalism* (New York: Columbia University Press, 2015).

[36] John Rawls, *The Law of Peoples: with "The Idea of Public Reason Revisited"* (Cambridge, MA: Harvard University Press, 1999).

to the fore the aspirations of this era. In this regard, it is very telling to note that what Rawls was crafting was an "ideal theory," a reflection of desired justice rather than the actual one. Put differently, his political philosophy sought to put into words the radical moods of the times. As a result, "justice as fairness" now offers a perspective through which many of the critical claims begin to feel more concrete and sensible; it might also help to understand the earlier theme of political decay. In this all, then, lies the rationale for why I will be referring to Rawls when endeavoring to contextualize bioethics in the coming chapters. Before going into this, however, I want to add a few new layers to the story.

2.2   Putting Rawls into Perspective: Contrasting with Judith Shklar

While it seems that John Rawls can offer a perspective through which we can better grasp the political aspirations of the post-war era, especially concerning freedom and justice, his political philosophy should also be put into perspective. One way to do this is to examine a story that closely resembles his. This can be done by exploring the life and work of Judith Shklar (1928–1992), Rawls' often forgotten Harvard colleague. Through this Harvard philosopher and political theorist, whose Jewish family fled to Canada from Europe during the Second World War, we have, most of all, a better chance of perceiving the political mindset that was driving Rawls to create his theory. This is no trivial task because there was such a strong awareness of modern political climate that very peculiarly and fundamentally directed Rawls' theory—being its cornerstone, so to speak. This is the main reason I will concentrate on Judith Shklar's life and thought in this chapter. On the other hand, I think that Shklar's thought is already interesting in its own right, which also makes it worth acknowledging.

Before proceeding any further, however, an important caveat must be voiced. I have now claimed several times that through understanding Rawls and his motivations, we can better appreciate even the more general political moods of the past. Yet one might ask, is it really possible to draw such overarching conclusions solely on the basis of John Rawls' life story and his thoughts? To this, my answer can only partially be yes. The yes is because Rawls really has served as a central figure in postwar political philosophy, which will soon, I hope, become evident when I go beyond Shklar's thinking and review the thoughts of some of Rawls' other peers and contemporaries. To prove my point—and to challenge Rawls—I will especially concentrate on Philip Pettit's somewhat novel version of republican political thought. The

no, on the other hand, is merely a natural consequence of the fact that no history can ever be fully all-inclusive. Some crude caricatures will always have to be drawn in order to make the past make sense to us. Thus, keeping this warning in mind, let us now proceed with a healthy sense of self-criticism.

It seems obvious that it was no coincidence by any means that Rawls, when describing his thought in a 1995 open letter to German philosopher Jürgen Habermas, named Judith Shklar one of the two "contemporaries" who shared the notion of political liberalism with him; the other one being philosopher Charles Larmore (1950–).[37] This is a significant remark because political liberalism was so dear to Rawls during his later years; it was a concept that he coined and a branch of thought under which he placed his theory. In other words, even if not often recognized so, Shklar appears to have been intellectually fairly close to Rawls—which is also evident in Rawls' explicit reliance on Shklar to provide the historical foundations for his thought. Rawls professed in his introduction to *Political Liberalism*:

> To the late Judith Shklar, I am indebted for innumerable instructive discussions since we met over thirty years ago. While never a student of hers, I learned from her as a student might and I am the better for it . . . I have always relied on her in matters of historical interpretation, crucial at a number of places in the text.[38]

Then again, this closeness between Rawls and Shklar does not seem so surprising when one considers how their careers and thought were linked to one another, and moreover, when one takes into account the similarities between their personal backgrounds. In fact, through this kind of closer examination, a kind of subtle dialogue between their thought becomes clearly visible. All this seems very interesting and elucidating, and something that should be acknowledged more strongly. This is also a topic to which I will turn my attention next.

We should begin our task by mapping political liberalism tentatively. In order to do this, it is useful to take a look at how Charles Larmore, the other "contemporary," views the origins of liberal politics. In his *The Morals of Modernity*, Larmore writes:

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[37] John Rawls, "Reply to Habermas," *The Journal of Philosophy* 92 (1995): 133n1; repr. in Rawls, *Political Liberalism*, 374n1; for a different interpretation of Rawlsian political liberalism and the connection between the three thinkers, see Shaun P. Young, *Beyond Rawls: An Analysis of the Concept of Political Liberalism* (Lanham: University Press of America, 2002).

[38] Rawls, Political Liberalism, xxxii; see also xxiv*n*10.

The liberal conception of politics is by nature a *latecomer*. It is addressed to a people whose common life has not proven immune to disagreement about matters of deep significance. As a rule, it makes its appearance only in a society that has left behind a homogeneous culture (or more accurately, perhaps, the pretense that it possesses one) and suffered through the violence of political attempts to reimpose it. The common life on which a liberal order depends must involve, therefore, an allegiance to the past that is more reflective than just a sense of continuity. It must be the life of a people united by what they have learned together from the things that once came to divide them.[39]

This passage provides a good starting point for anchoring liberalism to its historical roots, lessening the weight usually put on the theoretical side of liberalism that often trumps other aspects of the thought, particularly its connection with everyday life. Furthermore, it leads us toward political liberalism, the branch of liberalism in question. It emphasizes the fact that the past is a quintessential part of liberalism, something that political liberalism especially takes into heart. Put differently, the life lived is what animates political liberalism to a considerable extent. At the same time, this brings us to Judith Shklar—as it brought Rawls to her when he sought to elaborate political liberalism.

Rawls was essentially trying to connect political liberalism to something broader within Western history, to something that also clearly resonated with his personal experiences, or his sense of the past, which had served as a basis for his thought. Once again, one cannot overemphasize these "experiences," because therein lies the very connection between Rawls and Shklar, at the level of their lives as well as thought. Between the two thinkers there seems to be something deeply shared, making Shklar perhaps the most "contemporary" of all to Rawls; perhaps the best candidate who can offer a comprehensive perspective on Rawls, at all levels.

Speaking of levels, let us begin with the personal one first and orient ourselves to Judith Shklar's life story. At this point, I should also mention that the following biography is primarily based on Judith Shklar's short autobiography[40] and on two separate accounts by her close colleague Stanley Hoffmann.[41] The references to these sources are not indicated individually to avoid burdening the text too much.

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[39] Charles Larmore, *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996), 144.

[40] Judith N. Shklar, "A Life of Learning," in *Liberalism without Illusions*, ed. Bernard Yack (Chicago: The University of Chicago Press, 1996). Originally published as *A Life of Learning*, ACLS Occasional Paper No. 9 (Washington, DC.: American Council of Learned Societies, 1989).

[41] Stanley Hoffmann, "Judith Shklar and Fearless Liberalism," *PS: Political Science & Politics* 22 (1989); Stanley Hoffmann, "Judith Shklar," in memoriam, *PS: Political Science & Politics* 26 (1993);

Judith Shklar's life story

Judith (Dita) Shklar (*née* Nisse) was born in Riga, Latvia in 1928 to a German-speaking Jewish family that had fled from the Bolshevik Russia. Life was not easy for the family that belonged to a despised minority, and naturally this was reflected in young Dita's life, making it complicated in every quarter. However, despite burdensome social pressures, the family managed reasonably well. Dita's parents were educated, successful and fairly open-minded. On the other hand, this set the family even further apart from the surrounding society that was struggling for its very existence, viewing Dita and her family as unwelcome outsiders. Amid such discouraging social pressures, Dita began her lifelong affiliation with books. In her own words, she became a "bookworm." Her motivation for this was obvious. Classical works of literature did not oppress her; instead, they offered her a way to deal with the anxiety that society caused her, to put it into words. At the same time, books were also intellectually stimulating.

This newfound relief occurred at an opportune time because after that this psychological survival strategy became very necessary. When the Second World War broke out, the future scholar and her family had to flee the country for their lives: through Sweden, Siberia, Japan and the United States, ultimately to Montreal, where they would once again find themselves amid a repressive ethnic atmosphere. Hence, Dita's childhood and youth were colored by a rather dark tone, to which she later attributed her taste for black humor and its two main ingredients: cynicism and skepticism.

In time, Dita overcame the difficulties she had experienced. She entered college, where her passion for learning would eventually propel her to pursue an academic career. The aspiring and gifted young student became especially interested in political theory, largely because of Frederick Watkins' inspiring lectures on the subject and his strong encouragement for her to study the field. Watkins also affirmed to Dita that her long-lasting interest in classical arts was indeed valuable, which was a great reassurance to her. All of this meant that she had found her calling.

Judith, at this point married to dental student Gerald Shklar, received B.A. and M.A. degrees from McGill University in 1949 and 1950, after which she applied and was accepted into graduate studies in the government department of Harvard. Once

see also Seyla Benhabib, "Judith Nisse Shklar," *Proceedings of the American Philosophical Society* 148 (2004); and especially Andreas Hess, *The Political Theory of Judith N. Shklar: Exile from Exile* (London: Palgrave Macmillan, 2014).

again, Shklar excelled at Harvard, impressing the esteemed political theorist Carl Joachim Friedrich, who also became her mentor. She was now under the auspices of this Prussian-mannered figure, and in time she became his successor. Thus, academic winds seemed to be blowing favorably for her. However, Shklar's success was a bitter pill to swallow for many who were jealous of her success, still thinking that women should stay in the kitchen rather than enter academic careers. So, once more, she was excluded.

The contrast between Shklar's evident academic talents and how she was treated, or rather rejected, by her colleagues at the department created a curious and humiliating situation. Worst of all, the situation turned into a protracted conflict, and it was only after Shklar had spent almost a decade and a half in an odd part-time, non-tenured lecturer position that Harvard president Derek Bok ended the isolation in 1971 by appointing Shklar as the John Cowles Professor of Government. Finally, she became officially established, getting the recognition she deserved. Later, in 1990, she was also nominated as the first female president of the esteemed American Political Science Association, among other respected positions she had now held. The glass ceiling was broken, after all.

Overall, Judith Shklar had spent over forty years of her life struggling for recognition when Derek Bok appointed her as a full-time professor. During the hard years, this European Jewish *émigré* had succeeded to establish herself as a revered scholar within the prestigious, male-dominated American academia of the day. After all of her experiences, it was no wonder that in her work she was largely concerned with defending the weak against the strong. She delved into classical political thought, in which she discovered the building blocks for her political philosophy that she called the "liberalism of fear," among "barebones liberalism" and the "liberalism of permanent minorities." Shklar described her thinking in a 1964 book, *Legalism: Law, Morals, and Political Trials*, with the following words:

> It is, at its simplest, a defense of social diversity, inspired by that barebones liberalism, which having abandoned the theory of progress and every specific scheme of economics, is committed only to the belief that tolerance is a primary virtue that a diversity of opinions and habits is not only to be endured but to be cherished and encouraged. The assumption throughout is that social diversity *is* the prevailing condition of modern nation-states and that it *ought* to be promoted. Pluralism is thus treated as a social actuality that no contemporary political theory can ignore without losing its relevance, and also as something that any liberal should rejoice in and seek to promote, because it is in diversity alone that freedom can be realized. A free society not one in which people are merely allowed to make effective social choices among a variety of

alternatives, but one in which they are encouraged to do so. The range and the number of choices available and the mutual tolerance among those who choose conflicting paths are what determine the degree of freedom that the members of any modern society can be said to enjoy. If one must be a hero, a saint, or at least enormously courageous and self-confident in order to pursue a manner of life or to express views other than those agreeable to the powers that be, both governmental and social, one cannot be said to live in a free society. These views are at least old as John Stuart Mill, and hardly novel. No one today can claim, nor did Mill assume a hundred years ago, that everyone frantically yearns for personal liberty or regards tolerance as a virtue or finds the self-control it demands easy. It cannot even be said, as he did, that freedom is needed for "progress." What is evident, however, is that diversity and the burdens of freedom must be endured and encouraged to avoid the kinds of misery that organized repression now brings. This is a type of liberalism quite common among members of permanent social minority groups, and it surely reflects both the apprehensions and the positive experiences which their situation creates.[42]

Later, Shklar developed her thought further and found more precise ways to explicate it. The books *Ordinary Vices*[43] (1984), *The Faces of Injustice*[44] (1990), and *American Citizenship: The Quest for Inclusion*[45] (1991), together with the essay "The Liberalism of Fear"[46] (1989), constituted important milestones in this respect. However, this steady stream of publications that seemed to be only gathering pace was abruptly ceased when Judith Shklar passed away in 1992, right in the middle of her most creative period. Still, it is possible to construct a clear vision of what she was after in her political philosophy—and to see how this all might connect to Rawls' "justice as fairness." Thus, let us see what Shklar's thinking could offer us.

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[42] Judith N. Shklar, *Legalism: Law, Morals, and Political Trials*, repr. ed. with a new preface (1964; Cambridge, MA: Harvard University Press, 1986), 5–6.

[43] Judith N. Shklar, *Ordinary Vices* (Cambridge, MA: The Belknap Press of Harvard University Press, 1984).

[44] Judith N. Shklar, *The Faces of Injustice* (New Haven: Yale University Press, 1990).

[45] Judith N. Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, MA: Harvard University Press, 1991).

[46] Judith N. Shklar, "The Liberalism of Fear," in *Political Thought and Political Thinkers*, ed. Stanley Hoffmann (Chicago: The University of Chicago Press, 1998). Originally published in *Liberalism and the Moral Life*, ed. Nancy Rosenblum (Cambridge, MA: Harvard University Press, 1989).

Shklar's philosophy

In *Ordinary Vices*, Shklar relied on the thinking of Renaissance humanist Montaigne (1533–1592) and Enlightenment political philosopher Montesquieu (1689–1755), who both thought that in social life cruelty is the greatest evil. According to Shklar, "very few people have chosen to run the emotional and social risks of putting cruelty first, to regard it as the *summum malum* unconditionally. Among moralists only Montaigne and his disciple Montesquieu can be said to have done so consistently."[47] Shklar followed in the footsteps of these two moralists and concluded that cruelty, which is closely connected with fear, is a force that can utterly paralyze and destroy social life if it is allowed to reign free. From these intellectual steps, Shklar derived her political philosophy, the "liberalism of fear," which she condensed into a short essay, or political manifesto, of the same title, published in 1989.[48]

What the term implied was a kind of liberalism that was, first and foremost, informed and inspired by the need to avoid fear in political life. This was a decidedly *political* liberalism, operating within a political framework, aspiring to prevent politically driven repression and terror. According to Shklar, fear would come hand in hand with cruelty, inspiring more fear along the way, ultimately destroying the whole society. Moreover, fear would usually seek to influence the political sphere and institutionalize tyranny. Thus, political institutions should be insulated from such influences; the main instrument being the division of political power, at all levels, so that no one authority could rise above the others and terrorize the rest of society.[49]

In her political formulations, Shklar was mostly following Montesquieu, one of the fathers of modern constitutionalism.[50] However, what Shklar emphasized in Montesquieu's thinking, and what she thought that many had not fully recognized, was that Montesquieu was especially inspired by Montaigne in his low trust in human capability to secure a peaceful society if left without sufficient institutional wisdom, or political philosophy, as its backbone.[51] This fact often went unnoticed because it was so hard to recognize how Montesquieu, just as Montaigne, along with Shklar, hated cruelty "with the utmost intensity."[52] In other words, what was at stake was

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[47] Shklar, *Ordinary Vices*, 8.

[48] Shklar, "The Liberalism of Fear."

[49] Ibid.

[50] See also Judith N. Shklar, *Montesquieu* (Oxford: Oxford University Press, 1987).

[51] For example, see Shklar, *Ordinary Vices*, 196–197.

[52] Shklar, *Ordinary Vices*, 9.

something more than just an attempt to minimize the adverse effects of cruelty on society. Rather, all of this represented an implementation of a very peculiar kind of moral psychology—one that would be needed to accompany new political ideas; a moral psychology that Shklar also sought to elaborate, being especially inspired in this task by Rousseau.[53]

In her moral psychology, Shklar thought that in order to safeguard society from cruelty—and from fear—some other vices would need to be more tolerated in turn. In practice, the traditional Christian perspective on sins would need to be abandoned in public life. Moreover, the mundane sins of everyday life, "ordinary vices," such as many forms of hypocrisy, snobbery, betrayal and misanthropy, would need to be more readily accepted as part of society's normal functioning. All in all, many religious and political conventions would need to be radically rejected in favor of a free and peaceful society.[54] In practice, this would call for a new kind of state of mind— one that Shklar already had.

Where did this state of mind originate? Its source seems obvious when one recalls what Judith Shklar had gone through in her life. Time and again, she had learned how humans were capable of inflicting cruelty and fear on others, and that this was to be avoided at all costs. Being a Jewish survivor of the Second World War, she had witnessed also the effects of institutionalized terror. It was vice, not virtue, and it was injustice, not justice, that had guided her path. This helped her to affiliate with the disadvantaged, which was very evident in her last two books, in which she employed her theoretical insight, explicating it against a backdrop of everyday life.

In *The Faces of Injustice*, Shklar put injustice at the forefront and gave "injustice its due" because so often various theories of justice had spoken only about justice and not injustice.[55] Shklar lamented that "one misses a great deal by looking only at justice. The sense of injustice, the difficulties of identifying the victims of injustice, and the many ways in which we all learn to live with each other's injustices tend to be ignored, as is the relation of private injustice to the public order."[56] In turn, in *American Citizenship: The Quest for Inclusion*, Shklar emphasized the right to vote and the

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[53] For example, see Judith N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory*, paperback edition with a new preface (1969; Cambridge: Cambridge University Press, 1985).

[54] Shklar, *Ordinary Vices*, especially 1–9.

[55] Shklar, *The Faces of Injustice*, 15–50; for a more nuanced consideration of this position, see Thomas W. Simon, *Democracy and Social Injustice: Law, Politics, and Philosophy* (Lanham: Rowman & Littlefield Publishers, 1995); also Thomas W. Simon, *Ethnic Identity and Minority Protection: Designation, Discrimination, and Brutalization* (Lanham: Lexington Books, 2012).

[56] Ibid., 15.

right to work as the quintessential qualifications for social standing in America, reminding readers about the plight of slaves as well as that of the unemployed.[57]

Despite all of the grim tones in her work, Judith Shklar still did not abandon optimism or positive political philosophy. Rather, she did not want to commit to hope too eagerly. She wanted to keep close to actual experiences of real life and she wanted that these would matter in their entirety. This all was very evident when Shklar followed Emerson in the distinction and proclaimed that she was a member of the "party of memory," in contrast to the "party of hope,".[58]

Then, political liberalism in the Rawlsian vein seems very fitting with this line of thought, which Shklar also acknowledged.[59] Moreover, to my mind, John Rawls' whole life story—what he stood for—seems very compatible and like-minded with his Harvard colleague's life and thinking. Both scholars had gone through difficulties in their lives, still maintaining their belief in the force of positive political philosophy. Instead of surrendering to repression and to other outgrowths of the darker qualities of the human mind, they ever more vehemently demanded decent recognition and protection for all.[60]

On the other hand, one starts to wonder whether both stories represent something even bigger. Perhaps they are good examples of the era's hopes and fears concerning political life; its ideals of freedom and justice—an insight that would, without a doubt, be valuable for contextualizing bioethics, too. At least it seems certain that Shklar's political philosophy, as well as her views about its underlying moral psychology, were of great interest to Rawls.

It seems that Rawls originally connected to Judith Shklar's thought when he explored the roots of political liberalism. For Rawls, Shklar offered a viable historical explanation through her depictions of Montaigne's and Montesquieu's ideas and how these ideas originated from the cruelties of the past.[61] However, there was obviously more than this, as Rawls' comment about Shklar being a "contemporary,"

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[57] Shklar, *American Citizenship*.

[58] Shklar, "The Liberalism of Fear," 8–10.

[59] Judith N. Shklar, "What is the Use of Utopia?," in Hoffmann, *Political Thought and Political Thinkers*, 189.

[60] For a different, although somewhat similar-minded, conception of political philosophy, see Avishai Margalit, *The Decent Society*, trans. Naomi Goldblum (Cambridge, MA: Harvard University Press, 1996); also Avishai Margalit, *The Ethics of Memory* (Cambridge, MA: Harvard University Press, 2002); and Avishai Margalit, *On Compromise and Rotten Compromises* (Princeton: Princeton University Press, 2010).

[61] Rawls, *Political Liberalism*, xxiv*n*10.

with regard to being committed to political liberalism, suggests.[62] It is very telling to note that what Rawls always thought that his theory of justice lacked was an adequate description of the moral psychology that it was based on. When asked about how Rawls had originally intended to continue after publishing *A Theory of Justice*, he replied:

> I had planned on doing some other things mainly connected with the third part of the book, which was the part I liked best, the part on moral psychology. That would not be exactly a new but a related topic. I have never gotten around to that and never will. I thought, the way things have turned out, that it would be better if I spent my time trying to state justice as fairness more convincingly and to reply to people and remove their objections. I'm not sure that's the best thing to have done, but that's what I have done.[63]

Perhaps it was Shklar, above others, who supplied this very moral psychology for Rawls, if only implicitly. If this was the case, this would mean that Shklar's thinking represents a great deal more than only a mere historical reference point to Rawls; rather, it would seem that Shklar offered him a deep historical consciousness. It is hard to tell what the situation was because both thinkers so rarely referred to each other's thoughts, which, I think, was more a consequence of a desire to keep a healthy self-reliance than a sign of incompatibility. Furthermore, one needs to keep in mind that no matter how scarce their references to each other were, they still acknowledged their connection clearly on various occasions.

In any case, for my purposes in this work, I will attempt to see these two thinkers as mutually complementary to one another whenever possible. I am motivated to try to put forth this claim because I think that acknowledging Judith Shklar's political philosophy adds new and valuable tones of color, so to speak, to Rawls' justice as fairness. Shklar's ideas help to ground Rawls' somewhat abstract thinking in the cultural landscape of the time—a theme that brought us to Rawls in the first place. I wish that through Rawls and Shklar we will be able to acquire a nuanced perspective on the political hopes and fears of the latter part of the twentieth century, which will later serve us well when I endeavor to understand bioethics as a comprehensive cultural phenomenon. Before proceeding to this, however, let us challenge Rawls for a moment.

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[62] Rawls, "Reply to Habermas," 133n1; repr. in Rawls, *Political Liberalism*, 374n1.

[63] Samuel R. Aybar, Joshua D. Harlan, and Won J. Lee, "John Rawls: For the Record," *The Harvard Review of Philosophy* 1 (1991): 44.

2.3   Some Other Voices: The Discussion around Rawls

John Rawls' theory of justice, or political liberalism, has been under criticism from virtually all directions. Utilitarian thinkers have, in various ways, faulted Rawls for disregarding the inevitably utilitarian nature of social life; no society can function without regarding the consequences of different choices on overall well-being.[64] Libertarians, such as Robert Nozick, on the other hand, have denounced Rawls' theory as only a mere continuation of the state's unjust influence over citizens' private life that has pervaded over time.[65] Then again, the criticism from the Left has regretted exactly the opposite, namely, that Rawls has not envisioned a more pervasive role for the state and for the rest of the polity.[66]

Furthermore, communitarians have reprimanded Rawls for his shallow picture of the identity of the individual, or citizen, emphasizing the need to incorporate the role of communities more deeply into political and social thought.[67] The capability approach, put forward by such thinkers as Amartya Sen and Martha Nussbaum, has in turn called for a deeper focus on the actual capabilities of people to live a good life, instead of mere theorizing about hypothetical possibilities for them to do so.[68] On the other hand, Rawlsian political liberalism has been blamed for not being a sufficiently neutral political conception.[69] Rawls' international adaptation of the theory has been criticized for being detached from the international community: being unrealistic and, moreover, uncaring of the plight of the suffering around the world.[70]

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[64] For example, see Samuel Scheffler, "Rawls and Utilitarianism," in *The Cambridge Companion to Rawls*, ed. Samuel Freeman (Cambridge: Cambridge University Press, 2003).

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

[66] Cf. Gerald A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008).

[67] For example, see Stephen Mulhall and Adam Swift, "Rawls and Communitarianism," in Freeman, *The Cambridge Companion to Rawls*; also Michael J. Sandel, *Liberalism and the Limits of Justice*, 2nd ed. (1982; Cambridge: Cambridge University Press, 1998); although, note that Sandel, in fact, resists this label, which is clear in the preface to the second edition.

[68] Cf. Amartya Sen, *The Idea of Justice* (Cambridge, MA: The Belknap Press of Harvard University Press, 2009); also Martha C. Nussbaum, *Creating Capabilities: The Human Development Approach* (Cambridge, MA: The Belknap Press of Harvard University Press, 2011).

[69] Cf. Gerald Gaus, *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World* (Cambridge: Cambridge University Press, 2011); also Jürgen Habermas, "Reconciliation Through the Public Use of Reason: Remarks on John Rawls' Political Liberalism," *The Journal of Philosophy* 92 (1995).

[70] For example, see Rex Martin and David Reidy, eds., *Rawls's Law of Peoples: A Realistic Utopia* (Malden: Blackwell Publishing, 2006).

Rawls has also been accused of being too legalistic[71], too American[72], and ignorant of feminist perspectives[73]. Many have been disappointed by Rawls' lack of concern about animal rights and environmental issues.[74] And even more criticism has abounded; these have been only the main lines.[75]

However, it is important to observe that the most criticism has been largely theoretically oriented. Not many have questioned whether Rawls' attempt to restore the normative tones of moral and political philosophy has been misguided. Furthermore, Rawls' ethos, if one could say so, to empower and allow people to choose their own destinies under the squeeze of mass society has rarely come under dispute. In fact, many of the previous criticisms seem to share the same underlying sentiment to a great degree. Moreover, more often than not, it has been rather easy to accommodate these competing lines of thought to Rawls' thinking, and vice versa. In other words, Rawls has appeared to be standing in the middle ground between various schools of thought, a claim that is now almost commonplace. Thus, with regard to these criticisms, only the claim that Rawls' ideas have been too American seems culturally oriented and more profound.

In a sense, it is obvious that Rawls is influenced by American thinking, and in this sense it also poses no problem. Rawls has never claimed to be fully culturally neutral—neither is bioethics for that matter. Then, the actual pitfall according to this line of criticism is that some sort American *exceptionalism[76]* has infused Rawls' thinking with unreasonable and insensible cultural biases in relation to the rest of the Western world; remember that Rawls never said that he was theorizing beyond the West. It seems, however, that the problem can be resolved in the same way as the

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[71] For example, see Frank I. Michelman, "Rawls on Constitutionalism and Constitutional Law," in Freeman, *The Cambridge Companion to Rawls*.

[72] Cf. John Gray, *Two Faces of Liberalism* (New York: The New Press, 2000).

[73] For example, see Martha C. Nussbaum, "Rawls and Feminism," in Freeman, *The Cambridge Companion to Rawls*.

[74] For example, see Ruth Abbey, "Rawlsian Resources for Animal Ethics," *Ethics and the Environment* 12 (2007).

[75] There are also influential lines of criticism that are difficult to categorize, partly because they are fairly sympathetic to Rawls' position; cf. Ronald Dworkin, *Justice for Hedgehogs* (Cambridge, MA: The Belknap Press of Harvard University Press, 2011); also Thomas M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: The Belknap Press of Harvard University Press, 1998); and Brian Barry, *Justice as Impartiality* (Oxford: Oxford University Press, 1995).

[76] Concerning the general discussion about American exceptionalism, see for example Seymour M. Lipset, *American Exceptionalism: A Double-Edged Sword* (New York: W. W. Norton & Company, 1996).

whole American exceptionalism issue: by acknowledging how culturally intertwined the West is; at least, the West does not appear to be so culturally diversified that it would lead to claims about *exceptionalism*.[77] For example, one can consider how John Rawls found his calling against the backdrop of the Second World War, the same holds true for Judith Shklar. This had little to do with the American mindset. As Shklar suggested very tellingly in her autobiography her "childhood was brought to an end" by Hitler.[78]

Thus, the claim that I have now made, namely, that Rawls' political philosophy has embodied the political thought—and moods—of the post-war West, seems to be justified. What I mean by this is that Rawls' theory of justice is naturally open to all kinds of theoretical challenges, but, on the other hand, its deep cultural relevance is very difficult to rebut. The theory has been such a forceful manifestation of underlying political aspirations. Therefore, it is also possible to use Rawls' theory as a wonderful cultural platform for developing political—and social—thought further, to which many of the previous criticisms are testament. Or, more modestly, the theory can at least greatly help to illuminate many modern developments in these fields. This, too, is the spirit in which I will aspire to apply the Rawlsian perspective to bioethics later in this study. Before going into this, however, I want to put the theory to the test by contrasting it with an influential new branch of political philosophy, namely, Philip Pettit's version of republicanism.

Philip Pettit's republicanism

Let us take Charles Larmore as our guide to this new kind of republican thought. He introduces the reader to the subject with the following words:

> Recent years have witnessed a remarkable surge of interest in classical republicanism. Among the different currents in this republican revival, the most important, I believe, traces its lineage back through Machiavelli and his *Discorsi sopra la prima deca di Tito Livio* to the political thought of ancient Rome. It has been the subject of a series of important historical studies by Quentin Skinner,

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[77] For example, see Judith N. Shklar, "Redeeming American Political Theory," in *Redeeming American Political Thought*, eds. Stanley Hoffmann and Dennis F. Thompson (Chicago: The University of Chicago Press, 1998). Originally published as "Redeeming American Political Theory," *American Political Science Review* 85 (1991).

[78] See Benhabib, "Judith Nisse Shklar," 530; cf. Shklar "A Life of Learning," 263–264.

and in the Anglo-American world it has found its most ambitious theoretician in Philip Pettit. The republican model of political life has received at his hand the sort of detailed exposition it has never in fact enjoyed before. His book, *Republicanism. A Theory of Freedom and Government*, is a landmark work.

Despite some areas of disagreement, Skinner and Pettit have essentially the same vision of what is of enduring importance in the republican tradition — namely, its understanding of freedom. In this conception, they are joined by two other contemporary neo-republicans, Maurizio Viroli and, in France, Jean-Fabien Spitz.[79]

From this extract we can acquire a good general understanding of the context of Pettit's republicanism. Firstly, we can see that the line of republican thought to which Pettit subscribes has deep historical roots in classical republicanism. The esteemed British intellectual historian Quentin Skinner has been especially a major figure in uncovering these roots.[80] Secondly, as the passage suggests, the notion of freedom that this current "neo-republican"[81] thought has suggested has been put forward as something fundamentally different from other contemporary understandings of freedom—including that of Rawlsian political liberalism. And third, Irish philosopher Philip Pettit (1945–) has been virtually the most eminent theoretician of the neo-republican doctrine.[82] Pettit's account has been a kind of beacon for the rest of the thought, which is why it seems especially constructive to focus on his theory.

Then, Philip Pettit has labeled this re-emergent republican notion of freedom "freedom as non-domination."[83] He wishes that this conception of freedom, or that

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[79] Charles Larmore, *The Autonomy of Morality* (Cambridge: Cambridge University Press, 2008), 168–169.

[80] Quentin Skinner, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998); Quentin Skinner, "A Third Concept of Liberty," *Proceedings of the British Academy* 117 (2002); Quentin Skinner, *Hobbes and Republican Liberty* (Cambridge: Cambridge University Press, 2008).

[81] Skinner, among many others, have instead favored using the term "neo-Roman" to emphasize the Roman roots of the thought and also to underline that the thought does not necessarily have to be labeled as "republican." Furthermore, this stand can be contrasted with the "neo-Athenian" perspective; for more on the matter, see Larmore, *The Autonomy of Morality*, 175–178, especially 176n23.

[82] For example, see Philip Pettit, *Republicanism: A Theory of Freedom and Government*, paperback edition with a new postscript (1997; Oxford: Oxford University Press, 1999); Philip Pettit, *A Theory of Freedom: From the Psychology to the Politics of Agency* (Oxford: Oxford University Press, 2001); Philip Pettit, *On the People's Terms: A Republican Theory and Model of Democracy* (Cambridge: Cambridge University Press, 2012); Philip Pettit, *Just Freedom: A Moral Compass for a Complex World* (New York: W. W. Norton & Company, 2014).

[83] Pettit, *Republicanism*, 17–126.

of liberty, would fall outside the two already established main categories in this respect, those of "negative" and "positive" conceptions of liberty.[84] The notion could be illustrated as follows: if we took, roughly speaking, 'negative liberty' to call for freedom from interference by others, or generally freedom from external restraint, and accordingly 'positive liberty' to require the availability of power and resources to fulfill our wishes, or having effective control over our destinies, the conception could be seen as a combination of both categories, representing a "third" way. As Pettit puts it:

> [A distinctively republican conception of liberty] fits on neither side of the now established negative-positive dichotomy. This conception is negative to the extent that it requires the absence of domination by others, not necessarily the presence of self-mastery, whatever that is thought to involve. The conception is positive to the extent that, at least in one respect, it needs something more than the absence of interference; it requires security against interference, in particular against interference on an arbitrary basis.[85]

So, in practice, according to Pettit, living in a reasonable and predictable political and social environment to which people genuinely adhere is more important than having the most comprehensive scheme of liberties, negative or positive. For example, laws that are perceived as legitimate, even if somewhat interfering with freedom, embody this ideal. Put differently, above all, Pettit calls for securing confidence in living free from being "at the mercy of another,"[86] so to speak, or from being under the domination of others, no matter how benevolent this domination might turn out to be. Pettit describes the mental landscape behind his thought:

> The grievance I have in mind is that of having to live at the mercy of another, having to live in a manner that leaves you vulnerable to some ill that other is in position arbitrarily to impose; and this, in particular, when each of you is in a position to see that you are dominated by the other, in a position to see that you each see this, and so on. It is the grievance expressed by the wife who

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[84] This distinction is usually attributed to Isaiah Berlin's famous essay *Two Concepts of Liberty*; see Isaiah Berlin, "Two Concepts of Liberty," in *Liberty*, ed. Henry Hardy (Oxford: Oxford University Press, 2002). Originally published as *Two Concepts of Liberty* (Oxford: Oxford University Press, 1958). Compare the distinction with Benjamin Constant's equally famous, like-minded position; see Larmore, *The Autonomy of Morality*, 186–187.

[85] Pettit, *Republicanism*, 51.

[86] See below.

finds herself in a position where her husband can beat her at will, and without any possibility of redress; by the employee who dare not raise a complaint against an employer, and who is vulnerable to any of a range of abuses, some petty, some serious, that the employer may choose to perpetrate; by the debtor who has to depend on the grace of the moneylender, or the bank official, for avoiding utter destitution and ruin; and by the welfare dependant who finds that they are vulnerable to the caprice of a counter clerk for whether or not their children will receive meal vouchers.

Contemporary thought suggests that individuals in these positions retain their freedom to the extent that they are not actively coerced or obstructed. But whether or not they avoid interference, they certainly have a grievance. They live in the shadow of the other's presence, even if no arm is raised against them. They live in uncertainty about the other's reactions and in need of keeping a weather eye open for the other's moods. They find themselves in a position where they are demeaned by their vulnerability, being unable to look the other in the eye, and where they may even be forced to fawn or toady or flatter in the attempt to ingratiate themselves. . . . Freedom involves emancipation from any such subordination, liberation from any such dependency. It requires the capacity to stand eye to eye with your fellow citizens, in a shared awareness that none of you has a power of arbitrary interference over another.[87]

As it has now become clear, Pettit offers his version of republicanism and its conception of freedom as a profound challenge and alternative to liberal thought. To Pettit, typically, "liberals [are] those who embrace freedom as non-interference."[88] In other words, in Pettit's view, liberals primarily emphasize negative liberty, which they then reconcile with other valuable ends, such as positive liberty or freedom as non-domination, to varying degrees. This naturally puts freedom as non-domination into a drastically subordinate position, casting liberal thinking as somewhat opposed to Pettit's ideal.

However, Pettit also notes that not all liberals are the same. For instance, Pettit suggests that Charles Larmore—who has been at least close, if not dedicated, to Rawlsian political liberalism, as Rawls pointed out—might be sympathetic to his republican thought.[89] And indeed, Larmore has not only been interested in this branch of political philosophy, as already indicated, but also expressed that he considers it to be largely parallel and compatible with his essentially Rawlsian political liberalism.

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[87] Pettit, *Republicanism*, 4–5.

[88] Ibid.*,* 9.

[89] Ibid., 9–10.

The reason for this is that Larmore finds common ground for both doctrines in the "liberal principle of respect for persons," which accords a fundamentally equal footing to all persons by demanding that "the basic terms of political association must be ones that all can affirm together."[90] Larmore takes this Kantian-inspired principle to be foundational to both doctrines, which, in fact, consequently makes Pettit's republicanism partly liberal. Larmore states:

> A society devoted to ending domination must require of its citizens that they have a shared commitment to this ideal. For only a system of just laws, as the public expression of that commitment, can truly eliminate relations of personal dependence. We can now see that this commitment finds its natural home within a vision of political life defined by the liberal principle of respect for persons. The basic terms of political association must be ones that all can affirm together (given that principle as a guiding premise), in a common or "public" point of view that embodies the fundamental relation of equality in which they understand themselves as standing to one another as citizens. The republican ideal of replacing personal dependence with the rule of law becomes fully intelligible only within a liberal framework.[91]

Indeed, it is hard to see genuine opposition between the two branches of thought; a conclusion that Rawls also affirmed.[92] The liberal principle of respect for persons really seems to be fundamentally embedded in both. It certainly animated Rawls' thought—or, perhaps Rawls was even its main modern advocate—and it is hard to imagine how to justify republican "freedom as non-domination" without resting on it. Rather, through this principle we could see Pettit's republican thought, and neo-republican thought at large, as complementary to Rawlsian political liberalism, and naturally vice versa. Larmore views the matter from Rawls' side as follows:

> Many of the things that Rawls went on to say about political liberty show an affinity with the republican conviction that freedom consists in the absence of domination. The freedom he made the object of his first principle of justice counts as a value only to the extent that it embodies an equal freedom for all, a scheme of basic liberties that each person enjoys compatibly with a similar scheme for everyone else. Why regard equality as essential to freedom? Were non-interference the only concern, then citizens ought not to worry about

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[90] See below.

[91] Larmore, *The Autonomy of Morality*, 195.

[92] Rawls, *Political Liberalism*, 205–206.

some people having a more extensive set of basic liberties than theirs, provided that they themselves are able to pursue unobstructed their individual purposes. If equal liberty forms the paramount principle, the point must be that people should be free, not only from undue interference by others, but also from the unfair influence or domination of others, when such essential matters as religious conscience, association, and political voice are at stake.

Another reason for thinking that Rawls did not really equate freedom with the absence of actual obstacles is his evident reluctance to regard law as in itself an abridgement of liberty. . . .

My aim is not to suggest that in his heart of hearts Rawls adhered to the republican conception. A well-defined distinction between the two views of freedom was not available when he wrote *A Theory of Justice or Political Liberalism*. Nothing impelled him to take a stand one way or the other. Here then lies Pettit's real contribution. His work forces us to be more explicit than before about what we mean when we say that freedom is "freedom from."[93]

Larmore's stand seems reasonable to me, though it is certain that not everyone will agree. In my view, whether one is labeled here as "liberal" or "republican" is, however, not that important. What counts is whether ideas and thoughts seem to agree with one another—which they appear to be doing. If we adopt this perspective, we can see once again that Rawls' political philosophy is very compatible with other strands of modern political thought, Pettit's republicanism being an excellent case in point. On the other hand, we can also acknowledge how the neo-republican challenge is of great value to Rawlsian understanding, as well as to the rest of contemporary political thought. Naturally, this presents an opportunity that I cannot pass. Therefore, I will aspire to benefit from the insights of Pettit's political philosophy whenever possible when investigating bioethics later in this work.

Before proceeding to an overall summary of what has now been said about the political philosophy of the post-war era, I will add one more detail to the story of neo-republicanism and Rawlsian political liberalism. In order to avoid reliance on only one authority on the matter, namely, Charles Larmore, I want to introduce another interpretation of the subject that seems to validate the point.

In their book *Liberal Beginnings: Making a Republic for the Moderns*, Andreas Kalyvas and Ira Katznelson, two political theoreticians and historians, examine the origins and development of the modern liberal tradition, concentrating on the relationship between republicanism and liberalism between 1750 and 1830. Contrary to the

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[93] Larmore, *The Autonomy of Morality*, 188–189.

wishes of those who would want to separate the historical roots of neo-republicanism from those of political liberalism, they conclude from the republicanism of the time:

> A new political liberalism was born, as three generations of seminal thinkers transformed the world of political ideas. Despite their continuing, if uneven, faithfulness to the founding principles of republicanism, their innovative writings brought its distinctive intellectual and political identity to an end.
>
> Of course, this dynamic movement in political philosophy had diverse features and took a variety of paths. Our primary goal, notwithstanding, has been to understand how Smith, Ferguson, Paine, Madison, Staël, and Constant partook in a common project. Crossing national, linguistic, and regional boundaries, as well as philosophical and political borders, they shared a way of thinking, reasoning, and imagining about politics for modern times. They drew from within on republican resources, and, aware of the limitations of these ideas in dealing with novel conditions, also were receptive to currents that presently are associated with the long history of liberal development. . . .
>
> . . . These thinkers and actors powerfully transformed republicanism into political liberalism but did so distinctively. Their pathways to a common outcome were not identical. The formation and crystallization of political liberalism was not the result of a single line of development. . . .
>
> These various paths converged. At their terminus, constitutional liberalism existed; republicanism no longer was a freestanding alternative, but it did not disappear. Republican values, sensibilities, and orientations have survived as deposits that fused with, and became integral to, liberal politics. In light of this history, some of the most familiar, and often pejorative, dichotomies in today's political thought, including the right and the good, interest and virtue, individual and community, make little sense. These oppositions are new fabrications that do not accurately capture the rich historical and conceptual relations between the two traditions.[94]

In other words, according to Kalyvas and Katznelson, around the end of the eighteenth century and the early nineteenth century, republican political philosophy ran into internal problems that seemed to be amendable only by turning to liberalism. This it also did, concurrently transforming its nature. It effectively became part of the branch of liberalism that, from the modern perspective, could be called "political liberalism," referring to a distinctively politically oriented line of liberal thought. To

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[94] Andreas Kalyvas and Ira Katznelson, *Liberal Beginnings: Making a Republic for the Moderns* (Cambridge: Cambridge University Press, 2008), 176–180.

be clear, this does not imply that republican thought started to resemble exactly the Rawlsian adaptation of political liberalism, but it implies that as an intellectual entity republican political philosophy began to belong to the same branch of liberalism as Rawls' political philosophy—in effect, becoming a close cousin of Rawls' thought, one could say.

Furthermore, as Kalyvas and Katznelson suggest, this was not a *coup d'état* by political liberalism; rather, the liberal turn was innate to republican thought. If this was right, it would be an important point because many neo-republicans have claimed that they are now resurrecting a thought that was lost at the time of the transformation of republican political philosophy around the end of the eighteenth century and the early nineteenth century. According to Kalyvas and Katznelson, the thought was not lost; instead, it largely assimilated into liberalism, and this it did because of its own need. This is not to say that neo-republican thought would not be of any worth, but only that the classical republicanism it has been reviving does not stand in opposition to all liberal thought, to political liberalism.

Who knows if Kalyvas and Katznelson are right in all aspects of their historical interpretation? Even if they are not, I think what is important here is that we can see how "political liberalism," as a broad category of political philosophy, establishes a close connection between neo-republican theory and the famous Rawlsian adaptation of the branch. In fact, as discussed before, the term was virtually coined by Rawls. Once again there seems to be more shared than first meets the eye; Rawls' political philosophy being a good guide to all this.

What about bioethics then? Where does bioethics stand in relation to post-war political philosophy? These are good questions and they lead us to the topic to which I will turn next.

2.4   Pulling the Strings Together

First I want to make a few general remarks. I have now put a great deal of weight on political aspects as I have been preparing the way for contextualizing bioethics, and this is no coincidence. Even though I think that the political perspective can offer insight even beyond its regular scope, it is also true that choosing this route carries a specifically political meaning. In other words, this suggests that bioethics will largely become depicted as a political phenomenon. However, to my mind, this seems only fitting for bioethics because bioethics *is*, by its nature, so political—a claim that I hope will become more evident during the course of this study.

Now, let us recollect for a moment what has been said up to this point. We began our journey by taking a look at the theory of political order and decay. I emphasized that the theory offers us only *one* possible way to put bioethics into perspective and that it alone should not be overly stressed. However, I also said that the theory, by its way of reasoning, focuses our attention in the right direction. To be precise, I said that it reminds us about the need to connect bioethics to its larger political and social context, instead of treating it as a mere new branch of ethics. In practice, what I had in mind with this was that the theory eventually urges us to ask why, of all eras, bioethics was born right during the post-war period; thus making the question of *when* the field of bioethics was born truly significant.

It seems to me that there is often a tendency to regard the rise of bioethics as something that was inevitable, to take bioethics as an irresistible trend in ethics, provoked by all the troubling issues that are currently present in the field. Yet in a way this is a circular argument. The relevance and meaning of bioethics cannot be judged only by relying on bioethics itself. For example, it is often argued that new technological possibilities in life sciences, e.g., cloning technologies, are the reason bioethics exists; that these technologies need to be assessed in the court of bioethics. However, it has usually been none other than bioethics itself that has argued for this imperative. Thus, we need to step well beyond bioethics to understand where the field ultimately derives its authority, or rather, where the authority comes from.

There seems to be two separate but interrelated possibilities of interpretation. The first possibility is that there was something in ethics that called for the appearance of a new branch. The second possibility is that something beyond ethics, such as a change in political and social circumstances, provoked the emergence of bioethics. To me, the first possibility seems implausible in its own right. We may ask what exactly in ethics, *before* bioethics, called for bioethics—it is very difficult to detect anything very decisive in this respect. Rather, what we can see is that there was a window of opportunity for such a development; still, this does not mean that this had to happen.

Then, the second option as a fundamental cause of action seems more convincing. As with the "Rawlsian turn" before, it is possible to see a clear connection between a change in political and social circumstances and the advent of new ethical thinking. Put simply, it appears that a political and social need in Western societies for bioethics presented itself during this time. This is why I am not content with regarding bioethics as a mere branch of ethics, albeit it is evidently such a branch, too. Still, in my mind, the soul of the field, so to speak, belongs to larger dynamics

of political and social life, which seem to have brought the field alive in the first place.

So, I claim that the need for bioethics presented itself at the time. We should expand on this and ask where this need came from, and also, why it carried any weight. Roughly speaking, on the most basic level, the answer to the first question seems to revolve around the same theme that was already discussed with the Rawlsian turn: many were disappointed with how society worked, or rather, dominated large groups of people. I will return to this point later. An answer to the latter question is also of vital importance because surely this was not the first time in history when many harbored such feelings of discontent—usually these feelings had been met with a cold response. Yet curiously, this time these sentiments led to sizeable consequences, among them the birth of bioethics.

This takes us back to the theory of political order and decay. Why did such discontent carry such a heavy weight with it this time? If we followed the theory, we could conclude that the reason is that for the first time in history large groups of people also possessed sufficient political and social power to contribute to change. This time, they had to be heard, unless the powers that be in the West did not want to risk destabilizing political order and facing political decay. So, "business as usual" started to change, and along came bioethics. But was this indeed the case? Intuitively, at least, this seems fairly convincing. However, I must admit again that in the end this theory might turn out not to be fully plausible. Nevertheless, I think that some such explanation is needed to make sense why bioethics appeared in the West at this particular time. I will come back to this question, too, later during this study.

Political philosophy and bioethics

Now, I want to turn to political philosophy. First, let us look back for a moment. During this chapter, I have primarily introduced political philosophy as means to understanding the political and social moods of the post-war era. Put differently, I have done this in order to illustrate the era. To this end, I have especially concentrated on John Rawls' famous political philosophy. I have aspired to generalize Rawls' thought, as well as his life story, in the purpose of making sense of the hopes and fears of the age. Then, relying largely on Rawls' guidance, I have traveled a path toward the larger realms of political thought, especially via Judith Shklar's and Philip Pettit's thinking.

In case that the reader has been wondering about the weight that I have placed on Rawls' shoulders, I need to admit that my somewhat extensive treatment of

Rawls' life and thought has indeed differed from the approach that is conventionally taken to him. Usually, the Rawlsian perspective is considered only as one influential part of contemporary political philosophy, whereas I have taken this standpoint as an embodiment of much of what seems essential in recent, or contemporary, political thought; by using "thought" I am implicating political moods as well as theory. Furthermore, in exchange for this larger relevance, I have given up on a claim that Rawls' theoretical formulations in themselves would be anything spectacular; a position that some Rawlsians still try to maintain in political philosophy. Put simply, in the end, what I have aimed for is that Rawls' story and its meaning would be seen as a deep *cultural* voice of its day.

What about political philosophy and bioethics then? How could we benefit from political philosophy as we aspire to comprehend bioethics? Now, let me first conclude that the "cultural" is indeed what this all largely boils down to. To be exact, it was for cultural reasons that I introduced political philosophy in the first place—I was aiming to "understand the field of bioethics as a comprehensive cultural phenomenon." I wanted to pursue this direction because I think that eventually a cultural explanation has to be the one that pulls all the strings together, so to speak, as it is the cultural framework that unites a myriad of human beliefs, motivations, aspirations, interaction, and so forth, giving them sense and purpose. So, I thought that political philosophy could help us to reach such a deep layer of interpretation, which it has seemed to be able to do.

What does this mean in more concrete terms? First of all, as I claimed already, political philosophy has now appeared to be a field that has a very socially informative, or reflective, quality to it. In other words, political philosophy has revealed many things not only about political life but also about social life—two key components of cultural make-up that are obviously important to take cognizance of, in order to comprehend bioethics. However, this is not all. As I also anticipated, political philosophy has proved to be good at crossing between various levels of cultural understanding, between many aspects of human thought, from hopes and fears—almost inexplicable at times—to ambitious theoretical constructions. To my mind, all of these, to the extent that is possible, should be uncovered when aspiring to appreciate bioethics. Thus, I think that I can now safely presume that political philosophy can, by its way of reasoning, also help us understand bioethics better in its entire richness, connecting to bioethics at all cultural levels. I hope that this will become evident in the following investigation.

There seems to be more to combining political philosophy and bioethics than the cultural aspect. The second strength of political philosophy in relation to bioethics

appears to be that the political, moral and ethical ideals of the mainstream political philosophy seem to be fairly compatible with those of bioethics. In fact, it is rather easy to argue that the core ideals of bioethics are, to a large extent, compatible, if not the same, with those prevail in political philosophy. To push the envelope, we could also argue that bioethics was born as a consequence, or an embodiment, of some powerful currents in political philosophy; however, it is not necessary to go this far to highlight the connection. In any case, this seems to be a connection that is important to recognize.

What, then, are these shared ideals between bioethics and political philosophy? To answer the question, we could start by considering Rawls' "justice as fairness." To summarize a little, I would say that a kind of openness to negotiation seems to be essential for this conception. In other words, this openness aims to empower different voices, which makes it *inclusive* by nature. Together with this, it strives to stay genuinely open-ended, or fair, which, at best, also makes it *neutral* in relation to various standpoints. What this means in practice could be well illustrated for example by following Judith Shklar's "liberalism of fear" or equally Philip Pettit's theory about "freedom as non-domination," as I have now done. Moreover, as I have also argued, we could eventually unite these three strands of thought under the umbrella of "political liberalism," which might, in effect, be seen as a major branch of contemporary political thought. Doing this could further elucidate the values in question. Then, I think that we should arrive at a position where we can see that these are the ideals that bioethics also shares. To my mind, this is a contention that should be, on its *basic* level, virtually undisputed in contemporary bioethics.

I want to stress the word "basic" here, as I understand it: I do not want to claim that the field of bioethics is, or should be, an exact carbon copy of Rawlsian political liberalism; rather, I want to point out that culturally speaking political liberalism seems to well illustrate the spirit that is embodied in bioethics. In other words, I am not advocating for conceiving bioethical questions solely through the lens of Rawlsian political philosophy—not at all—although I think that this theoretical perspective might be helpful at times, and it is certainly something that I am interested in developing further. As I emphasized earlier, for me Rawls is not that important because of his theoretical apparatus but because he appears to offer a deep cultural

voice that stands in the middle, and helps to make sense, of varied intellectual developments of the day. Put short, here we seem to be able to capture at least a significant portion of *the spirit of bioethics*, so to speak.[95]

Thus, I indeed think that the previous claim about shared values between political philosophy and bioethics is, on its basic level, virtually undisputed in contemporary bioethics. However, what might be disputed—quite heavily, in fact—is *how* central these ideals are to bioethics and also *where* they come from. At this point, I cannot yet go into the question of centrality in detail; instead, I want to address the question of origin. Yet I will note that to me these ideals, or values, seem fairly central to bioethics; they seem to be some of its core values. But where do they originate? My claim, as it has already become clear, is that they mostly originate from the repression, or domination, that was resisted during the post-war era. Without yet delving deeper into this, I could nevertheless suggest that the "doctor knows best" mentality was a large part of the problem that the nascent field of bioethics targeted. So, if we think that bioethics was born as a response to repression, as was obviously most of contemporary political thought, it seems only natural that they share many common values; they have the same "DNA" of values. Of course, there are also other possible interpretations.

Still, if we accept the claim about the common DNA, we can also see that these fields most probably share a common future, too. What this means for those who are interested in taking these fields further is that they should develop them in tandem, or at least that doing this could yield great benefits to both fields. One possibility to do this would be to deepen Rawlsian thought, as I suggested in passing earlier. These are interesting opportunities to which I will return later.

It is now the time to conclude the first part of the study, the part where I have burdened the reader with plenty of theory, and to move on toward the actual cases of bioethics. I hope that the reader is as excited as I am to see how the theory will endure the test of real-life people and events. Though, I want to notify in advance that I will also be introducing more theory as I go forward, and will revisit what has been said thus far. Nevertheless, let us now consider for a moment how bioethics has been felt in the realm of the *real* world.

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[95] With this I anticipate criticism such as the one presented in Ezekiel J. Emanuel, *The Ends of Human Life: Medical Ethics in a Liberal Polity* (Cambridge, MA: Harvard University Press, 1991).

PART TWO: THE PAST

3. From Old Ethics Set Free: The Birth of Bioethics

Let us first look at two fairly different depictions of the role of the doctor. A 1948 Life photo essay, "Country Doctor," begins with the following words:

> The town of Kremmling Colo., 115 miles west of Denver, contains 1,000 people. The surrounding area of some 400 square miles, filled with ranches which extend high into the Rocky Mountains, contains 1,000 more. These 2,000 souls are constantly falling ill, recovering or dying, having children, being kicked by horses and cutting themselves on broken bottles. A single country doctor, known in the profession as a "g.p.", or general practitioner, takes care of them all. His name is Ernest Guy Ceriani.
>
> Dr. Ceriani begins to work soon after 8 o'clock and often continues far into the night. He serves as physician, surgeon, obstetrician, pediatrician, psychiatrist, dentist, oculist and laboratory technician. Like most rural g.p.s he has no vacations and few days off, although unlike them he has a small hospital in which to work. Whenever he has a spare hour he spends it uneasily, worrying about a particular patient or regretting that he cannot study all of the medical journals which pour into his office. Although he is only 32 he is already slightly stooped, leaning forward as he hurries from place to place as though heading into a strong wind. His income for covering a dozen fields is less than a city doctor makes by specializing in only one. But Ceriani is compensated by the affection of his patients and neighbors, by the high place he has earned in his community and by the fact that he is his own boss. For him this is enough. The fate of thousands of communities like Kremmling, in dire need of "country doctors," depends on whether the nation's 22,000 medical students, now choosing between specialization and general practice, also think it is enough.[96]

Now, it is interesting to compare the tone of this rather uplifting passage to the following, rather gloomy extract from the court case *Bouvia v. Superior Court*, almost 40 years later, where it was in the opinion of Justice Beach that:

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[96] William E. Smith, "Country Doctor," Life, September 20, 1948, 115; discussed at length in Jonsen, *The Birth of Bioethics*, 3–5.

In Elizabeth Bouvia's view, the quality of her life has been diminished to the point of hopelessness, uselessness, unenjoyability and frustration. She, as the patient, lying helplessly in bed, unable to care for herself, may consider her existence meaningless. She cannot be faulted for so concluding. If her right to choose may not be exercised because there remains to her, in the opinion of a court, a physician or some committee, a certain arbitrary number of years, months, or days, her right will have lost its value and meaning.

Who shall say what the minimum amount of available life must be? Does it matter if it be 15 to 20 years, 15 to 20 months, or 15 to 20 days, if such life has been physically destroyed and its quality, dignity and purpose gone? As in all matters lines must be drawn at some point, somewhere, but that decision must ultimately belong to the one whose life is in issue.

Here Elizabeth Bouvia's decision to forego medical treatment or life-support through a mechanical means belongs to her. It is not a medical decision for her physicians to make. Neither is it a legal question whose soundness is to be resolved by lawyers or judges. It is not a conditional right subject to approval by ethics committee or courts of law. It is a moral and philosophical decision that, being a competent adult, is hers alone.[97]

After reading these two assessments, one wonders what really had happened during the intervening 40 years. From the respected and fairly optimistic, yet burdensome, life of a country doctor, we move to a courtroom full of distrust and pain. Most noticeably, the doctor's role is depicted in a completely different light in these two passages. One might begin to doubt whether these two cases are too far apart from each other to really draw conclusions. However, it seems that these two descriptions are indeed deeply interrelated. They appear to represent what was a colossal change in popular ethical thinking. Naturally, what I am referring to is what could be labeled as the birth of bioethics, to which I turn now.

It is virtually a commonplace conclusion that *bioethics* was born in the United States during the sixties and early seventies. Bioethics was born in the seminars and newfound institutes of the time, where and when scholars from *various* backgrounds started to confront the new ethical challenges of life sciences—the science of living organisms, from plants to humans—from fresh perspectives, especially challenging

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[97] *Bouvia v. Superior Court*, 179 Cal. App. 3d 1127, 1142–1143 (Cal. Ct. App. 1986); discussed in Jerry Menikoff, *Law and Bioethics: An Introduction* (Washington, D.C.: Georgetown University Press, 2001), 262–271; also in Gregory E. Pence, *Medical Ethics: Accounts of Ground-breaking Cases*, 6th ed. (2000; New York: McGraw-Hill, 2011), 1–22. I want to note that court opinions, such as this, are easily and freely accessible through the English version of Google Scholar.

the paternalistic attitudes toward patients and human participants that were associated with the medical profession. Quite understandably, a new heading for all of this was soon needed, which is why the term "bioethics" was coined, simultaneously in more than one place. Already from the beginning the term was infamously ambiguous in its meaning; nevertheless, it signaled that something new and radical was taking place. Indeed, what was happening was radical; the new movement was so strong that it did not take long after the early days until it had burst into the limelight. It began to establish itself as a respected academic field and part of the political and social institutional make-up in the United States and in the rest of the Western world. Today, bioethics is practically a household name in many circles.[98]

I agree with this very basic, and quite common, understanding of the early years of bioethics. However, this short summary of the origin also makes obvious the fact that there is considerable room for interpreting what *really* took place at the time, or rather, what this all has meant—*then and now*, viewed from the perspectives of the past and present. As it has become obvious, the aim of my work, to a large degree, is to take part in this discussion, a discussion that is still very much ongoing, if it has even fully started. Thus, I will soon continue my journey by first stressing the point of view of *then*, the perspective of the past. This will be also primarily from the perspective of *early bioethicists*, which, understandably, will affect significantly my interpretation; others, outside the field, have held rather different views about it—sometimes justifiably so, sometimes not. The reason for concentrating on the point of view of early bioethicists is that I first want to consider the standard narrative as it was, and often still is, constructed—as a whole—within the field. This does not mean, however, that I completely agree with what bioethicists have told about themselves or their work, although I find the story quite plausible. With this choice of perspective, I want to make possible truly appreciating what "bioethics was all about," intellectually speaking, in the beginning; and ensuring that the primary actors of the play, rather than others, get a fair chance to explain their rationale. Whether this understanding stands the test of more thorough examination will be then mostly the subject of the next part of this study, in which I will concentrate on the perspective of the present. So, let us begin with the past. I can think of no better way of

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[98] For a *somewhat* standard narrative of the birth of bioethics, see Jonsen, *The Birth of Bioethics*, but cf., for example, Warren T. Reich, "A Corrective for Bioethical Malaise: Revisiting the Cultural Influences that Shaped the Identity of Bioethics," in *The Development of Bioethics in the United States*, eds. Jeremy R. Garrett, Fabrice Jotterand, and D. Christopher Ralston (Dordrecht: Springer, 2013), 83–85.

doing this than to begin by giving voice to the aspiring bioethicists of the day, to scholars such as Daniel Callahan, who founded the Institute of Society, Ethics and the Life Sciences, later better known as the Hastings Center, in 1969.

At this point, I do not think it necessary to give much more direction as to what will follow in this chapter, other than to suggest that a theme of old ethics versus new ethics—namely, bioethics—will be central to my investigation. This is because I want to offer a space for thought to maneuver freely, especially between different eras. I also need to note that during the following pages I will change my tone from what has now been overly theoretical and somewhat unconcerned with the aspect of timing to one that is more common to historical studies, underlining the aspects of then and now. However, it will not be long before I return to my earlier theoretical constructions to see how they fit together with the details of the past.

3.1   How It Was Then: The Perspective of the Early Days

Bioethicist Daniel Callahan, the co-founder and long-time director of the Hastings Center, or originally the "Institute of Society, Ethics and the Life Sciences," wrote in his editorial to the first issue of the *Hastings Center Report* in June 1971:

> The kinds of problems now facing the life sciences, particularly those with ethical and social implications, require the full range of human capacities. It is possible to think of the issues as *only* moral, or *only* legal, or *only* political, or to say that some are of the one kind and some of the other. But is it any longer wise, if it ever was, to so divide important human concerns? It is a rare moral problem which has no legal implications, and a rare legal problem which has no moral implications. Public policy will normally reflect the values and desires of a society, a particular reading of pertinent data, a balancing of social interests, and a concrete understanding of the political and cultural uses of law. If it is possible to separate these ingredients in theory, it is rarely done in practice.
>
> None of us really knows, though, how to think through a problem in all of its dimensions. We have our professional specialties, which teach us how to put on one kind of spectacles. We have our personal tastes and histories, which lead us to put on another kind. Somehow that pattern must be changed. All too often the most important human problems fall outside of, or between, or across the usual academic and research fields: war and peace, the quality of life, human happiness—ethics and the life sciences.
>
> The goal of this "Report," the first regular publication of the Institute, is to advance public and professional understanding of the social and ethical

problems arising out of advances in the life sciences. That, indeed, is the larger goal of the Institute itself. This cannot be done, we believe, unless pertinent data is presented, principles examined, different viewpoints heard, and the possible implications of decisions and policies explored. This is not a task to be restricted to one discipline, or one viewpoint, or one methodology. To say that it must be multi-disciplinary is only to say the issues are as complex as human beings themselves.[99]

This extract is especially relevant for understanding the birth of bioethics as it comes from the founder of what could be called *the* center of bioethics, undoubtedly the first one of its kind and, ever since its founding in 1969, an important hub of bioethics. So, what does it tell us?

First of all, it is obvious that according to Callahan the new considerations that he and his fellow aspiring bioethicists were putting forward at the time were largely motivated by a need to have a truly interdisciplinary study of life sciences, particularly of the social and ethical implications that advances in modern life sciences were bringing with them. In practice, this meant that the new field, bioethics, needed to be genuinely *intellectually open-ended*, drawing on resources from various directions in an unbiased manner. It also seems that it was equally important for bioethics to be socially relevant, especially to support informed and balanced public discussion about these matters, to foster *inclusive debate where different viewpoints could be heard*. At the time, both of these aspects of the new field were intended to stand in radical opposition to the old ways of academia and society at large.[100]

Thus, based on Callahan's editorial, these are the two themes that seem to stand out as being of crucial importance—as they have been, to my mind, in bioethics ever since, at least until fairly recently. Naturally, these concerns and views could be attributed to only Callahan and his colleagues at the Institute of Society, Ethics and the Life Sciences, but I think that as I suggested it is virtually undisputed that Callahan's thoughts represent sentiments that were, and have been, largely shared among bioethicists. This is no wonder since Callahan and his colleagues at the institute, as well as everyone else writing to the early issues of the *Hastings Center Report*, were those who were responsible for bringing the field alive in the first place.

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[99] Daniel Callahan, "Values, Facts and Decision-making," *The Hastings Center Report* 1, no. 1 (1971).

[100] On this topic, see also Callahan's famous essay, which was cited when the Library of Congress added "bioethics" as a new subject heading in 1974; Daniel Callahan, "Bioethics as a Discipline," *The Hastings Center Studies* 1, no. 1 (1973).

But how far do these observations take us? These two central characteristics of bioethics that have now been identified—aspirations to be interdisciplinary and socially relevant, being especially open to different voices—do not in themselves sound so special, at least today. In a way, this is very true. Today it seems that nearly every academic field promotes itself as having these characteristics; sometimes for a reason and sometimes without. Therefore, I will now take a closer look at them, asking what they actually mean in bioethics. However, I want to emphasize that these characteristics should not be considered as the sole essence of bioethics, but only as something that we are placing under scrutiny first.

Paternalism

Let us take a look at another extract, taken from the later pages of the same issue of the *Hastings Center Report*. This is a passage that is also a very good example of the prevailing sentiments of the day. In a commentary on physicians' obligations to minors and their parents, anger over the "physician's role as a directive moralist" catches the eye:

> The matter of the physician's role as a directive moralist remains equally foggy. The physician who told on his 16-year-old patient is quoted as saying that if the girl had come directly to him for contraceptive advice, he would have "talked her out of it," and by the time they had finished talking, she would have no further need for contraception. If indeed the role of directive moralist is a proper one for the physician, it is clear that there is nothing in medical school which prepares him for such duty.[101]

It is the issue of *paternalism* that is obviously in question here. As I have indicated previously, it was, perhaps more than anything else, the paternalistic attitudes of the medical profession toward patients and human participants, or, the "doctor knows best" mentality that the emerging bioethics challenged. The debate about paternalism among early bioethicists was in fact so significant that it would not probably be an overstatement to suggest that it was the very paternalism that provoked the birth of the field. In any case, the aspirations toward open-ended knowledge, the inclusion of different voices, and other such qualities that bioethics sought to possess, seem largely fully coherent and sensible against a backdrop of an attempt to challenge the

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[101] [Daniel Callahan?], "In Brief," *The Hastings Center Report* 1, no. 1 (1971): 11.

paternalism of the Western medical profession; the near omnipotence that the profession had achieved since the nineteenth century.[102]

What do I mean by paternalism here? First of all, the essence of paternalism (derived from the Latin word "pater," implying the fathering of someone, e.g. children, treating them as subordinates for their own good[103]) is a topic that is constantly under dispute; however, we do not need to concern ourselves with such an abstraction now as we are speaking of paternalism in a more restricted context. At the end of the day what we are discussing is how the doctors of the time unduly restricted the choices that their patients in the clinic as well as human participants in medical research could make, usually arguing that this was justified by the doctors' guarding the best interests of the objects of their care. However, the matter is more complicated than this, most of all because paternalism—in this setting, too—comes in various flavors. So what exactly were these flavors?

First, there was the sort of paternalism that was very evident; that manifested in an open denial of the rights of patients and human participants to obtain information about their conditions and to make decisions about their treatments, and also manifested in the refusal to have any critical discussion about these unreserved rights that doctors then had. On the other hand, paternalism also took more covert forms. This was perhaps most evident in the way that medicine occupied the role of sole authority on the issues of health; moreover, gradually expanding the scope of this 'health'— even to matters of ethical and moral conduct, as we saw.

All in all, one could say that these somewhat outgrown powers of the Western medical profession in the sixties and early seventies culminated in two aspects: in an undisputed control over vast areas of knowledge and decision-making, and in a very high social status.[104] Bioethicist Robert Veatch illustrates the paternalistic atmosphere of the time when he writes:

> By the mid-twentieth century the benevolent paternalism of the Hippocratic Oath, with its commitment to the duty of physician to work only for the benefit of the patient, dominated professional physician ethics (only adjusting to

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[102] For a more thorough discussion of this omnipotence and its consequences, see for example Robert M. Veatch, *Disrupted Dialogue: Medical Ethics and the Collapse of Physician-Humanist Communication (1770–1980)* (Oxford: Oxford University Press, 2005).

[103] See Oxford Dictionary of English, 3rd ed., s.v. "paternalism."

[104] On the theme of medical profession of the sixties and seventies and its privileged position, see also Eliot Freidson, *Profession of Medicine: A Study of the Sociology of Applied Knowledge*, repr. ed. with a new afterword (1970; Chicago: The University of Chicago Press, 1988), which is a classic.

include some consideration of consequences to the society). . . . Physicians' moral attitudes were often at odds with those of the lay public. In a 1953 survey of physicians, for example, 70 percent indicated that they did not tell their patients of a cancer diagnosis . . . In various surveys of patients and laypeople who were not patients in this period, no matter how the question was asked, the vast majority always indicated that they wanted to be told . . . There was simply a disconnection between the moral frameworks of physicians and laypeople.[105]

Later Veatch elaborates the theme:

When laypeople learned what decisions physicians were making about laypeople's health care, they were often appalled. . . . Once laypeople had the time and knowledge to review physician choices and the fortitude to challenge the physician's authority, they discovered that physicians were very predictably making controversial moral moves, choices that at least some laypeople considered morally indefensible.

Physicians intentionally withheld grave diagnoses from patients; they did research on them without informing them; they sterilized some patients whom they thought were not worthy of being parents; they routinely kept critically and terminally ill patients alive against the wishes of those patients or their families; they intentionally broke confidences against the wishes of patients; they refused to perform sterilizations, abortions, and provide contraceptives if they thought patients shouldn't have them; they allocated scarce resources in controversial and nondemocratic ways. The more laypeople learned about the ethic that had become embedded in the medical profession, the more they protested. They began to find that the physician ethic, isolated from the mainstream of religious and secular morality, had developed such tensions with most plausible ethical positions that it was untenable and offensive.[106]

Then, it is not hard to imagine how there was a connection between such paternalistic, top-down ethical attitudes—basically a monopoly on knowledge and decisions about action—and the newly acquired social standing of mid-twentieth century Western physicians. Bioethicist Albert Jonsen depicts the social status of American physicians:

The wars of consultation and competition had been won. The medical marketplace was being allotted to the new specialties, state licensure laws were

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[105] Veatch, *Disrupted Dialogue*, 171–172.
[106] Ibid., 208.

back in force and specialty certification was emerging, hospitals were largely under the control of their medical staffs, and contract and group practices were rare anomalies. Above all, twentieth-century physicians had attained the respectability and social authority that their nineteenth-century predecessors yearned for. Along with that respectability came enhanced income. By midcentury, the words Dr. Cabot had written in 1918 were no longer true: "Among the rewards which the doctor must not expect is wealth. . . . I have known few physicians fail to get a living in medicine, but the number who make comfortable incomes is equally few." In just a few decades, American physicians had moved from being solid members of the middle class with moderate incomes to upper-class high earners. The aims of politic ethics—to organize medicine into a profession that merits public respect, commands authority in society, and guarantees a good living—seemed to have been achieved.[107]

Today it seems difficult to believe that not so long ago the medical profession was not particularly associated with wealth and status. However, it appears that this was so, which only proves the point that we need to genuinely appreciate that the circumstances of the past often differ greatly from ours. But let us not deviate from the topic of our discussion, which is the paternalism of the day, or to be precise, the effect paternalism had on the nascent bioethics.

As I already suggested, it seems that, it was the overly powerful Western medical profession of the sixties and seventies that provoked the birth of bioethics more than anything else. In other words, the powers of the profession were embodied in its fundamentally well-intentioned yet often cruel and deleterious paternalism, which many of the aspiring bioethicists of the time sought to resist. This resistance naturally took many forms, but perhaps the most central one was the discussion among bioethicists about "informed consent," a pair of words that has virtually become the most popular term of the bioethics vocabulary.

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[107] Albert R. Jonsen, *A Short History of Medical Ethics* (Oxford: Oxford University Press, 2000), 96. However, for example Ezekiel J. Emanuel, after being equally critical, notes more sympathetically to physicians that this increase in the social standing of physicians was also closely connected with improvement in the quality of care; see Ezekiel J. Emanuel, *Reinventing American Health Care: How the Affordable Care Act Will Improve our Terribly Complex, Blatantly Unjust, Outrageously Expensive, Grossly Inefficient, Error Prone System* (New York: PublicAffairs, 2014), 23–27. A related question is also how much of this can be particularly attributed to the American setting.

Informed consent

What does this term mean? Once again, as with paternalism before, it is impossible to give an all-encompassing definition for a concept that is so widely used. Giving this definition is not even something that would be very helpful to us right now. We do not need to define the concept extensively at the moment as we are focusing on how it was conceived *then*, how the concept was understood by early bioethicists and other contemporaries. Thus, I think that it suffices to note the obvious; that the concept demanded that patients or human participants were given relevant information about their health conditions and treatments so that they could make, as independently and voluntarily as possible, decisions about how to best promote and secure their well-being—that doctors would need to have their informed consent for whatever they were doing. And of course, it is vital to bear in mind that this sort of line of ethical thinking—in itself—was no novelty at the time as it dated back to the days of Plato and beyond; however, one could hardly confuse the modern doctrine of informed consent, still finding its form, with its age-old predecessors.[108]

Now, let me illustrate the discussion about informed consent among early bioethicists and other relevant parties with a few excerpts. A well-known milestone in this respect was the court case *Canterbury v. Spence*, in which Judge Robinson opined in 1972 that:

> The record we review tells a depressing tale. A youth troubled only by back pain submitted to an operation without being informed of a risk of paralysis incidental thereto. A day after the operation he fell from his hospital bed after having been left without assistance while voiding. A few hours after the fall, the lower half of his body was paralyzed, and he had to be operated on again. Despite extensive medical care, he has never been what he was before. Instead of back pain, even years later, he hobbled about on crutches, a victim of paralysis of the bowels and urinary incontinence. In a very real sense this lawsuit is an understandable search for reasons.[109]

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[108] For an illustration of the theme, see Jonsen, *The Birth of Bioethics*, 353–373; see also a classic work on the subject, Ruth R. Faden and Tom L. Beauchamp, *A History and Theory of Informed Consent* (Oxford: Oxford University Press, 1986).

[109] *Canterbury v. Spence*, 464 F.2d 772, 776 (DC. Cir. 1972); discussed in Menikoff, *Law and Bioethics*, 157–170; also in Albert R. Jonsen, Robert M. Veatch, and LeRoy Walters, eds., *Source Book in Bioethics: A Documentary History* (Washington D.C.: Georgetown University Press, 1998), 448.

What had happened was that a young man, Jerry Canterbury, had sought medical care in 1958 after beginning to feel severe back pain. He was eventually treated by a neurosurgeon, Dr. William Spence, who decided to perform a laminectomy on him, however failed to provide a thorough description of the procedure and that paralysis was a known complication to the procedure. Moreover, Spence did not discuss any alternative methods for treatment. These failures were brought under close scrutiny when the risk materialized, partly paralyzing Canterbury and leading to the court case. The case rose to prominence since it was one of the key cases that provoked the establishment of new standards for deciding whether proper consent for treatment had been given.

The court argued for a new standard to be applied in such cases, the "reasonable person" (or initially, "man") standard, which demanded that as much information as a reasonable person would deem necessary in making a choice about treatment had to be disclosed to patients. This challenged the standard that was prevailing in courts as well as in clinics, the "professional standard," which argued that the amount of information that had to be disclosed depended on what was customary to the medical profession. Though, it needs to be noted that not even the professional standard was very well established at the time. The upshot of the case, and other similar cases, was that it opened up the debate about informed consent and emphasized the point of view of patients; aiming to empower patients to make informed decisions by and for themselves.

Even though the reasonable person standard did not become established as the sole principle for deciding whether informed consent was obtained or not, nor has it ever been clear what precisely "reasonable" means, or, how this standard should be implemented in practice, it reflected the ethos of the emerging informed consent doctrine very well. For example, at one point in his opinion, Judge Robinson viewed the reasonable person standard in the following way:

> There is no bright line separating the significant from the insignificant; the answer in any case must abide a rule of reason. Some dangers—infection, for example—are inherent in any operation; there is no obligation to communicate those of which persons of average sophistication are aware. Even more clearly, the physician bears no responsibility for discussion of hazards the patient has already discovered, or those having no apparent materiality to patients' decision on therapy. The disclosure doctrine, like others marking lines between permissible and impermissible behaviour in medical practice, is in essence a requirement of conduct prudent under circumstances. Whenever

nondisclosure of particular risk information is open to debate by reasonable-minded men, the issue is for the finder of the facts.[110]

As many have pointed out, when reading Robinson's opinion, it becomes painfully obvious how difficult it is to define what information is significant and what is not for a patient to arrive at an informed consent; what would constitute a "reasonable" or "prudent" deliberation in an average situation. Nevertheless, what is truly significant here is the serious effort to incorporate patients into decision-making. As already suggested, this is the true merit of the case; that it boosted the informed consent doctrine, helping it to stay alive and evolve.

Then, a good example of how the informed consent doctrine later developed can be seen in a 1982 report by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research[111]. *Making Health Care Decisions: The Ethical and Legal Implications of Informed Consent in the Patient-Practitioner Relationship* makes, among others, the following remarks:

> While the law has proclaimed, if not always given effect to, such propositions as "Anglo-American law starts with the premise of thorough-going self-determination" and "each man is considered to be his own master," recent scholarship has suggested that such sentiments have played little role in traditional health care and are indeed antithetical to the proclaimed norms of the medical profession. Medical skepticism of patients' capacities for self-determination can be traced to the time of Hippocrates . . .
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> These attitudes continued to be reflected both in professional codes of ethics and in influential scholarly writings on medical ethics throughout the nineteenth and early twentieth centuries, and indeed survive to this day. Studies of the records of daily medical practice (rather than normative statements of professional ethics) have found distinct "indigenous medical traditions" of truth-telling and consent-seeking, grounded on the theory that such knowledge "had demonstrably beneficial effects on most patients' health." But little evidence exists that such traditions combined in anything like the modern doctrine of informed consent. Nor did they derive from or imply any commitment by the medical profession to patient autonomy. Indeed, when patients' wishes regarding treatment were respected it was largely because providers recognized their limited therapeutic capabilities and the substantial risks

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[110] *Canterbury*, 464 F.2d 772, at 788; repr. in Jonsen, Veatch, and Walters, *Source Book in Bioethics*, 453.

[111] For more information about the commission, see Jonsen, *The Birth of Bioethics*, 107–115.

accompanying medical interventions (for example, surgery without antiseptic) as well as the impracticability of forcing treatments on resisting patients.[112]

It is evident how the understanding of the informed consent doctrine is now much more refined. The concept is placed into an explicit historical context, which serves as a basis for the argument for the "modern doctrine of informed consent." The report is also more conscious of the values underlying the doctrine:

> What are the values that ought to guide decisionmaking in the provider-patient relationship or by which the success of a particular interaction can be judged? The Commission finds two to be central: promotion of a patient's well-being and respect for a patient's self-determination. . . .
>
> Given these two considerations—the frequent absence of objective medical criteria and the legitimate subjective preferences of patients—ascertaining whether a health care intervention will, if successful, promote a patient's well-being is a matter of individual judgment. Societies that respect personal freedom usually reach such decisions by leaving the judgment to the person involved.
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> . . . This does not mean, however, that well-being and self-determination are really just two terms for the same value. For example, when an individual (such as a newborn baby) is unable to express a choice, the value that guides health care decisionmaking is the promotion of well-being—not necessarily an easy task but also certainly not merely a disguised form of self-determination.
>
> Moreover, the promotion of well-being is an important value even in decisions about patients who can speak for themselves because the boundaries of the interventions that health professionals present for consideration are set by the concept of well-being. Through societal expectations and the traditions of the professions, health care providers are committed to helping patients and to avoiding harm. Thus, the well-being principle circumscribes the range of alternatives offered to patients: informed consent does not mean that patients can insist upon anything they might want. Rather, it is a choice among medically accepted and available options, all of which are believed to have some possibility of promoting the patient's welfare, including always the option of no further medical interventions, even when that would not be viewed as preferable by the health care providers.

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[112] President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Science, *Making Health Care Decisions: The Ethical and Legal Implications of Informed Consent in the Patient-Practitioner Relationship*, vol. 1, *Report* (Washington, D.C.: U.S. Government Printing Office, 1982), 31–32; repr. in Jonsen, Veatch, and Walters, *Source Book in Bioethics*, 466.

In sum, promotion of patient well-being provides the primary warrant for health care. But, as indicated, well-being is not a concrete concept that has a single definition or that is solely within the competency of health care providers to define. Shared decisionmaking requires that a practitioner seek not only to understand each patient's needs and develop reasonable alternatives to meet those needs but also to present the alternatives in a way that enables patients to choose one they prefer. To participate in this process, patients must engage in a dialogue with the practitioner and make their views on well-being clear.[113]

The report continues by underlining the role of self-determination:

Self-determination (sometimes termed "autonomy") is an individual's exercise of the capacity to form, revise, and pursue personal plans for life. Although it clearly has a much broader application, the relevance of self-determination in health care decisions seems undeniable. A basic reason to honor an individual's choices about health care has already emerged in this Report: under most circumstances the outcome that will best promote the person's well-being rests on a subjective judgment about the individual. This can be termed the instrumental value of self-determination.

More is involved in respect for self-determination than just the belief that each person knows what's best for him or herself, however. Even if it could be shown that an expert (or a computer) could do the job better, the worth of the individual, as acknowledged in Western ethical traditions and especially in Anglo-American law, provides an independent—and more important— ground for recognizing self-determination as a basic principle in human relations, particularly when matters as important as those raised by health care are at stake. This noninstrumental aspect can be termed the intrinsic value of self-determination.[114]

The intrinsic value of self-determination is defined next:

The value of self-determination readily emerges if one considers what is lost in its absence. If a physician selects a treatment alternative that satisfies a patient's individual values and goals rather than allowing the patient to choose, the absence of self-determination has not interfered with the promotion of

[113] President's Commission, *Making Health Care Decisions: Report*, 41–44; repr. in Jonsen, Veatch, and Walters, *Source Book in Bioethics*, 469–470.

[114] President's Commission, *Making Health Care Decisions: Report*, 44–45; repr. in Jonsen, Veatch, and Walters, *Source Book in Bioethics*, 470.

the patient's well-being. But unless the patient has requested this course of conduct, the individual will not have been shown proper respect as a person nor provided with adequate protection against arbitrary, albeit often well-meaning, domination by others. Self-determination can thus be seen as a shield and a sword.

. . . Self-determination as a shield is valued for the freedom from outside control it is intended to provide. It manifests the wish to be an instrument of one's own and "not of other men's acts of will." . . .

The potential for dissatisfaction in this regard is great. In the Commission's survey, 72% of the public said that they would prefer to make decisions jointly with their physicians after treatment alternatives have been explained. In contrast, 88% of the physicians believe that patients want doctors to choose for them the best alternative. Despite these differences, only 7% of the public reports dissatisfaction with their doctors' respect for their treatment preferences.

. . . As a sword, self-determination manifests the value that Western culture places on each person having the freedom to be a creator—"a subject, not an object." . . . Individuals are capable of creating their own character and of taking responsibility for the kind of person they are. Respect for self-determination thus promotes personal integration within a chosen life style.

This is an especially important goal to be nourished regarding health care. If it is not fostered regarding such personal matters, it may not arise generally regarding public matters. The sense of personal responsibility for decisionmaking is one of the wellsprings of a democracy. Similarly, when people feel little real power over their lives—in the economy, in political affairs, or even in their daily interactions with other people and institutions—it is not surprising that they are passive in encounters with health care professionals.

If people have been able to form their own values and goals, are free from manipulation, and are aware of information relevant to the decision at hand, the final aspect of self-determination is simply the awareness that the choice is their own to make. Although the reasons for a choice cannot always be defined, decisions are still autonomous if they reflect someone's own purposes rather than external causes unrelated to the person's "self." Consequently, the Commission's concept of health care decisionmaking includes informing patients of alternative courses of treatment and of the reasoning behind all recommendations. Self-determination involves more than choice; it also requires knowledge.

The importance of information to self-determination emerged in the Commission's study of treatment refusals in hospitals. There it was found that,

regarding routine treatments, information was frequently so lacking that pa-
tient self-determination was compromised.[115]

The report then proceeds to discuss the practical implications and other more nuanced features of the informed consent doctrine. This is also interesting but not essential for acquiring a sense of how informed consent was viewed in the early eighties, when the concept became better established. I hope that the few excerpts from the report have now brought us closer to the atmosphere of those days; alt-hough, it is obvious that the report does not *literally* represent the full range of views that there was. Moreover, I think that while the report speaks primarily of informed consent in *health care*, the views that it proposes can be extrapolated to human par-ticipants in medical research, too. All in all, to my mind, the report offers us a good glimpse of how many bioethicists began to view the issue once it became well estab-lished.

Where does this lead us? What is the big picture here? First of all, we need to remember the more general context to which these remarks obviously relate; namely, that of the memory of the Nazi doctors, the Tuskegee syphilis study and similar cases that still lingered on.[116] Put simply, many dramatic abuses of power had been uncov-ered. Moreover, as an initial response to these malpractices, plenty of declarations had been issued: the *Nuremberg Code*, the *Declaration of Helsinki*, the *Belmont Report*, and other such documents.[117] However, it seemed that such declarations alone, even if important, did not guarantee much. They had to be implemented effectively, and not just by courts and regulators, but by the public at large; the prevailing mindset had to change.

It was to cater to this very need that the informed consent doctrine was intro-duced. In practice, the doctrine challenged what was perceived as the root of the problem, that is, the excessively powerful and paternalistic medical profession. Con-currently, discussions about the doctrine offered aspiring bioethicists an important opportunity to define who they were, and also to prove their worth to the general audience by addressing such heavy issues. So far, I need to note, these are somewhat obvious and commonly heard remarks about bioethicists. However, where these

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[115] President's Commission, *Making Health Care Decisions: Report*, 45–47; repr. in Jonsen, Veatch, and Walters, *Source Book in Bioethics*, 470–471.

[116] Jonsen, *A Short History of Medical Ethics*, 100–102 & 108–109, respectively.

[117] For example, Jonsen, *The Birth of Bioethics*, 133–136; for the *Belmont Report*, see below in the text.

roads ultimately converge seems something more interesting. To me, it appears that they come together in the concept of *autonomy*, which has perhaps already been evident within the earlier excerpts. Though this is not a novel observation it is still significant for a number of reasons.

Autonomy

One reason why autonomy is significant is that by utilizing the concept we can see clearly how the discussions about informed consent resonated with the broader Western cultural landscape. Autonomy is a useful concept in this respect because it so easily crosses borders between countries—a critic could argue that by discussing *informed consent* we are speaking of a concept that is of American make, since the term is not quite as eagerly used elsewhere. Autonomy, on the other hand, is virtually ubiquitous. Another reason as to why autonomy is a fruitful concept is that it unites different strands of thought, from philosophy to political and social disciplines, all of which are of great value to us in this study. However, with such a powerful concept comes a caveat: autonomy can have multiple meanings, and therefore we need to be precise about what is meant by the term and about how it relates to informed consent, or to bioethics as a whole.

   "Autonomy" is derived from the Greek words "autos" ('self') and "nomos" ('law' or 'rule'), roughly meaning 'having one's own laws'. In practice, autonomy denotes the right or condition of self-government.[118] Above in the text, in the 1982 report, autonomy was referred to as "self-determination." Autonomy has deep roots in Western thought—from antiquity via Kant to modern times—and, as always, there are many conceptualizations of the term. We are naturally interested in how autonomy, in its entirety, is seen in relation to the issues at hand, especially in relation to paternalism and informed consent in medical settings. In this regard, the entry on autonomy in the third edition of *The Encyclopedia of Bioethics* gives the following definition:

> Autonomy as a fundamental right is used to justify rights to privacy, confidentiality, refusal of treatment, informed consent, and a decent minimum of healthcare. The legal right to privacy has two components. The right to control information about oneself is protected in medicine as the patient's right to confidentiality of information gained by health professionals. The right not to

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[118] See *Oxford Dictionary of English*, 3rd ed., s.v. "autonomy."

be interfered with and to make one's own decisions is protected in medicine as a competent patient's right to refuse recommended treatment and as the obligation of health professionals to obtain a patient's informed consent to treatment. Informed consent requires that a patient be informed of a recommended treatment and of the options for treatment and their likely consequences, and that the patient give express permission for a treatment (often in writing). The right to autonomy also requires that patients be told the truth about their medical status and prognosis, that their questions be answered, and that they receive assistance from healthcare providers in making rational decisions. Meaningful exercise of the right to autonomy in living requires that individuals possess physical and psychological capacities within the normal, human range. So the positive right to autonomy supports a right to a level of healthcare that will return and maintain a person to the normal range of functioning. This includes acute care, for example, repair of a broken bone; chronic care, for example, treatment of diabetes or heart disease; and supportive care for permanent disability, for example, wheelchairs for paraplegics.

Paternalism in healthcare is treating a patient against his or her wishes on the grounds that the healthcare provider is professionally obligated to provide care that will benefit patients, and that the healthcare provider knows better than the patient what is good for the patient. When paternalism is justified, it overrides patient autonomy, at least partially. An example of justified paternalism could be when a physician does not accede to a patient's refusal of emergency treatment because the patient believes he or she will surely die.[119]

As we can see the entry echoes many topics that were already dealt with in the previous discussion. However, it is also obvious that this conceptualization of autonomy puts the earlier remarks nicely into perspective by connecting the different concepts that have been studied to one another. It is evident how the concept of autonomy offers us a powerful way of thinking about many key areas of bioethics— in fact, it has been such a powerful way to orient oneself to bioethics that some have suggested even that nearly the whole field of bioethics could, or should, be centrally viewed through the lens of autonomy.[120] I will address this topic in more detail later.

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[119] Bruce L. Miller, "Autonomy," in *Encyclopedia of Bioethics*, ed. Stephen G. Post, 3rd ed., 5 vols. (New York: Macmillan, 2004), 249.

[120] Broadly on this topic, see for example Ruth Macklin, "Dignity Is a Useless Concept: It Means No More Than Respect for Persons or Their Autonomy," *British Medical Journal* 327 (2003); Ruth Macklin, *Against Relativism: Cultural Diversity and the Search for Ethical Universals in Medicine* (Oxford: Oxford University Press, 1999); Onora O'Neill, *Autonomy and Trust in Bioethics* (Cambridge: Cambridge University Press, 2002); Williard Gaylin and Bruce Jennings, *The Perversion of Autonomy: Coercion and Constraints in a Liberal Society*, revised and expanded ed. (1996; Washington, DC.: Georgetown University Press, 2003).

For the time being, it suffices to note how fertile the concept seems to be for making the aspirations of early bioethicists intelligible.

As an example of how focusing on autonomy helps to make sense of varied discussions that were conducted by early bioethicists, or which were at least heavily influenced by bioethics, we may examine a British journal from 1977. Here we can see how the terms "informed consent" or even "bioethics" are manifestly absent—deemed to be too American, perhaps—but everything else is in place, most of all "autonomy." The editorial of the *Journal of Medical Ethics*, which was founded two years earlier in 1975, raises some important questions:

> At the present time there is an increasing awareness of the need for philosophical and ethical components in medical curricula. Two and a half years ago, an editorial in the *Lancet* (30 Dec 1972, p. 1406) argued that the British medical schools must begin to take responsibility for a greater emphasis on teaching and discussion of the moral questions arising in clinical practice. Now the General Medical Council, as part of its general survey of curricula, is seeking data on the teaching of the subject in all British medical schools. Meanwhile there are major developments in other countries. In the United States, bodies such as the Institute of Society, Ethics and the Life Sciences and the Kennedy Institute for Bioethics have initiated and supported many educational experiments as well as encouraging the scholarly research and publication vital for the academic growth of the subject. In the Netherlands and in Scandinavia appointments of professors of medical ethics have reflected the concern to place the subject within faculties of medicine. . . .
>
> The controversy provoked by Ivan Illich's *Medical nemesis* shows no sign of abating. . . . It would be facile to dismiss Illich's arguments as simply an appeal to the contemporary mood of self criticism. The main force of his critique is not directed at the failures of doctors as such ('clinical iatrogenesis' in Illic's terminology): rather, it is a condemnation of the whole character of modern industrial society, because of its creation of dependence and its stifling of autonomy. . . . Certainly our aim is to offer a sustained critique of the assumptions upon which health services operate, both at the individual and at the institutional level. Too easily, however, 'medical ethics' can become a reinforcement of the *status quo*, or the refining of the private language of a professional in-group. Perhaps Illich's ideas are violent, extreme, unspecific on the details of positive alternatives – but who wants, who needs, a moderate prophet?[121]

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[121][Alastair V. Campbell], "Editorial: Teaching medical ethics. Iatrogenesis," *Journal of Medical Ethics* 1 (1975).

It is easy to see how something radical, a profound criticism of the established hegemony of the medical profession, is boiling beneath the surface here. This criticism, however, is mostly raised indirectly and cautiously; Ivan Illich, a famous radical philosopher and almost a caricature of a critic, serving as an obvious proxy for it. The excerpt is very emblematic: it is not hard to find equal concerns and allusions to bioethics throughout the pages of the European journals of today. Usually the term "bioethics" is replaced by "medical ethics" or by something similar, a more conventional term—nevertheless, autonomy and its concomitant themes are there without question. However, despite autonomy being usually granted an important status—as it undeniably has within Western thought—much unease is voiced also about living up to the promises and requirements of the concept. In fact, autonomy is often deemed too demanding to be applied in practice. Yet, the bottom line of this seems to be that there is a general acknowledgement, hanging in the air, that something new in this respect is taking place and that the old paternalistic ways simply cannot continue.

Now, after a brief tour of the discussion about paternalism, informed consent and autonomy during the early days of bioethics, I hope that the aspirations of the nascent bioethics to be interdisciplinary and socially relevant—most of all open to different voices—have become more understandable and more concrete. In short, bioethics, for the great part, aimed to challenge the monopoly on knowledge and decisions about action that physicians had succeeded to secure for themselves in less than half a century. For very understandable reasons, bioethicists were calling for open-ended and diverse knowledge and for broad and inclusive public debate in this regard.

Other factors behind the birth of bioethics

However, as I already noted, this is not the whole story, just something that I have placed under scrutiny first. Bioethics, to my mind, came to being as a result of many other factors, too. At least two more major forces were significant: the rapid scientific and technological progress and the broad political and social upheaval of the

post-war West—observations often made in the literature.[122] At the same time, it has to be emphasized that the core values of bioethics, some of which have already been identified, were clearly connected with these developments, too. Furthermore, bioethics also embodied more values than only those that have been discussed so far. All in all, it seems obvious to me that bioethics was a great deal more than only an ethical movement aiming to challenge the paternalism of post-war doctors, which might have appeared to be the case earlier.

Put simply, it seems that bioethics was a new kind of ethics for a new kind of world, born of this very world. When it comes to the technology thesis—plenty of literature has already been written about the relation between new technological advances, mostly in life sciences, and bioethics; most of all, the "bomb" and equally the "Pill" are usually seen as the key inventions that significantly tilted the balance of the ethical realm in favor of bioethics and other such currents of thought.[123] New, exciting and potentially very dangerous technologies called for a new ethics that could genuinely address the pressing issues of the time—an ethics that could incorporate new technological advances into its deliberations, for example by being decidedly interdisciplinary; in practice, having an open-minded approach that could take into account the new realities of technology. This very understandable—perhaps already overemphasized[124]—connection between technology and bioethics, together with the subject already having been studied somewhat intensively, is the reason I will not concentrate on the theme here. Rather, I will aspire to *integrate* this theme into my study.

Besides advances in technological capability, the other major factor that seems very integrally connected with the birth of bioethics is the political and social aspect at a broader institutional level, or, as a whole: the backdrop of the broad political and social upheaval of the post-war era. I already addressed this theme briefly in the beginning when I explored Samuel Huntington's and Francis Fukuyama's thoughts about political order and decay. I paid attention to the fact that during the 1950s, 1960s and 1970s, the time when bioethics was nascent, the United States and the rest of the Western world were experiencing considerable economic, technological and

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[122] For a review of some of the relevant literature, see Jonsen, *The Birth of Bioethics*, 381–383; especially David J. Rothman, *Strangers at the Bedside: A History of How Law and Bioethics Transformed Medical Decision Making*, 2nd ed. (1991; New Brunswick: AldineTransaction, 2003) is a classic.

[123] Ibid.

[124] For this criticism, although in this case concerning merely "medical ethics," see for example Ezekiel J. Emanuel, *The Ends of Human Life: Medical Ethics in a Liberal Polity* (Cambridge, MA: Harvard University Press, 1991), 9–13.

social progress. The vast baby-boom generation was brought up into an abundant world without recurrent catastrophes; for the first time in history, women were genuinely seen, at least roughly, as equal to men, able to live independent lives outside of the family; various minority groups were empowered, and so forth. I speculated whether these developments could have brought the West to a crossroads that presented, according to the theory of political decay, a case for either an institutional renewal or revolution—broader empowerment or ever mounting pressure on political order. Furthermore, I argued that the birth of bioethics possibly played, and has played ever since, an important part in all this; the adoption of bioethics, for its part, offering a way out of potential political and social impasse and turmoil.

If this was the case, it would, politically and socially speaking, present bioethics as something that has been far more than a mere attempt to challenge the paternalism of physicians. In this case, bioethics could be viewed as an embodiment of radical attitudes that were prevailing on a large scale, rather than only an attempt to challenge the medical profession. However, I also readily conceded that this is a thesis that I cannot fully uphold; it is simply too ambitious a claim. Nevertheless, I claimed that this line of thought puts us on a promising path toward understanding bioethics in its full cultural context. In practice, I followed this path by introducing a great deal of political philosophy, taking John Rawls' thinking as my starting point—and, in fact, to Rawls I will return again soon. This will further help to clarify the political and social context out of which bioethics seems to be born. I especially hope that it will illuminate how being socially relevant, socially inclusive, could truly be perceived as a core value of the field of bioethics.

Before returning to Rawls, though, for a moment more, I want to stay genuinely attached to the perspective of the past. So, let us keep on asking what rationales for bioethics were the most salient during the early days. Albert R. Jonsen, a prominent historian of bioethics and early bioethicist himself, affirms the usual explanations that have now been introduced and adds a couple of new ones—or to be precise, only one: a hypothesis about an American *ethos*. To Jonsen, bioethics is first and foremost of American make. He writes:

> My reflections converge in a hypothesis: there is an American ethos that shapes the way in which Americans think about morality, and that ethos transformed the response to American medicine into a discipline and discourse called bioethics. . . .
>
> My thesis, then, is that the American ethos is a way of thinking about ethics that differs somewhat from ways followed by those who have not lived, as a people, through the American experience. This is a thesis that is, at one end,

a truism, and at the other, a complex, highly contentious, and ultimately un-provable assertion. Somewhere in the middle I hope to stake out enough common ground to build a case for my explanation of why bioethics was born in the United States and why American bioethics took the form that it did. There are, I believe, three facets of the American ethos that exert a powerful influence on all American thought about morality. I call these three facets moralism, meliorism, and individualism.[125]

Jonsen describes these three facets as follows: Moralism, or rather moralizing, "entails the application of familiar moral rules to new circumstances which they sometimes fit awkwardly, or it entails the invention of new moral rules cut for the problems at hand."[126] Meliorism, on the other hand, is Jonsen's term for "the American spirit [that] envisions and aspires to a future always better than the present."[127] Individualism, then, is the familiar belief that "progress is not inevitably written into the history of humans; it must be made by the hard work of individuals. . . . From the beginning, each person counts as one and no more than one, a free agent, expected to become responsible and to make one's own way in the world."[128] So, according to Jonsen, these are the three pervasive features of the American ethos. However, it is important to highlight that by "ethos" Jonsen "does not depict people as they are but as they seek to be, "which is an essential counterargument to the critics who point to the actual failures of American life.[129]

Then, Jonsen claims that these three facets largely explain why and how bioethics came to being in the post-war America. Most of all, they seem to explain why bioethics was, after all, so well received by the medical profession. Jonsen describes the matter:

> Early bioethicists did encounter some opposition from physicians and scientists. American physicians had enjoyed at least a half century of prestige and almost unquestioned authority. The arrival of "strangers" to dictate the terms of their relationship to patients was, for many, an unwelcome, irritating advent. Indeed, the traditional ethics of medicine, as they saw it, was more venerable and respectable than the unrealistic pieties and abstract principles of theologians and philosophers. Many, perhaps most, medical practitioners and

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[125] Jonsen, *The Birth of Bioethics*, 389–390.

[126] Ibid., 391.

[127] Ibid., 392.

[128] Ibid., 393.

[129] Ibid., 394.

medical scientists were honestly dedicated to the welfare of their patients and were sincerely motivated by the desire to cure disease and to improve the health of patients and populations. Those who strayed from the old moral paths took familiar enough detours: practitioners were enticed by the wealth that new techniques and financial forms could bring; scientists were lured by fame and the prestige of the Prize.

Nevertheless, physicians did know that they worked within a profession marked by a long tradition of ethics; discussion of the updating and refining of that tradition, if the need was manifest (and many physicians readily admitted that it was), was not unpalatable. . . . The "strangers," philosophers and theologians, were actually hired by the premier institutions of American medicine, its medical schools, and asked to make . . . constant intercourse a constituent of curriculum. While this might be viewed cynically, as medicine's attempt to co-opt its critics, it can equally be seen as the move of a moralized profession to deal with its melioristic future. Bioethics has not been incorporated into medicine's educational world elsewhere to the extent that it has in the United States. By incorporation into American medical faculties, the discourse about the new medicine was shaped into an academic discipline as nowhere else.[130]

Jonsen summarizes the change, attributing its relative ease to the dynamic, or "incremental," nature of the "liberal" American ethos:

Commentators on the American ethos have often noted that liberalism, while reformist, is not revolutionary. The liberal mentality, although perceiving the distortion of institutions, remains convinced that they can be reformed piece by piece rather than wholesale. A revolution requires a clear, often dazzling vision of its ultimate goals. The American ethos, as I have described it, does not try too hard to define its ultimate goals and values; it postulates a better situation that can be realized by cooperating free persons acting democratically, freely, and peaceably. The steps toward that better situation are taken incrementally and are designed as they go. . . . Behind this incrementalism stands the idea that interested persons can contract their way into the future. This is a concept of ethics compatible with the American ethos and reflected in the pragmatic ethics of James and Dewey. The bioethics that developed within American moralism and meliorism is also marked by the incremental obligations that arise from individuals contracting to resolve difficult problems. This results in a form of ethics quite foreign to those unfamiliar with the

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[130] Ibid., 398–399.

American ethos and for whom moral obligations rest not on the choices of individuals but on deep structures of human nature.

The renovation of the old ethics of medicine was accomplished by the equivalent of contracts, concords, and covenants. Most of these instruments, like the social contracts of Locke and Rousseau and Rawls, were metaphorical. They represented the tacit acceptance by professionals of a redefined relationship with their patients, who now entered their care not as abject petitioners for their skills but as persons with the right to determine how those skills were to be applied. Some of the covenants were more explicit. Policies issued by professional organizations guided physicians in their dealings with the dying patient or the patient with dangerous infection. Law imposed the duty of informed consent on the practitioner and even more rigorously on researchers. Organ transplantation proceeded within a set of implicit and explicit covenants with society to assure that access was fair and that harvest of organs was not coerced. The sciences of genetics and reproduction, still young to be tightly confined by rule, wondered how far it should leap beyond conventional moral understandings.[131]

Jonsen's story sounds rather convincing yet hard to prove, as he readily admits. However, as a close personal witness to the birth of bioethics, Jonsen's notions undisputedly carry additional weight. On the other hand, again, perhaps Jonsen has been too close to the past to offer an altogether plausible account of the phenomenon. I will return to this theme more thoroughly later—for now, it suffices to say that there is definitely also a place for criticism. Most of all, Jonsen's heavy reliance particularly on the *American* ethos seems somewhat ill-founded to me. Surely, the same qualities could be observed throughout the Western world, if not always to the same degree. For me, then, what sets the United States apart from the rest of the West is the intensity of these qualities, rather than their peculiarity to the country. Nevertheless, it also seems obvious that Jonsen's remarks are valuable and should be taken into account when exploring the birth of bioethics.

For example, we could consider the famous *Belmont Report*[132] in light of these three features; moralism, meliorism, and individualism. The report, which was issued in

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[131] Ibid., 399–400.

[132] National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, *The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research* (Washington, D.C.: U.S. Government Printing Office, 1978).

1978 by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research[133] and published in the *Federal Register* in 1979, became a milestone in research ethics and in bioethics more generally. The report is best known for its identification of three "basic ethical principles" that should govern research on human participants: the principles of respect for persons, beneficence, and justice. Indeed, these principles—with some rather minor variations—have held a prominent place in bioethics ever since.[134] Then, we can see, for instance how the report's discussion of informed consent seems emblematic of the spirit that Jonsen depicts:

> However, a simple listing of items does not answer the question of what the standard should be for judging how much and what sort of information should be provided [to research participants]. One standard frequently invoked in medical practice, namely the information commonly provided by practitioners in the field or in the locale, is inadequate since research takes place precisely when a common understanding does not exist. Another standard, currently popular in malpractice law, requires the practitioner to reveal the information that reasonable persons would wish to know in order to make a decision regarding their care. This, too, seems insufficient since the research subject, being in essence a volunteer, may wish to know considerably more about risks gratuitously undertaken than do patients who deliver themselves into the hand of a clinician for needed care. It may be that a standard of "the reasonable volunteer" should be proposed: the extent and nature of information should be such that persons, knowing that the procedure is neither necessary for their care nor perhaps fully understood, can decide whether they wish to participate in the furthering of knowledge. Even when some direct benefit to them is anticipated, the subject should understand clearly the range of risk and the voluntary nature of participation.[135]

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[133] For a basic description of the commission and its work, see Jonsen, *The Birth of Bioethics*, 99–106; however, note that there has been some discussion about factual errors in Jonsen's account—to me these errors do not appear critical to the general picture. For this discussion, see for example the next note.

[134] For the impact of the report in this respect, and especially of its relation to an influential school of thought in bioethics called "principlism," see James F. Childress, Eric M. Meslin, and Harold T. Shapiro, eds., *Belmont Revisited: Ethical Principles for Research with Human Subjects* (Washington D.C.: Georgetown University Press, 2005); also Renée C. Fox and Judith P. Swazey, *Observing Bioethics* (Oxford: Oxford University Press, 2008), 128–145 & 168–173.

[135] National Commission, *The Belmont Report*, 11; repr. in Jonsen, Veatch, and Walters, *Source Book in Bioethics*, 25.

To my eye, the proposed "reasonable volunteer" criterion, arising out the context of informed consent, and especially the way in which the report discusses the criterion embody all the three features: moralism, meliorism and individualism. According to the text, the reasonable volunteer is first and foremost an individual who decides for herself; however, she is also more: the volunteer is bound by a tacit moral obligation to take the well-being of others into consideration, and she is one who believes that medical research and ever more evolving medical science can achieve this end. Therefore, this "individual" is surrounded by moralistic as well as melioristic ethos, solemnly calling for the "furthering of knowledge." A contrasting case here is very telling: this kind of parlance would clearly be unimaginable in a society that believed, for example, that matters of health should be left fully in the hands of some omnipotent gods.

So, if we followed Jonsen, we could say that it was this kind of thinking that bound early bioethicists and the medical profession, as well as the general audience, together—bioethics being a radical manifestation of underlying beliefs; of the ethos. This could well be perceived as a plausible explanation. It would help to explain not only the relative ease with which bioethics became accepted but also the popularity it has enjoyed. It does *not*, however, explain why the field in itself came into being in the first place—what provoked such a radical reaction; or, how the medical profession could have gone so much astray from such widely held ideals. Then again, Jonsen, too, admits that the ethos thesis is only an *additional* explanation of what took place, and he seems to suggest that the earlier accounts given here are the most essential ones.[136]

This is an interesting and important observation. It leads me to conclude that the depictions of the birth and early years of bioethics that were discussed earlier in this chapter are indeed on the right track. It appears that in most cases, they can be supplemented only—which holds true even for Jonsen—which makes them seem fairly convincing and somewhat fundamental. Thus, I will return to the former themes: the aspirations of the early bioethics to be interdisciplinary and socially relevant, or rather, inclusive. As I planned before, I will also return to John Rawls, and utilize his political philosophy in order to illuminate the political and social context of the nascent bioethics, which I hope will provide us with a unified and coherent picture of many of the topics that have now been discussed.

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[136] Jonsen, *The Birth of Bioethics*, 394–401.

The Rawlsian perspective

First of all, it is not very surprising to discover that Rawls' thinking has had a strong influence on many early bioethicists. For example, Daniel Callahan of the Hastings Center writes in his memoirs that "by the 1980s, a generation of philosophers and political scientists educated under the influence of John Rawls's 1971 book *A Theory of Justice* had begun writing on health care using Rawls's theory as their point of departure."[137] However, Callahan also pessimistically notes that "justice- and rights-based theories have never over fifty years of health reform debate gained much public and legislative traction in the United States and are hardly invoked in European health care either (where the concept of solidarity is most commonly used)."[138] On the other hand, Jonsen offers his account of Rawls' influence:

> In 1951, William Frankena confessed that he yearned for "moral philosophy on a book-size scale again." Twenty years later, that book-length moral philosophy appeared as John Rawls's *A Theory of Justice*. Although not a complete moral philosophy, the tome was a complete theory of one of the central elements of a moral philosophy: justice. This impressive work elaborated the classical contractarian theory of ethics as the basis for an articulation of the principles of justice that rational persons, blinded to their future condition in life, would choose as the moral conditions to enter a society. Rawls's thesis excited many moral philosophers, restored faith in a rational approach to ethics, provided a carefully articulated version of contractarianism, and bequeathed to some future bioethicists the basis for a theory of the allocation of medical resources.[139]

Jonsen also recalls a personal story, which illuminates Rawls' influence on early bioethicists well:

> At one moment during the artificial heart panel's discussions, Clark Havighurst, Professor of Law at Duke University, asked me whether I had read John Rawls's *Theory of Justice*, then two years in print. I had to answer that I had not. Havighurst suggested that the panel needed a theory like that of Rawls, as he wrote in an appendix, "to come to some principled judgment on why

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[137] Daniel Callahan, *In Search of the Good: A Life in Bioethics* (Cambridge, MA: MIT Press, 2012), 96.

[138] Ibid., 97.

[139] Jonsen, *The Birth of Bioethics*, 74.

we should, or should not, as a society, provide expensive life saving technology to all who want it." I went home and read Rawls. The panel did not use Rawlsian theory, and as the ethicist, I did not know quite how it might have been used. This was my first intimation of a methodological question that has persisted in bioethics: how is ethical theory to be fitted to practical deliberations—or should it be fitted at all? That question would come to center stage in the bioethics of the 1990s.[140]

Jonsen is not alone in acknowledging Rawls' influence. For example, the same observation is made by editor Bonnie Steinbock in her introduction to the recent *Oxford Handbook of Bioethics*:

> A new journal, *Philosophy and Public Affairs*, appeared in 1971, with lead articles on war and abortion. John Rawls's *A Theory of Justice* appeared the same year. The book had a huge impact on Anglo-American political philosophy, and indirectly on bioethics. . . . The influence of Rawls can be seen in many of the chapters in this volume . . .[141]

One can find plenty of such accounts of Rawls' influence—especially on the somewhat early bioethics. Moreover, they are usually accompanied by the same confusion about the role that Rawls' theory should occupy in practice, if not by a downright rejection of the theory because of its impracticality.[142] Nevertheless, in general, there is no doubt about the strength of the impact that Rawls had on early *bioethicists*. Perhaps the best-known of these in this respect was, and has been, Norman Daniels. Interestingly, Jonsen comes to Daniels, who made his breakthrough around the mid-eighties, when continuing his story:

> [A] Bostonian, Tufts University's philosophy professor Norman Daniels, was about to publish the study that was—and perhaps still is—the most thorough analysis of justice in health care. Daniels did what my Artificial Heart Panel colleague, Clark Havighurst, had suggested to me, and what I did not know how to do: he adapted the theory of justice elaborated by his teacher John Rawls to health care. . . .

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[140] Jonsen, *The Birth of Bioethics*, 211; for the panel, see 208–211.

[141] Bonnie Steinbeck, ed., *The Oxford Handbook of Bioethics* (Oxford: Oxford University Press, 2007), 4.

[142] For example, see H. Tristram Engelhardt, *The Foundations of Bioethics*, 2nd ed. (1986; Oxford: Oxford University Press, 1996).

Daniels imports . . . [Rawls' equal-opportunity] principle into social institutions that provide the social good of health care. He seeks philosophically sound answers to such questions as: "What sort of a social good is health care? Are there social obligations to provide health care? What inequalities in its distribution are morally acceptable? What limits do provider autonomy and individual liberties of physicians and patients place on just distribution of care?" . . .

Health care is an enormously complex enterprise, ranging from recommending aspirin for headaches to transplanting hearts, from nursing care to neurosurgery, and from health education to accident prevention. Daniels sees in that complexity one fundamental aim, the preservation of normal species functioning that is impaired by illness and disability.[143]

Norman Daniels' *Just Health Care[144]*, in 1985, was a landmark publication for bioethics. As Jonsen suggests, Daniels had fresh and convincing thoughts of how to apply Rawls' celebrated theory to bioethical issues, especially concerning a just health care system. This was no coincidence since Daniels knew Rawls closely. He had been a graduate student at Harvard during the turbulent late sixties and been thoroughly exposed to its radical atmosphere, a setting to which Rawls also belonged.[145] Later Daniels also became a close colleague of Rawls. Daniels described Rawls' influence on him in a 1996 preface:

The publication of John Rawls' *A Theory of Justice* in 1971 did more to topple the old paradigm of work in ethics than any other single intellectual event. Here was a truly substantive work in ethics and political philosophy. It talked about principles we should adopt and use to govern the institutions under which we live. It clarified moral commitments to equality in opportunity and other social goods, and it did so by building on avowed commitments to basic liberties. . . . [The work] was relevant and yet highly respectable. Not coincidentally, I believe, that same year the journal *Philosophy and Public Affairs* began publication. The respectability and importance of work in practical ethics were institutionalized in what rapidly became a leading journal in the field.

In Rawls' work, I began to see the shape of answers to the questions I had been unable to answer . . . The very structure of his book posed the central issues: how can we choose among alternative theories of justice? which is the most acceptable theory? how can we justify our choice? Not only did Rawls

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[143] Jonsen, *The Birth of Bioethics*, 222.

[144] Norman Daniels, *Just Health Care* (Cambridge: Cambridge University Press, 1985).

[145] Norman Daniels, *Justice and Justification: Reflective Equilibrium in Theory and Practice* (Cambridge: Cambridge University Press, 1996), x.

articulate his own theory of justice as fairness as an alternative to the dominant theory, utilitarianism, but he articulated, albeit quite briefly, a general account of justification in ethics. My debt to Rawls is not only to his work, but to the generous, gentle collegial encouragement he has offered me over the twenty-five years in which I have been trying to understand and extend his work.[146]

Later Daniels, who had worked at Tufts University for a long time, moved to Harvard, too. Perhaps his single most interesting publication since *Just Health Care* has been *Just Health[147]*, in 2008—practically a sequel to the influential 1985 work. Both these works deserve more thorough attention; however, I will not delve deeper into Daniels' thinking yet, though it is a body of work that has occupied a significant role in bioethics. I will return to it only later. For now, it suffices to note that it has been especially Daniels' thought that has served as proof that Rawls' theory can be quite successfully applied in bioethics.

Another interesting name to mention in this regard is bioethicist Robert M. Veatch, the first employee Daniel Callahan hired to the Hastings Center and a prominent bioethicist from the early days; according to Jonsen "the original bioethicist."[148] I already mentioned Veatch in passing when I referred to his comments on the paternalism of twentieth-century doctors. Despite being employed at the Hastings Center in the beginning, Veatch has spent most of his professional career at another leading bioethics institute, the Kennedy Institute of Ethics at Georgetown University, to which he moved in 1979. Similarly to Daniels, he was also exposed to the same educational milieu of the late sixties Harvard, moreover, John Rawls was one of his teachers. Veatch commented that "as a Harvard graduate student my professors included theological ethicists Ralph Potter and Arthur Dyck, sociologist of medicine Renée Fox, and Henry Beecher, as well as sociologist Talcott Parsons and philosopher John Rawls."[149]

However, Veatch did not choose Daniels' route. He has mostly refrained from explicitly giving John Rawls a privileged role in his thinking. Nevertheless, his Rawlsian inclinations have been obvious. As an example, Jonsen names Veatch's 1981 book, *A Theory of Medical Ethics[150]*:

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[146] Daniels, *Justice and Justification*, xi.

[147] Norman Daniels, *Just Health: Meeting Health Needs Fairly* (Cambridge: Cambridge University Press, 2008).

[148] For Jonsen's portrait of Veatch, see Jonsen, *The Birth of Bioethics*, 56–57.

[149] Veatch, *Disrupted Dialogue*, 266.

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

Several pioneer bioethicists felt that the new bioethics deserved a more unique theoretical foundation than the routine invocation of the standard theories of moral philosophy. Robert Veatch took up the challenge to produce a general theory for the field. His 1981 volume, *A Theory of Medical Ethics*, contended that many particular questions had been recently debated and that many different "unsystematic, unreflective ethical stances or traditions" had contributed to the arguments. Veatch intended to articulate foundations for a general medical ethic that were rooted in philosophical thought. He analyzed the major sources that had contributed to the current understanding of medical ethics: the Hippocratic tradition, the Judeo-Christian ethos, and liberal political thought. Each of these sources, he argued, was unique and often led to contradictory conclusions about professional duties. . . .

Veatch found is own source for a more consistent, more universal ethic in the contract theory that had wound its way through Anglo-American moral philosophy from Hobbes, Hume, and Locke down to Richard Brandt and his own teacher, John Rawls, and which we have seen Norman Daniels adapt to the circumstances of allocation of scarce resources. . . .

Veatch . . . analyzed the standard principles of medical ethics—beneficence, autonomy and justice (adding the principles of contract-keeping, honesty, and avoiding killing)—in light of the hypothetical contracts. This analysis shows, he contended, that nonconsequentialist principles such as respect for autonomy, promise-keeping, avoiding killing, and justice have priority over the consequentialist principles of beneficence and nonmaleficence.[151]

In light of the previous examples, it is obvious that Rawls' theory has considerably and directly influenced many early bioethicists in one way or another. However, to my mind, this by itself does not mean much. For me, then, it is more interesting to ponder where this fact might lead us. What I have in mind is that perhaps these examples could be seen only as reflections of a greater force, namely, of a connection between Rawlsian thought and the entire field of bioethics on a fundamental level.

We should approach this topic by considering the political and social context relevant to bioethics. We might ask if something like bioethics could really exist if the kind of thinking that is embodied in Rawls' theory was not prevailing in society. To me, the answer is that it seems unlikely. To defend this claim, I want to bring back to mind the prevailing moods in the West before the late sixties and early seventies—before the birth of bioethics—a period of political and social ferment, during which Rawls also published his acclaimed *magnum opus* in 1971.

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[151] Jonsen, *The Birth of Bioethics*, 329–330.

The Second World War and the decades immediately following it were markedly a time of top-down, rationalistic planning and implementation throughout Western societies. It was the generals, the doctors, the public officials, and the like, who seemed to be running the show, so to speak. These systems hardly felt any need for open and diverse knowledge or need for broad and inclusive public debate—causes that Rawls and early bioethicists vigorously advocated. Eventually they also succeeded in their claim; thus, despite the complacency of the powers that be, the majority, dissatisfied with the situation, felt emboldened to demand change, and so the change occurred.

But the change did not happen by itself. New mindsets and policies had to be devised, and bioethics played its part in this great transformation; however, bioethics, too, needed to draw its new models of thought from somewhere. Then, it seems that it was indeed John Rawls and other important intellectuals and great thinkers who lent their ideas to early bioethicists, perhaps more than bioethicists realized, and naturally these ideas flowed in the other direction too. Rawls offered a language to challenge the prevailing utilitarian model for society. For Rawls, following the Kantian deontological ethics, each and every voice was equally important, and accordingly he offered various ways to think through political and social relations.

Rawls articulated his "justice as fairness" in many ways; for example, through a thought experiment called the "original position," in which people have to choose moral, ethical and political principles for their society behind the "veil of ignorance" beforehand, without knowing whether they end up better or worse off in various ways. Thus, according to Rawls, quite understandably, people in this setting would prefer principles that were more generous toward the weak. Basically, this was a modern adaptation of the old idea of "walk in my shoes." With the help of such formulations, Rawls gave deeper credibility to calls for a fairer society. In terms of cementing the new view of the world in the thinking of many contemporaries, such formulations had considerable influence, and this in turn made all the difference in practice. These ideas gave many a new sense of self-worth that was no longer tied to their place, or rather achievements, within the big machinery of society but which was tied to the fact that they were all born equal, meriting inclusion and unrestrained voice when decisions about common affairs were made.

However, Rawls' ideas offered only a stepping stone for many more thinkers to come, wherein lies the true merit of Rawls; which is also the reason to speak of the "Rawlsian turn." For example, political philosopher Judith Shklar complemented Rawls' thinking by highlighting the perilous consequences of denying such fair equality—above all, of fear, terror, and cruelty—perhaps the most horrendous testimony

to this being the atrocities of the Second World War. Outside academia, in turn, such thinking was evident for example in the protests against the Vietnam War. Then again, later notable thinkers, such as Philip Pettit, have clearly continued to build on the legacy of Rawls; Pettit reminding others of the ubiquitous and ambivalent nature of domination.

All in all, it is not difficult to see the influence of such grand thoughts on bioethics. Now, someone might argue that I am overstating the influence of these ideas, pointing out that there were other, more important, influences at play. Admittedly, it is true that early bioethics was deeply tied to the general political and social change of its time—to my mind, most of all, bioethics was connected with the empowerment and mobilization of various new social groups, which happened for various reasons. Moreover, early bioethics was related to the change in technological capacity, among other such basic factors. Nevertheless, bioethics also had much to do with new ideas, which were offered by the leading intellectuals of the post-war era, for it is ideas that arguably tie everything together. Rawls was certainly one of such leading intellectuals of the era. Then again, in the end, not even the direct influence of his ideas is that important a subject. Rawls helping us to appreciate the *mindset* of the day is more important. This is indeed a point that I have already made several times; nevertheless, I am only reminding the reader of this, in case my reliance on Rawls feels excessive. In other words—Rawls as my guide—it is the *spirit of the early days* that I aspire to uncover, rather than exact events or people that made a difference, or all that was spoken or written down—this is the direction and argument that I will continue to pursue in this work.

Before concluding this part, the part where I have explored the perspective of the past, the early days of bioethics, I want to consider one more interesting excerpt from the early bioethics literature. In the introduction to the first edition of the monumental *Encyclopedia of Bioethics*, in 1978, editor-in-chief Warren T. Reich gave a few interesting depictions of the nascent field, for example:

> The emergence of bioethics as a field of study is a contemporary phenomenon traceable to several causes. First, the issues of bioethics have captured the contemporary mind because they represent major conflicts in the area of technology and basic human values, those dealing with life, death, and health. . . .
>
> Second, there is an intense and widespread interest in bioethics because it offers a stimulating intellectual and moral challenge. In contrast to earlier eras, when ethical world views were held in common and offered a certain security for dealing with moral dilemmas, today the very tools for coping with these problems are themselves subject of considerable controversy. There is an un-

certainty about moral values, ethical principles, and their priorities; the contemporary world is experiencing a philosophical upheaval; and many systems of theological thought are questioning traditional assumptions in religious ethics. Bioethics has already had a significant intellectual impact, for it has precipitated a reexamination of basic moral values and methods of applying them to practical ethical questions.

Third, the rapid growth of the field of bioethics has been facilitated by the openness to multidisciplinary work that characterizes many scholars and academic institutions today, especially in matters dealing with personal and social aspects of human behavior.

Bioethics, like other special fields of learning, has manifested the "explosion of knowledge" characteristic of our era.[152]

These observations seem to illustrate and validate many of the themes that have been central in this chapter as well. Moreover, Reich also explicates an interesting point about the inclusive tone of the encyclopedia:

This encyclopedia appears at a time when many writers and publishers are attempting to avoid noninclusive ("sexist") language. The editors of this encyclopedia have urged the contributors to accept inclusive language wherever possible, but also made efforts to avoid the sometimes awkward and inaccurate alternatives to traditional usage.[153]

The definition of "inclusive" here could, without question, be debated, for it is obviously too narrow; nevertheless, this passage serves as a good reminder of the social context surrounding the publication. As I already emphasized, this was a time that was aspiring for inclusion on all fronts, this endeavor being an integral part of bioethics, too.

Now I will continue my journey toward the perspective of the present, exploring how bioethics and its past are viewed today. It is no large surprise that the explanation will get more complicated, and that the rather uniform picture that I have now painted will break down. There will be a multitude of different actors engaging in bioethics and a multitude of ways to understand the field. As a deplorable consequence of this complicated state of affairs, some commentators have already concluded that the field has turned out to be merely loud noise without anything concrete or definitive to offer, a kind of oxymoron. And indeed, there seems to be often

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[152] Warren T. Reich, ed., *Encyclopedia of Bioethics*, 4 vols. (New York: Free Press, 1978), xv.

[153] Ibid., xxii.

a kind of feeling of disillusionment hanging in the air around bioethics. Nevertheless—although I will admit that there is ample room for criticism, too—my intention is to argue against such pessimistic moods, especially calling attention to the core beliefs of the early bioethics. Later I will also build on these premises and try to advance some novel ways to think about bioethics that seem fruitful to me.

Before delving deeper into this discussion, however, I will develop my theoretical apparatus a little. It seems to me that political scientist Robert D. Putnam, of Harvard University, offers an interesting way to grasp the political and social context of the post-war era, most of all in relation to the theme of increasing social diversity. Social diversity is obviously a topic that needs to be taken into account in this study. Thus, let us see how Putnam's thoughts could enlighten our journey, and put the current theme aside for some time.

3.2 Trends in Social Capital: Broadening the Theoretical Framework

Harvard scholar Robert D. Putnam (1941–) is famous for his thesis that Americans have become increasingly disconnected from one another during the last third of the twentieth century, and supposedly during the new millennium, too. Putnam's 2000 book *Bowling Alone: The Collapse and Revival of American Community*[154], expanded from a 1995 article[155], is his most celebrated work on the subject; I will follow in the footsteps of this work considerably. In the book, Putnam argues that up until the last third of the last century *social capital* was increasing in America, and since then it has been in a steady decline, wreaking havoc on society in various ways. The meaning of the concept of social capital is contested, but roughly speaking, this economics-inspired notion is intended to measure the extent and value of social networks; value especially in democratic, or civic engagement, terms. In its most basic form, Putnam defines the concept as follows:

> Whereas physical capital refers to physical objects and human capital refers to properties of individuals, social capital refers to connections among individuals—social networks and the norms of reciprocity and trustworthiness that arise from them. In that sense social capital is closely related to what some

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[154] Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).

[155] Robert D. Putnam, "Bowling Alone: America's Declining Social Capital," *The Journal of Democracy* 6 (1995).

have called "civic virtue." The difference is that "social capital" calls attention to the fact that civic virtue is most powerful when embedded in a dense network of reciprocal social relations. A society of many virtuous but isolated individuals is not necessarily rich in social capital."[156]

Putnam continues his definition by referring to a vast array of thinkers on the subject.[157] He brings up that it was already L. J. Hanifan, state supervisor of rural schools in West Virginia, who invoked the idea of social capital in 1916. Putnam quotes Hanifan:

> For Hanifan, social capital referred to those tangible substances [that] count for most in the daily lives of people: namely good will, fellowship, sympathy, and social intercourse among the individuals and families who make up a social unit. . . . The individual is helpless socially, if left to himself. . . . If he comes into contact with his neighbor, and they with other neighbors, there will be an accumulation of social capital, which may immediately satisfy his social needs and which may bear a social potentiality sufficient to the substantial improvement of living conditions in the whole community. The community as a whole will benefit by the coöperation of all its parts, while the individual will find in his associations the advantages of the help, the sympathy, and the fellowship of his neighbors.[158]

Put simply, social capital is something that is very familiar to all of us; it is the glue of social life. Putnam highlights that social capital has many aspects to it: for example, according to him, it is "simultaneously a 'private good' and a 'public good,'"[159] it benefits individuals who have it and it benefits bystanders and society at large. On the other hand, Putnam notes that "social connections are also important for the rules of conduct that they sustain. Networks involve (almost by definition) mutual obligations; they are not interesting as mere 'contacts.' Networks of community engagement foster sturdy norms of reciprocity."[160] Moreover, Putnam warns that despite positive connotations, not all social networks and the associated

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[156] Putnam, *Bowling Alone: The Collapse*, 19.

[157] Ibid., 19–20; for example, Pierre Bourdieu and James S. Coleman.

[158] Ibid., 19; see also the original, Lyda Judson Hanifan, "The Rural School Community Center," *Annals of the American Academy of Political and Social Science* 67 (1916): 130.

[159] Putnam, *Bowling Alone: The Collapse*, 20. Note that some theorists strongly oppose defining social capital as having such a dual nature, usually in favor of the private side. Then again, almost every aspect of the concept of social capital is more or less in dispute.

[160] Putnam, *Bowling Alone: The Collapse*, 20.

norms of reciprocity are good for everyone. One might accrue some social capital if one joined the Ku Klux Klan, but for many outsiders, this kind of networking would understandably cause adverse social consequences, too.[161]

The most important aspect of social capital for Putnam seems to be that it can be divided into *bridging* (inclusive) and *bonding* (exclusive) types.[162] Putnam writes about these categories:

> Some forms of social capital are, by choice or necessity, inward looking and tend to reinforce exclusive identities and homogeneous groups. Examples of bonding social capital include ethnic fraternal organizations, church-based women's reading groups, and fashionable country clubs. Other networks are outward looking and encompass people across diverse social cleavages. Examples of bridging social capital include the civil rights movement, many youth service groups, and ecumenical religious organizations.
>
> Bonding social capital is good for undergirding specific reciprocity and mobilizing solidarity. Dense networks in ethnic enclaves, for example, provide crucial social and psychological support for less fortunate members or the community, while furnishing start-up financing, markets, and reliable labor for local entrepreneurs. Bridging networks, by contrast, are better for linkage to external assets and for information diffusion. . . .
>
> Moreover, bridging social capital can generate broader identities and reciprocity, whereas bonding social capital bolsters our narrower selves. . . .
>
> Bonding social capital constitutes a kind of sociological superglue, whereas bridging social capital provides a sociological WD-40. Bonding social capital, by creating strong in-group loyalty, may also create strong out-group antagonism . . . Nevertheless, under many circumstances both bridging and bonding social capital can have powerfully positive social effects.
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> Many groups simultaneously bond along some social dimensions and bridge across others. The black church, for example, brings together people of the same race and religion across class lines. . . . Internet chat groups may bridge across geography, gender, age, and religion, while being tightly homogeneous in education and ideology. In short, bonding and bridging are not "either-or" categories into which social networks can be neatly divided, but "more or less" dimensions along which we can compare different forms of social capital.[163]

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[161] Ibid., 21–22.

[162] Ibid., 22. Putnam gives credit to Ross Gittell and Avis Vidal for coining these labels; see Ross Gittell, *Community Organizing: Building Social Capital as a Development Strategy* (Thousand Oaks: Sage, 1998), 8.

[163] Putnam, *Bowling Alone: The Collapse*, 22–23.

This excerpt offers a fairly good glimpse of Putnam's central thought in *Bowling Alone: The Collapse and Revival of American Community*. In the work, Putnam utilizes a broad set of evidence in order to show that "beginning in the 1960s and 1970s and accelerating in the 1980s and 1990s . . . the fabric of American community life . . . [began] to unravel."[164] According to Putnam , social capital, most visibly of the bonding type, declined for various reasons. In short, people were as active as they had always been, but they started being increasingly disconnected from one another; or, even though toward the end of the century people were bowling more, they were also doing this alone more, at least in terms of organized bowling teams.[165] Putnam summarizes the findings of his study:

> Over the last three decades a variety of social, economic, and technological changes have rendered obsolete a significant stock of America's social capital. Television, two-career families, suburban sprawl, generational changes in values—these and other changes in American society have meant that fewer and fewer of us find that the League of Women Voters, or the United Way, or the Shriners, or the monthly bridge club, or even a Sunday picnic with friends fits the way we have come to live. Our growing social-capital deficit threatens educational performance, safe neighborhoods, equitable tax collection, democratic responsiveness, everyday honesty, and even our health and happiness.[166]

Then, Putnam also offers various remedies to cure the malady he has diagnosed. Before taking a look at these remedies, however, we should stop for a moment and examine how Putnam's theory can illuminate our understanding of the actual social developments of the time, especially in relation to bioethics.

What does the theory tell us?

First I want to remark quickly that even though Putnam speaks primarily of American developments in his book, I do not think that his theory and the central social

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[164] Ibid., 184.

[165] Ibid., 111–113.

[166] Ibid., 367.

trends he observes are limited only to the United States, as some have suggested.[167] It seems that the trends Putnam identifies can, in the vein of *his* theory, be fairly well generalized to all Western countries, to varying degrees, of course.[168] Rather, to my mind, more serious criticism has been directed toward Putnam's theory *in itself*, sometimes by using other societies as illustrative test cases in this regard.[169] Thus, I think that we should, for the most part, concentrate solely on Putnam's theory, and consider the merits of the theory in relation to different societies, when necessary, only from this perspective. Nonetheless, it is still worth noting that this is an important aspect to take into consideration because if it turned out that Putnam's theory was rendered mostly useless outside the United States, it would seriously reduce its force in helping to understand bioethics as a comprehensive Western cultural phenomenon, which has been my working hypothesis in this study.

So, we should now ask how Putnam's insights could help us with the current investigation. In order to answer this question, we need to bear in mind that I already declared that, through the lens of Putnam's work, I am mostly interested in addressing the topic of *increasing social diversity*. The reason I am interested in diversity, and also thinking that it has increased in some relevant sense, is that bioethics seems to be, to a great extent, a product of such a force. At least intuitively, such a trend would seem to offer one of the most plausible explanations for the birth of bioethics, if not the most plausible one. This would be the case if we took for granted, as I have done, that open-ended and diverse knowledge and broad and inclusive public debate were some of the core features that characterized early bioethics. In other words, why else challenge the established forces and their hegemony in the first place, if there were no new players participating in the game, if diversity was not increasing in some relevant sense? Besides these observations, it is also obvious that this kind of thinking could go well hand in hand with the Huntington-Fukuyama point of view that I introduced earlier; the theory of political order and decay, which focuses on the empowerment of new social groups.

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[167] For example, see Robert Andersen, James Curtis, and Edward Grabb, "Trends in Civic Association Activity in Four Democracies: The Special Case of Women in the United States," *American Sociological Review* 71 (2006).

[168] For example, see Putnam's discussion of the impact of technology and mass media on civic engagement in America and throughout the Western world; Putnam, *Bowling Alone: The Collapse,* 216–246.

[169] For example, cf. Emanuele Ferragina, *Social Capital in Europe: A Comparative Regional Analysis* (Cheltenham: Edward Elgar, 2012).

At this point, I need to be specific about what I mean by social diversity. For many, including Putnam in a more recent article[170], diversity in the social context seems to refer primarily to *ethnic* diversity only. However, it is obvious that diversity is a broad concept and that it can easily be taken to mean a great deal more; virtually all thinkable relevant social divisions can contribute to diversity. This is the way I see the concept, and this is what I am looking for in Putnam's work. In fact, Putnam rarely uses the word "diversity" in the book even though the theme is without a doubt central to him; he rather speaks of all sorts of social *divisions* and *disconnections*, or *disjunctures*, which have been, according to him, increasingly separating Americans from one another. The latter are not exactly the same as divisions, or diversity, but they—all these concepts—seem to belong to the same picture, as one can see in the excerpt below. All in all, how Putnam depicts, and laments, the current situation of increasing social diversity that is leading to impoverished and declining social capital is telling. At the same time, a little surprisingly, Putnam compares the current situation to that of the end of the nineteenth century:

> Americans at the end of the nineteenth century were divided by class, ethnicity, and race, much as we are today, although today's dividing lines differ in detail from those of a century ago (as Asians and Hispanics, for example, have replaced Jews and Italians as targets of discrimination). Equally evocative of our own social dilemmas were debates about the effects of the transportation and communications revolutions on traditional community bonds. . . .
>
> The pace and degree of the social change through which Americans had just lived a century ago were profoundly disorienting. The transformation of their society affected virtually everyone and tore asunder traditional relationships. They expressed their feelings about the social disjunctures in their lives in remarkably contemporary terms. . . .
>
> . . . Sociologist Charles Horton Cooley, a firsthand witness to the changes, observed in 1912 that "in our own life the intimacy of the neighborhood has been broken up by the growth of an intricate mesh of wider contacts which leaves us strangers to people who live in the same house . . . diminishing our economic and spiritual community with our neighbors."[171]

Interestingly, the bottom line of this discussion is that Putnam extols the efforts that were made to turn the tide of declining social capital during the Progressive Era.

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[170] Robert D. Putnam, "E Pluribus Unum: Diversity and Community in the Twenty-First Century," *Scandinavian Political Studies* 30 (2007).

[171] Putnam, *Bowling Alone: The Collapse*, 376–379.

Consequently, unsurprisingly, according to him, the current task at hand is also clear: Reformers of the new millennium must imitate the efforts of the Progressives in inventing new ways to reconnect different groups with one another. In other words, the modern condition of diversity—that has obviously been the trend far longer than many would admit—should not be resisted but embraced and institutionalized more deeply, as it was done a century ago. Putnam believes that this would restore social capital and reinvigorate society:

> For all the difficulties, errors, and misdeeds of the Progressive Era, its leaders and their immediate forebears in the late nineteenth century correctly diagnosed the problem of a social-capital or civic engagement deficit. It must have been tempting in 1890 to say, "Life was much nicer back in the village. Everybody back to the farm." They resisted that temptation to reverse the tide, choosing instead the harder but surer path of social innovation. Similarly, among those concerned about the social-capital deficit today, it would be tempting to say, "Life was much nicer back in the fifties. Would all women please report to the kitchen, and turn off the TV on the way?" Social dislocation can easily breed a reactionary form of nostalgia.
>
> On the contrary, my message is that we desperately need an era of civic inventiveness to create a renewed set of institutions and channels for a reinvigorated civic life that will fit the way we have come to live. . . . What we create may well look nothing like the institutions Progressives invented a century ago, just as their inventions were not carbon copies of the earlier small-town folkways whose passing they mourned.[172]

What about bioethics?

How could Putnam's work, in all its capacity, inform our understanding of bioethics? First I need to note the obvious: it is difficult to resist thinking that bioethics represents one of the social innovations for which Putnam is calling. At least the timing would be perfect to support this claim; bioethics appeared in the United States exactly at the same time, during the late sixties and early seventies, when, according to Putnam, increasing social diversity, or divisions, caused the beginning of the decline of social capital—perhaps bioethics might be seen as a social innovation not only born of this crisis but also to address it. Moreover, we could enrich this picture by comparing the birth of bioethics to rather similar and related social developments

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[172] Ibid., 401.

that coincided with it, especially to the well-known social movements of the time. There were numerous social movements, such as the civil rights movement—and it seems that bioethics even had plenty to do with them, as I have already suggested in passing. Putnam speaks much of these movements, and it is interesting to think of what he has to say about them since they appear to be so closely linked to bioethics. What if these social movements, as well as bioethics, were some kind of beacons of hope in troubled times in terms of social capital?

Indeed, Putnam acknowledges that these movements were among few important countertrends to his grim thesis:

> Not all organizations in America have lost membership over the last quarter century, and not all personal relationships have atrophied. . . . [There has been] important countertrends that must be weighed in any comprehensive balance of social capital. At one end of the spectrum of size, privacy, and informality is the plethora of encounter groups, reading groups, support groups, self-help groups, and the like that have become important anchors in the emotional and social lives of millions of Americans. At the opposite end of the spectrum is the succession of great social movements that swept across the land in the last third of the twentieth century . . .[173]

However, in Putnam's view, despite all the promises of reinvigorating society and restoring social capital, the hard evidence of these social movements actually delivering on their promises is inconclusive at best:

> By common consent, the sixties (and early seventies) was a period of uncommon social and political mobilization. What was the historical significance of this period and what was to be its sequel? Did the movements of those years represent the cresting of a long wave of rising civic involvement . . . ? And did this cycle of protest then recede, leaving behind it only professionalized and bureaucratized interest groups, still bearing the banners of social movements but deployed now as a defensive light air force, not a massed infantry for change? . . . Or instead did the sixties produce a durable and more advanced repertoire of civic engagement, leaving as its legacy many rich new forms of connectedness, a "movement society" in which "elite challenging" behavior becomes perpetual, conventional, routinely deployed by advocates of many different causes? In short, did the sixties mark the birth of an era or merely the climax of one?

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[173] Ibid., 148.

This question is surprisingly difficult to answer rigorously.[174]

Then, Putnam's final verdict is as ambiguous as his evidence, although Putnam remains evidently pessimistic. He acknowledges that there are actual countercurrents of social and political mobilization on a variety of fronts, among other promising social developments, but in general, to him, they are only "exceptions to the generally depressing story" and "hardly outweigh the many other ways in which most Americans are less connected to our communities."[175] Nevertheless, the most important to me is that Putnam is clearly inconclusive on the matter. Furthermore, he also admits that there *are* success stories in terms of social capital even though he laments the scarce influence that these have had on society, at least thus far. So, could bioethics still be one of such success stories, and precisely what would this mean?

In order to elaborate on the question, let us go back to the core of Putnam's theory. As I noted, essentially, Putnam divides social capital into bridging (inclusive) and bonding (exclusive) types. According to him, these types serve different purposes in society and both are needed; for the most part, they should not be viewed as mutually exclusive, even though it is evident that this is indeed the case sometimes. Rather, in his view, they tend to be mutually reinforcing. He then laments the erosion of both kinds of social capital during the last third of the twentieth century, especially the destruction of *bonding* social capital. In short, to use the metaphor, people are not bowling together anymore, or at least not in such an organized a way as before.

However, one begins to wonder whether the decline of such established activities is rather a sign of some new manifestations of social capital replacing old ones than an unequivocal loss on part of civil society. Put differently, perhaps these losses of social capital, typically of the bonding kind, have been covered by, at least to some relevant extent, a concomitant increase elsewhere, mainly in bridging social capital— despite Putnam's insistence that the situation should not generally be viewed in this way.[176] A good example of such a development might be the very civil rights movement, a paragon of bridging social capital, alongside other social movements of the day. And if this was true for these movements, perhaps bioethics, too, could be viewed as an example of this kind of remedial bridging social capital. It is interesting to see how Putnam depicts the civil rights movement with respect to this line of thinking:

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[174] Ibid., 154–155.

[175] Ibid., 180.

[176] For example, see ibid., 350–363.

The civil rights movement was, in part, aimed at destroying certain exclusive, nonbridging forms of social capital—racially homogeneous schools, neighborhoods, and so forth. The deeper question was what was to follow, and in some sense this question remains as high on the national agenda at the beginning of the twenty-first century as it was at the beginning of the twentieth. The easy answer is "More bridging social capital"—that is, more bonds of connection that cross racial lines. Workplace integration, for all its difficulties, has been by far the greatest success for this approach . . .

On the other hand, school integration has posed much more sharply the trade-offs between bridging and bonding social capital. The busing controversy illustrates this dilemma quite clearly, for both sides in the controversy were fundamentally concerned about social capital (though, understandably, no one used that language). . . .

. . . As political scientist Eileen McDonagh has put the point vividly: "Is it better to have neighborhoods legally restricted on the basis of race, but with everyone having everyone else over for dinner, or is it better to have neighborhoods unrestricted on the basis of race, but with very little social interaction going on between neighbors?" That is the dilemma embodied in the busing controversy. If we ignore it, our efforts to reinvigorate community in America may simply lead to a more divided society.[177]

Soon, Putnam comes to what appears to be his bottom line on the matter:

What if we need to choose between policies that build a little bridging social capital and those that build a lot of bonding social capital? For ensuring that small children get the stimulation and structure they need, bonding social capital may be optimal. Here a little "familism" would go a long way, no matter how civically "amoral" it might be. For improving public schools we need social capital at the community level . . . For other issues—such as deciding what sort of safety net, if any, should replace the welfare system—surely it is social capital of the most broad and bridging kind that will most improve the quality of public debate. In short, for our biggest collective problems we need precisely the sort of bridging social capital that is toughest to create.[178]

In other words, despite his pessimism over the success of various social movements to restore social capital since the 1960s, Putnam clearly seems to welcome the efforts of these movements—which have been manifestly of the bridging kind. Put

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[177] Ibid., 362.
[178] Ibid., 363.

simply, regardless of potentially harmful effects on bonding social capital, Putnam acknowledges that such attempts to foster bridging social capital are, ultimately, what society depends on—with the important admonition that bonding social capital should not be eroded unnecessarily. Now, at this point, we can finally put bioethics into a fairly elaborated perspective. Then, the question is: has the field of bioethics aimed or succeeded to contribute, in the same vein as these social movements, to strengthening and utilizing bridging social capital, and what does this mean, also in terms of bonding social capital?

Answering the first part of the question is not particularly difficult. It is obvious that "bridging," in the broadest sense of the term, has characterized bioethics from the outset very much, for it seems that it has been almost the core aspiration of the field. Bioethics has striven to be open to various kinds of knowledge as well as socially relevant by being as inclusive as possible. The success of this endeavor, then again, is a different topic. To my eye, we can to a certain degree gauge this success by considering the outcomes of the radical challenge that the nascent bioethics presented at the time, namely, the challenge to established social bonds, or bonding, between and within various groups, most notably relating to the post-war medical profession. Put differently, the success of bioethics can be partly measured in the same way as that of, say, the civil rights movement that "in part, aimed at destroying certain exclusive, non-bridging forms of social capital."[179]

As it has become evident by now, it appears that the birth of bioethics was, for the great part, motivated by the aspiration to end the exclusiveness associated with the medical profession, which was manifest for instance in the "doctor knows best" mentality. In terms of social capital, early bioethicists wanted to challenge the warm bonding between medical professionals in order to allow others to access the closed realm of health and medicine too. In short, it seems that bioethics was trying to foster bridging social capital by eroding bonding social capital. However, I have also argued that this setting presented only a basic scheme, or a stepping stone, for the emerging bioethics. In the end, it was not sufficient, or even possible, for early bioethicists merely to challenge certain professions or authorities. Instead, bioethicists needed to develop and establish a genuinely new way of *thinking*, on a broad scale, to accompany their aspirations—presumably a line of thought thoroughly infused with notions that embody bridging social capital. Then, it seems that this was the *real* challenge of the nascent bioethics.

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[179] Ibid., 362.

We can now review the results of such efforts by adopting this perspective. A set of more specific questions arises: First, has bioethics eventually succeeded in developing a genuinely new kind of body of thought, or, more modestly, has the field even truly aspired to reach this? Furthermore, has bioethics achieved the social changes it has desired, presumably by displacing and replacing the systems of thought it has perceived as problematic, especially through means of fostering appropriate social capital?

To my eye, when considering these questions, a theme of mixed success emerges. Undoubtedly, the greatest success of bioethics in this regard has been the challenge it has presented to the medical profession. Put differently, the basic scheme has been a decent success, at least in terms of fostering new insights. Bioethics has clearly managed to contribute to casting a critical light on the ways of the medical world, and, indeed, this has had substantial social consequences. Most notably, the social isolation of medical professionals from the rest of society—at least when perceived—is now generally considered to be problematic, a view that is often shared by the profession itself.[180] In terms of social capital, the bonding between medical professionals has been put under close scrutiny. Consequently, "doctor knows best" is not so self-evident anymore. Then again, whether bioethics has *actually* managed to decrease bonding between physicians and its ill effects is not that certain. Nonetheless, this development has helped in clearing the path for voices outside the medical profession to enter its exclusive world. Thus, one of the core ambitions of bioethics has become reality.

On the other hand, what this new reality has become is another question. Bridging between various social groups is never easy, nor is cultivating a shared need to do this. In this sense, the challenge is enormous, and the outcomes have reflected this challenge. Moreover, in a way, bioethics has become a victim of its own success. It is evident how the success in clearing ways for different groups to enter the medical world has also equally reduced the enthusiasm for elaborating on and embracing the nature and requirements of this new situation—as if a mere entry into this exclusive world sufficed, which, of course, is nowhere near sufficient. In terms of social capital, the risk is of a familiar kind; that the social capital that has been eroded is left

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[180] For a few examples of this thinking, see Robert M. Veatch, *Patient, Heal Thyself: How the New Medicine Puts the Patient in Charge* (Oxford: Oxford University Press, 2009); Veatch, *Disrupted Dialogue*; Robert B. Baker et al., eds., *The American Medical Ethics Revolution: How the AMA's Code of Ethics Has Transformed Physicians' Relationships to Patients, Professionals, and Society* (Baltimore: The Johns Hopkins University Press, 1999).

without a corresponding replacement, leading only to an impoverished situation, one characterized by mutual mistrust and rivalry. All in all, the old wisdom that "it is easier to tear down than to build up" seems to hold true. This is exactly the situation of which Putnam warns when he discusses post-war social movements.

Indeed, the disparity between "tearing down" and "building up," in all relevant senses, seems to present a major challenge to current bioethics—and I will delve deeper into this later, dedicating my full attention to the problem. However, I already want to make some remarks on the subject. To me, the key question in evaluating whether bioethics has been, or can be, successful in promoting its aspirations is if it has truly acknowledged and acted on the need to correct this disparity. Then, on a preliminary note, the answer to this question appears to be mixed again. From a very practical point of view, bioethics seems somewhat successful in this respect, since it has clearly encouraged and supported inclusivity, or strengthening bridging social capital, in various ways. To support this claim, one needs only to examine a typical bioethics seminar and the diverse backgrounds of its participants. On the other hand, from an intellectual perspective, the picture is obviously not so positive. It is unclear whether bioethics has managed to develop a "genuinely new kind of body of thought," which would articulate new moods and drive the field forward. To be sure, open-mindedness has characterized bioethics from the beginning, and this a necessary component in allowing bridging social thought to be established and in allowing social capital to grow. Still, it is a long way from this kind of thinking to a system of thought that would not only allow but *embrace* bridging social activity, throughout society.

It is a common problem for new activities and initiatives, of any kind, to remain imprisoned in old forms of practice. For example, early newspapers resembled books more than their modern successors, as the book format was so well established at the time. Newspapers became "newspapers"—and began to thrive—only when they genuinely broke the bond with the previous format and clearly occupied a new role in processing and delivering information. It seems to me that bioethics is, in the end, facing the same challenge. Therefore, it appears vital for the success of bioethics eventually to develop such a genuinely new kind of body of thought; to move beyond its early schemes. This new thought, it seems, is an essential component in augmenting the impact of the field on society at large to the fullest degree. Moreover, this appears to be a key element in fostering a new kind of social *bonding*, too, which is, without a doubt, something that bioethics also needs besides bridging social capital.

Does it seem that such development is taking place? Naturally, it is hard to predict the future, but in my view the outlook is somewhat positive, despite all the problems.

For example, the scope of bioethics has been expanding ever since the early days, and the field now ranges from feminist to global bioethics. More important, a deep integration of different approaches is becoming increasingly characteristic of the field's new developments. All this could be interpreted as an intellectual reflection of "bridging": between different fields of thought as well as between different quarters of society. Furthermore, it is not difficult to predict that such thinking is usually also good for fostering bridging social capital in practice, and eventually, it might even lead to some novel social bonding too. All in all, it seems to me that these recent advances in inventing powerful ways to conceive and address pressing issues, together with probable successes in facilitating relevant social capital, present a positive prospect for the field and something that might very well be boiling beneath the surface.

For the present, however, this is not reality, and perhaps it will never be. Despite some prevailing trends in bioethics that seem to be indicative of this direction, it is still too early to conclude much about the bigger picture. Moreover, it is even unclear whether this conception of the situation is, on any level, shared among the majority of bioethicists. If it is not, it also seems very unlikely that the field will develop in this direction. This, then, leads me to the core question that I will address in the next chapter: What are the current *conceptions* of the nature of bioethics, of its past and its future?

Putnam's theory: Criticism and ways toward new perspectives

Before proceeding to the next chapter, in which I will review how others have addressed the themes and questions presented thus far, I need to discuss some possible limitations and extensions of Putnam's theory and the ways I have implemented the theory. Together with this, I will utilize also my observations from the previous chapters in order to enrich my account.

Let us first consider a few standard criticisms that Putnam has received. Most of all, Putnam's theory in *Bowling Alone: The Collapse and Revival of American Community* has been criticized for being too deterministic in its depiction of social dynamics, moreover, it has been lamented that Putnam has preferred a too broad, or conventional, institutional framework in his analysis and overlooked the importance of deep socio-economic conditions, and somewhat closely related to this, Putnam has been accused of being ahistorical in his study. Put simply, the claim has been that Putnam has put the situation in the United States before the last third of the twentieth century on a pedestal. The fundamental dynamics and content of social life have since then

changed, which has, according to critics, falsely led Putnam to conclude that a kind of large-scale social degeneration is currently taking place. And, to further highlight the shortcomings of Putnam's theory, some have introduced countries outside the United States as illustrative test cases.[181]

These are valuable points, but in a sense, they can be viewed as secondary, for they are quite context-sensitive—and indeed, this is what critics are calling for. I would argue that the deeper and more general developmental dynamics that *Putnam* depicts can still be observed, too, no matter the detailed context, cultural or otherwise, around them. In other words, Putnam can still be *partly* right with his theory and analysis to a significant degree. This way to utilize Putnam's thought seems to work especially well precisely at the deeper institutional level that I am after—and where Putnam typically operates—in the context of the United States and elsewhere. Moreover, it seems that there is almost a broad *de facto* consensus that the institutional dynamics depicted by Putnam are largely valid when certain social preconditions are met. In practice, it seems, this is when the societies can be categorized as modern liberal democracies—of the post-war era—with strong and explicit institutions that guarantee basic freedoms and rights for their citizens; when what is primarily at stake are fairly intricate civic activities *typical of*—and possible only in—such an environment. Put short, discussing bowling team memberships is meaningful only in a rather nuanced civic context; these memberships have been a luxury of the "well-off" of the world. Then, Western countries, the focus of my study, are indeed such liberal democracies, and this qualification should pose no problem here.

Interestingly, a good case in point in this regard is offered by Francis Fukuyama's writings on social capital, in which he also comments on Putnam's thought.[182] Then

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[181] For example, see Everett Carll Ladd, *The Ladd Report* (New York: Free Press, 1999); however, note that this Ladd's criticism predates the publication of Putnam, *Bowling Alone: The Collapse*; Theda Skocpol, *Diminished Democracy: From Membership to Management in American Civic Life* (Oklahoma: The University of Oklahoma Press, 2003); Ferragina, *Social Capital in Europe*; for a good review of the criticism, see Irene Taviss Thomson, "The Theory that Won't Die: From Mass Society to the Decline of Social Capital," *Sociological Forum* 20 (2005); on the other hand, for example Francis Fukuyama has largely agreed with Putnam's point of view, which I will discuss a little later. Yet another interesting perspective on this topic area is offered by Nancy L. Rosenblum, *Membership and Morals: The Personal Uses of Pluralism in America* (Princeton: Princeton University Press, 1998); interestingly, it seems to me that Rosenblum adopts a perspective somewhat similar to what Judith Shklar might favor; however, this falls outside the scope of my discussion here.

[182] For example, cf. Francis Fukuyama, *The Great Disruption: Human Nature and the Reconstitution of Social Order* (New York: Free Press, 1999), 52–53; Francis Fukuyama, *Social Capital and Civil*

again, it is not very surprising that Fukuyama's thinking about central political and social institutions, about political order and *decay*, is largely compatible with Putnam's thesis. However, I will delve deeper into this topic a little later. To me, Putnam's institutional dynamics seem to offer an interesting viewpoint on the political philosophy of the post-war era; especially on the political philosophy of John Rawls, Judith Shklar and Philip Pettit, among other notable thinkers.

At this point, I think that I can safely conclude that Rawls' thought, "justice as fairness," was a forceful embodiment of the post-war radical cry for equal rights and recognition in the context of the liberal democracy of the time. To put this in Putnam's terms, this was a serious system of thought, quite obviously, of bridging social capital—exactly that of which for example bioethics seems to have been in dire need. Moreover, as I have argued, Rawls' thought can be somewhat safely taken as an illustration of the whole field of post-war political philosophy. So, if we follow the earlier observations of this chapter, it could be said that political philosophy has reflected very well, and even encouraged, what has been taking place in the West— even if not always successfully. As bridging social capital became increasingly the new form of existing, or available, social capital after the erosion of the bonding type, political philosophy sought to formulate new and more suitable ideals for society, ideals such as "justice as fairness." Thus, in this regard, one could say everything has worked as it was supposed to work.

Then, it could be seen that the problem was, and has been, that Western societies have not embraced these new ideals thoroughly enough to actually allow them to help in coping with the change. It is understandably difficult to appreciate new social conditions if there is no conception of the direction in which society is, or should, be heading; if there are no clear ideals that suit to the situation; if society is only "muddling through." As Daniel Callahan very tellingly put it when discussing the health reform debate, "justice- and rights-based theories have never over fifty years of health reform debate gained much public and legislative traction in the United States and are hardly invoked in European health care either." In other words, despite the efforts of political philosophy, it appears that the new society of increased social diversity with its potential for bridging social capital has been left without a concomitant new body of thought, which has made it very difficult to embrace the new situation. Bioethics, then, seems to be an excellent case in point of this all.

Society, IMF Working Papers, no. 00/74 (International Monetary Fund, 2000); Francis Fukuyama, "Social Capital and Development: The Coming Agenda," *SAIS Review* 22 (2002).

Furthermore, the only challenge has not been letting new ideas sink into public awareness. Another major hindrance seems to lie in that these new ideals, or conceptions, are hard to utilize in practice. This, too, is well manifest in bioethics, among many other areas of thought. For example, as noted previously, Rawls has had clearly a major influence on many bioethicists. Yet, it is also obvious that many have struggled to really adjust Rawls' thought to bioethical topics. One can only recall Jonsen:

> The panel did not use Rawlsian theory, and as the ethicist, I did not know quite how it might have been used. This was my first intimation of a methodological question that has persisted in bioethics: how is ethical theory to be fitted to practical deliberations—or should it be fitted at all? That question would come to center stage in the bioethics of the 1990s.[183]

The difficulty in using Rawls' ideas is understandable. Not only was Rawls theorizing on a fairly abstract level, and therefore specific questions are difficult to apply, but he was also constantly developing his thought up until the early 2000s when he passed away. Also in this regard Rawls is emblematic of the development of the post-war political philosophy. The new political philosophy, which had its "birth"—which I have labeled as the "Rawlsian turn"—around the early seventies, is simply a rather young field and because of this sometimes hard to grasp. What I have in mind with all this is that these observations seem to pave the way for an optimistic thought, after all: perhaps the greatest challenge here is only that of a fuller understanding of these new ideas and bodies of thought that deeply embody bridging social capital, and not that of more insurmountable social obstacles.

Obviously, this might also be too optimistic. In any case, I will continue my study by assuming that a major part of the troubling confusion currently surrounding bioethics—which I will introduce in the next chapter—is due to the political, social and cultural context of the field not being fully appreciated. Moreover, I think that this lack of awareness can be attributed to a failure to take into account the post-war political philosophy to a great extent, for political philosophy seems to be the best way to articulate such contextual matters. Perhaps the same thinking applies to Western societies at large, too—who knows?

How could this situation be reversed? I think at least that political philosophy, which often lingers in the realm of the abstract, should be increasingly engaged with everyday life. Rawlsian thought, for example, should be more vigorously applied to

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[183] Jonsen, *The Birth of Bioethics*, 211.

practice. This indeed I will aspire to do later in this study—especially in order to find novel ways to embrace the prevalent condition of social diversity and its potential for bridging social capital. To do this, I will follow in the footsteps of bioethics scholars that have been close to Rawls, such as Norman Daniels and Robert Veatch. I will also depart from this path when necessary. Most of all, I will try to enrich my investigation by relying on the ideas of Judith Shklar and Philip Pettit, for I think that Shklar and Pettit can well illustrate Rawlsian thought in this respect as well.

One could say that Shklar and Pettit make, in effect, Rawls' justice as fairness more tangible. It can even be surprising at times to see where this line of thinking will lead us if it is fully adopted. For example, when different people meet one another at eye level, in the "reasonable" fashion championed by Rawlsian political liberalism, there is ample room for the often loathed hypocrisy, among many other vices. However, this should *only* be taken as a mark of a truly diverse, or pluralistic, society. Judith Shklar writes about this in the American context:

> The democracy of everyday life, which is rightly admired by egalitarian visitors to America, does not arise from sincerity. It is based on the pretense that we must speak to each other as if social standings were a matter of indifference in our views of each other. That is, of course, not true. Not all of us are even convinced that all men are entitled to a certain minimum of social respect. Only some of us think so. But most of us always act as if we really did believe it, and that is what counts. Our manners are just as artificial as those seen at Versailles in Molière's day, but they are infinitely more democratic. Snobbery is hardly unknown in America, but it is not what it was in the *Ancien Régime* either. It certainly is not the official order of state and society.
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> Would frankness, conceived as the display of a primary inner self, really do anything for democracy? Only if one assumes that each individual does and must invariably play only one role and that roles must be ordered in rigid hierarchies. That is by no means the case; and if we had a greater parity among various roles and esteem for unfamiliar values, then the extrasocial self as the primary moral agent would lose all egalitarian ideological force. That also makes it all the more worth asking whether public and private roles call for identical degrees of sincerity, given that manners are part of both.
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> In fact, we assume that our public roles carry greater moral responsibilities than our private ones. We expect to behave better as citizens and public officials than as actors in the private sphere. The whole concern about corruption in government turns on that, and it does yield immense hypocrisy; but pretended virtue may curtail graft and similar vices as well. . . . Would any egalitarian prefer more public frankness? Should our public conduct really mirror our private, inner selves? Often our public manners are better than our personal laxities. That "sugary grin" is, in any case, not a serious issue. On the

contrary, it is a very necessary pretense, a witness to our moral efforts no less than to our failures.

Indeed, one might well argue that liberal democracy cannot afford public sincerity. Honesties that humiliate and a stiff-necked refusal to compromise would ruin democratic civility in a political society in which people have many serious differences of belief and interest. Our sense of public ends is so wavering and elusive because we often do not even see the same social scene before us. We do not agree on the facts or figures of social life, and we heartily dislike one another's religious, sexual, intellectual, and political commitments—not to mention one another's ethnic, racial, and class character.[184]

This thinking well illustrates the point that perhaps the trouble with embracing bridging social capital is that its nature has not been yet completely understood; that a concomitant thought, such as the one above, has not been adopted. For example, as suggested by this case, perhaps too many have been too obsessed with hypocrisy, and that has blinded them to the positive aspects of the new situation. Such thinking, then, could have caused that the problems in welcoming Putnam's bridging social capital have persisted. Tentatively, I would say that this seems to be the case; of course, there can be other possible interpretations, too. However, I will delve deeper into this subject later, trying to see whether this assumption holds true or not.

Before making my concluding remarks on Putnam's thought and proceeding to the next chapter, I want to turn attention to the theory of political order and decay, in the footsteps of Huntington and Fukuyama, in order to see how it fits together with Putnam's conception of social capital. Most of all, I want to see how these two branches of thought meet each other at the institutional level, where they both seem to be at their best. I especially hope that this can shed light on how well Putnam's theory can explain changes in social capital outside the United States, a topic that I have briefly mentioned a few times already.

Fukuyama's perspective

Could the theory of political order and decay offer us a fruitful framework for thinking about Putnam's conception of social capital? As defined by Samuel Huntington and Francis Fukuyama, an ideal political order is reached when there is an adequate political institutionalization of underlying social forces—"forces" in the sense that

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[184] Shklar, *Ordinary Vices*, 77–78.

the composition of this body reflects the power balances between different groups in a society; thus, in a fully democratic society, the "social forces" are the same as the people.[185] In practice, in its perfect state, the political sphere serves as a channel through which social forces can be heard and where the claims of these forces can be satisfactorily addressed. However, this political institutionalization is nearly always lacking in some ways. Political institutions tend to represent inadequately the new situation, especially when there is a dramatic change in the structure of underlying social forces. This is when political order faces a serious risk of running into trouble. Political institutions change slowly, as do institutions in general, which invites political decay, a spiral-like process that can eventually result in a total societal collapse.

Now it seems that Putnam's conception of the changes that have happened in relation to social capital during the last third of the twentieth century might constitute exactly this type of "dramatic change in the structure of underlying social forces" that fits into the theory of political order and decay. No wonder, then, that Fukuyama has been indeed interested in social capital and has paid attention to Putnam's work; it is Fukuyama, rather than Huntington, who has been thinking about political order and decay and related themes in the context of modern liberal democracy, which is the reason I will concentrate on Fukuyama from here on.

Fukuyama has written about social capital on many occasions[186] but, to my mind, one text stands out in particular. In a concise article on the subject, "Social Capital and Development: The Coming Agenda,"[187] Fukuyama affirms many of the observations now discussed, while also building on these. Firstly, Fukuyama acknowledges the ambiguities in defining social capital. He notes that there are various definitions and that the concept is, in fact, far from uncontroversial. According to Fukuyama's own definition, "any instance in which people cooperate for common ends on the basis of shared informal norms and values"[188] can be placed under the rubric of social capital; for him, social capital is also "shared norms or values that promote social cooperation, instantiated in actual social relationships."[189] Besides these fairly

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[185] Note that for Huntington political order could be separated from its basis of legitimization, e.g. even a communist dictatorship could be considered successful in terms of political order. Fukuyama disagrees with this view and emphasizes democratic legitimacy; see Francis Fukuyama, *State Building: Governance and World Order in the Twenty-First Century* (Ithaca: Cornell University Press, 2004), 34–35.

[186] For example, Fukuyama, *The Great Disruption*; Fukuyama, *Social Capital and Civil Society*.

[187] Fukuyama, "Social Capital and Development."

[188] Ibid., 23.

[189] Ibid., 27.

broad definitions, Fukuyama describes at length how social capital interacts with explicit social institutions. Put simply, Fukuyama's point of view on social capital is that it can be found anywhere, and moreover, that it can be made more tangible by observing how well it helps groups of people and societies to work in concordance in order to achieve their institutionalized goals, such as economic growth and prosperity. In this view, social capital helps institutions of any kind to function better and correspondingly, lack of social capital hinders them from functioning. In Fukuyama's words, "social capital is what permits individuals to band together to defend their interests and organize to support collective needs."[190]

This view is beneficial in that it helps us to observe social capital more clearly, even measure it—through its impact—for social capital is notoriously hard to pin down. I want to illustrate what Fukuyama has in mind. For example, for the sake of an argument, let us imagine that there are two societies that aimed to maximize their economic success, both having virtually the same economic opportunities and basic institutions for managing these opportunities. What would happen? It is not a very wild guess that eventually economic opportunities would most likely be realized to very different degrees in the two societies. Why would this be the case? According to Fukuyama's definition, this would be caused by different "stocks" of social capital present in the two societies to a great extent. In practice, for example, there could be a great amount of trust in one society, which would presumably help to foster economic growth, whereas the other society might be clearly lacking in this respect, and would be rife with corruption, which would hinder economic growth in various ways. Thus, in this institutional picture, social capital could be viewed as an important missing factor—something that cannot be directly observed but that can nevertheless be felt.[191]

Fukuyama's way of conceptualizing social capital makes it easier to utilize the concept; he succeeds in putting social capital into a clear institutional context. On the other hand, Fukuyama's thought can be criticized for being too simplistic, or, too much in favor of efficient institutions. The typical criticism is that Fukuyama's division is too artificial, between explicit institutions, for instance an economic system or democratic government, and social capital, manifest in social interaction. The claim is that both categories influence each other and it is impossible to draw any clear lines between them, moreover that it is certainly wrong to assume that some

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[190] Ibid., 26.

[191] See Francis Fukuyama, *Trust: The Social Virtues and the Creation of Prosperity* (New York: Free Press, 1995).

selected group of explicit institutions, however broadly or contingently defined, could offer a meaningful perspective on something as vague as social capital.[192] Then again, in Fukuyama's defense, it has to be said that even he acknowledges that the theory he presents is far from perfect—he is merely trying to sketch how future research on social capital could be usefully conducted.[193] Furthermore, on the division between explicit institutions and social capital, Fukuyama emphasizes that the two categories influence each other in an ongoing interaction. Not only does social capital help to realize institutional aims, but correspondingly certain institutions are vital for social capital to exist. For example, as I already suggested, the kind of changes in social capital that Putnam discusses are evidently more or less set against a backdrop of modern liberal democracy, in which vital institutions that safeguard civil society, such as the rule of law, are taken for granted.

With these caveats in mind, however, it appears that Fukuyama's thinking about social capital can indeed offer useful insights into the previous discussion, which is the reason I will continue on this path. As I already noted, Fukuyama affirms many of the earlier observations and then places them into the context of his own thought. I hope that paying attention to this can enrich our understanding of the general picture, especially in the context of *all* Western countries, as well as in relation to the theory of political order and decay, even though Fukuyama himself, perhaps surprisingly, does not connect his thoughts on social capital to the theory directly.

Then, to illustrate his thoughts on social capital and its significance for societies, Fukuyama makes comparisons between modern liberal democracies and the developing world—"developing" with respect to the central institutions of the former. It is striking to see how the conclusions he draws seem familiar. For example, Fukuyama writes:

> What this implies when applied in a development context is complex. It is not sufficient to go into a village, note the existence of networks, label it social capital, and pronounce it a good thing. Most developing countries actually have an abundance of social capital in the form of kinship groups or traditional social groups like lineages, tribes, or village associations. What they lack are more modern, broad-radius organizations that connect across traditional ethnic, class, or status boundaries and serve as the basis for modern political and economic organizations. Seen from this perspective, many traditional groups

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[192] For example, see Putnam, *Bowling Alone: The Collapse*, 325.

[193] Fukuyama, "Social Capital and Development," 35–36; for a more detailed discussion, see Fukuyama, *The Great Disruption*.

embodying one form of social capital can actually be obstacles to development, because they are too insular or resistant to change. What is often needed, therefore, is some creative destruction of social capital, and the gradual broadening of the radius of trust on the part of the more modern organizations.[194]

It is not difficult to see how Fukuyama echoes Putnam's division between bridging and bonding social capital in this excerpt—even his remedies sound familiar. Furthermore, Fukuyama's next assertion that no less than a cultural change might eventually be needed in order to foster appropriate social capital is also in line with earlier conclusions:

> Social capital understood as norms and values promoting cooperation frequently originates in phenomena like religion, shared historical experience, and other deeply embedded cultural traditions that can be shaped only with great difficulty. . . .
>   . . . It would be extremely naive to think that a relatively simple set of economic policy interventions, or even efforts at institutional building and reform, could reverse deeply rooted habits and modes of thought. There is virtually nothing an external funding agency or government can do to mitigate the *cultural* dimensions of the problem—indeed, it is wrong and misleading to even try.[195]

Even though Fukuyama speaks primarily of the developing world, it is evident that the same observations apply to the "developed world," to modern liberal democracies. Here lies the advantage of Fukuyama's pragmatist approach to social capital, the advantage of the idea that social capital is what makes institutions and, ultimately, whole societies work. His concluding words on the subject seem to apply equally to all societies around the world:

> Social capital has historically been critical to the success of democracy, and likewise democracy has been an inevitable feature of political life for most developing societies. This does not, however, mean that these different dimensions of social life always fit together neatly or necessarily serve to buttress one another. Economic reform is often politically painful, and it can be the case that a society with a stronger civil society and more highly developed interest groups will resist necessary reform more effectively than an atomized

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[194] Fukuyama, "Social Capital and Development," 34.
[195] Ibid., 32.

one. This is not an argument for reviving the authoritarian transition, for . . . democracy should be seen as a good thing in itself and conducive to development. It does mean, however, that we need to think through what kinds of democratic institutions are best suited for making tough policy choices. There are some important questions of institutional design in democracies . . . which can serve to minimize the potential dysfunctions of democratic politics and maximize its legitimacy.[196]

These Fukuyama's views on social capital help to see how Putnam's thought on social capital could be generalized to apply to all Western countries, and perhaps even beyond them. If we adopt Fukuyama's perspective, we can see that Putnam's and Fukuyama's claim seems to be that modern societies—in practice, modern liberal democracies—simply cannot function without a vast *and* appropriately diverse stock of social capital, which, in turn, needs to be protected by the institutions of these societies. This is what has typically separated the developed world from the developing world. Put differently, the West—in this case—has succeeded, *at least in the past*, in achieving such equilibrium and consequently a secured possibility to enjoy a comprehensive range of different social roles and ties has become a given. Put simply, civil society, in all its manifoldness, has flourished. This has then benefited Western countries in numerous ways.[197]

On the other hand, it is easy to observe how this intricate interplay between social capital and institutional structures has never been balanced and stable in the developing world, which has been a major cause for all of the ills present there. Most of the time, the societies of the developing world have tilted too much toward either extreme; societies have either had too strong, or rather, too independent, political and social institutions and too little social capital—typically an authoritarian state and atomized society—or, alternatively, major institutions that are too weak and have too much social capital of the wrong kind, which has typically lead to societies that can only function at the level of "kinship groups or traditional social groups like lineages, tribes, or village associations."[198]

At this fairly abstract—and global—yet pragmatic level, it is hard not to be convinced that Putnam's thought indeed applies to all Western countries, beyond the United States. Western countries are, without question, modern liberal democracies

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[196] Ibid., 36.

[197] For Fukuyama's perspective as a whole, see Fukuyama, *The Great Disruption,* 249–282.

[198] Fukuyama, *State Building*, 39–41.

in which the erosion of bonding social capital and the challenge of finding replacement, especially in the form of bridging capital, are relevant and essential issues. Moreover, it is obvious that these issues do not only concern social capital in itself; they also clearly relate to the institutional structure of Western countries. In other words, it seems that these crises of social capital are largely caused by this very structure—modern liberal democracy—meaningful only against the backdrop of this structure, and ultimately, more or less solvable by readjusting this structural framework. This, then, brings me back to the theory of political order and decay.

My original interest in Fukuyama's perspective was to explore a possibility to connect his, and Huntington's, theory of political order and decay to Putnam's insights about social capital. I have now prepared a way to do this by touring Fukuyama's thoughts on social capital, which has helped me to clarify the relation of social capital to society's institutional framework. The bottom line of this is that the political framework—or order—of modern liberal democracy seems to be, indeed, very deeply and intricately connected with social capital. Ironically, this leads me to question some of Fukuyama's own thoughts. Despite Fukuyama's famous insistence that the political order of modern liberal democracy can accommodate nearly all possible social changes in civil society[199], one begins to wonder whether this political order is truly such a robust construction. Perhaps such liberal political order is far more precarious, and it has been more of an illusion that it would necessarily be so compatible with drastic social changes, such as those depicted by Putnam, in the end. Rather, it seems that the current situation that supports Fukuyama's optimistic view might be founded on luck, a fortuitous coincidence of the past, more than anything else. In any case, clearly there is room for doubt. Certainly at least Putnam seems to suggest that modern liberal democracy might be running out of luck.

My own view falls between the two: Fukuyama's optimism and Putnam's grimness, but I think that both viewpoints have their merits and should not be overlooked. The two can theoretically benefit from each other. In other words, one needs to combine them. The theory of political order and decay seems to offer a suitable framework for doing this. Firstly, the theory can explain the timing of the changes in social capital that Putnam observes. Why, of all possible eras, was it during post-

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[199] For example, see Francis Fukuyama, *The End of History and the Last Man* (New York: Free Press, 1992). However, as I noted on earlier, even Fukuyama recently has had deep doubts in this respect, which is well manifest in Francis Fukuyama, *Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy* (New York: Farrar, Straus and Giroux, 2014), especially 540–548.

war times when political and social upheaval on a mass scale took place for the first time in history? Seen from the perspective of the theory, it was the considerable economic, technological and social progress of the West that led to the radical empowerment of many new social groups—for example, women, who were now seen as legitimate social actors—that caused this upheaval. This, in turn, shook existing social relations, presumably provoking changes in social capital, too. Then, Putnam's observations seem to fit into this general picture well.

To me, it is Putnam, more than Fukuyama, who acknowledges the depth of the changes in social capital that appear to have taken place. Fukuyama is too pragmatic, too oriented toward a concept of social capital that is linked to "promoting social cooperation," to observe the deepest level of the change, to see how the prevailing *sense* of community has undergone a profound transformation. Evidently, this is a transformation that has deep social and cultural aspects to it. Put simply, it seems to me that there has been an odd and very troubling feeling hanging in the air for some time already: concurrently to the old social world and its bonds having seemed to be desperately fracturing, some quite novel, and promising, cases of new social capital have *also* been rising. Yet, due to the negative moods provoked by the former developments, the latter have often been ignored. Then, the important question—the challenge—that this situation ultimately presents is whether these new and positive developments can be embraced in society fully. This is obviously a cultural challenge, but eventually it is an institutional challenge, *obviously* a challenge for political order, which once again leads us back to the theory of political order and decay.

To my mind, the most important lesson that the theory can offer seems to be simple but hard to follow: it is that major political and social institutions constantly *need* to change; however, they seldom do this willingly or in a timely manner. The good news, on the other hand, is that human creativity appears to be good at solving such institutional problems as long as it is set free; I would argue that there is, and has always been, a fair supply of new and viable ideas for how the institutional framework could be readjusted. In other words, what Putnam called for, an "era of civic inventiveness to create a renewed set of institutions and channels for a reinvigorated civic life that will fit the way we have come to live," is, in fact, here. Rather, what seems to be lacking, is institutions' capacity to encourage and follow through with these ideas. There is too much institutional inertia, which seems almost impossible to overcome.

However, if we think about bioethics, for example, the picture appears not quite as bleak as this general remark would suggest. As I have already indicated in many ways, to me, bioethics is a "kind of forerunner of a new wave of political institutions

that began to emerge during the post-war era"—to some degree at least. Bioethics has indeed succeeded in creating a new channel for the newly empowered voices to be heard. Then again, I have also noted that the full success of this endeavor is still far away—to my mind, mostly due to lack of deep cultural appreciation of the field. The institutional reflection of this halfway situation, then, seems to be that bioethics is only partly institutionalized, or, "incorporated into decision-making on a variety of fronts." No surprise, I see that this, for its part, poses a serious threat to political order. Nevertheless, despite this potential negative outcome, I want to maintain my view of bioethics as an institutional golden opportunity. Put short, bioethics is an important testament to the fact that something to remedy the situation *can* indeed be done. I think this is a significant observation and it should be valued more and built on, in bioethics and elsewhere.

I have now viewed Putnam's thought from Fukuyama's perspective; in fact, I have combined the theories of the two scholars, which seems sensible. It is time to pull the strings together and see how this chapter has enriched our theoretical apparatus and helped in contextualizing bioethics. After the concluding discussion, I will proceed to the next chapter, in which I will review how others have interpreted bioethics as a field and see how this compares with my own views.

Concluding discussion

In this chapter, I wanted to explore Robert Putnam's thought on social capital, its aspects relevant to this study, because I think that Putnam is perhaps the most esteemed scholar on the subject, and because it seems to me that taking social capital into account is vital for fully appreciating the political, social and cultural context of a *modern* field such as bioethics. The "modern" here suggest to me that the theme of *social diversity*, obviously a major part of the modern condition, should be of great importance in this analysis, which, then, originally led me to explore Putnam's thought in relation to it. Putnam is speaking of social capital, and it is not really a far-fetched idea that in order to understand and take account of the diversity, one needs to explore changes in social capital. This I did and the outcome of this task culminated in Putnam's distinction of social capital between the "bonding" and "bridging" types. Despite Putnam's pessimistic moods with regard to recent trends in social capital, I saw hope—embodied in for example bioethics—especially in the bridging type. Then, I proposed that the biggest hindrance to a fuller appreciation of bioethics and other such developments characterized by bridging social capital was a lack of concomitant cultural awareness—a theme that I will investigate in fuller detail later

in this study. At the end of the chapter, to highlight the urgency of resolving this issue for the better of democratic institutions, I introduced Francis Fukuyama's thinking about social capital, also extrapolating the theme of social capital to Fukuyama's theory about political order and decay.

There are a few conclusions that I draw from this chapter. The first one is that social capital seems to be a kind of invisible glue that holds society together. It really is the *sine qua non* of society, and everything in society is related to it. The fortunes of societies hang in the balance depending on whether there is *enough* of *the right kind* of social capital. The second observation is that thinking through social capital has helped me to elaborate my theoretical apparatus. Before this chapter, I had two major theoretical components: one was the theory of political order and decay and the other was the cultural aspect, in practice, the perspective offered by post-war political philosophy. One could say that Putnam's theory and analysis stand in the middle ground of these two theoretical blocks. Consequently, following in Putnam's footsteps helps to perceive how there are various and interrelated connections between the different theoretical corners. In other words, one could conceive Putnam's work also as theoretical glue, so to speak.

I think that it has become clear that in order to place bioethics into a meaningful political, social and cultural context, there are at least three aspects to consider. First there is the level of political and social institutions, then the level of cultural thought linked to this, and finally, there is the level of social capital. I have sought answers for the first part in the work of Huntington and Fukuyama; for the second, in political philosophy of Rawls, Shklar and Pettit; and for the third, in Putnam's thinking, respectively. Based on this, it seems evident to me that all these theories illuminate and can benefit from one another. For example, not only Putnam but also Rawls and others close to him benefit from Huntington's and Fukuyama's theory of political order and decay, for this theory, even if followed only partly, provides a broader framework for understanding past political and social developments. On the other hand, the theory is quite general, which is why the other theories seem good for sharpening the focus of this study. Furthermore, Putnam's perspective on social capital, especially on bonding and bridging social capital, leads to a deeper appreciation of the work of post-war political philosophy in finding ways to reflect the new social and cultural reality, to invent a proper language for it. Then again, it appears to me that whether Putnam's call for an "era of civic inventiveness to create a renewed set of institutions and channels for a reinvigorated civic life that will fit the way we have come to live" will be realized or not depends for the great part on the success of this endeavor of post-war political philosophy.

I hope that the reader finds my theoretical apparatus informative of the political, social and cultural context surrounding the birth and subsequent development of the field of bioethics, and eventually, bioethics itself. Then again, currently, I mean "informative" only in the sense that this theoretical construction directs us toward important questions and pressing issues in bioethics—which I will try to address a little later in this study. For now, I think this suffices of my own views. In the next chapter, or rather next part of this journey, I want examine how others have viewed these matters. In practice, I will abandon my emphasis on the perspective of the past and more clearly adopt the perspective of the present, for it seems to me that this offers the best way to tour the prevailing conceptions of bioethics, concerning its past as well as its present status. It will be interesting and revealing to see how other views compare with my own; in fact, I could already suggest that I see that in this very comparison and the differences it reveals lies, to a large degree, the relevance of this work.

PART THREE: THE PRESENT

4.1   Interpreting Bioethics in the New Millennium

The jacket text of Tom Koch's *Thieves of Virtue: When Bioethics Stole Medicine*[200] is fairly emblematic of the discussion, or rather pessimism, currently surrounding bioethics:

> Bioethics emerged in the 1960s from a conviction that physicians and researchers needed the guidance of philosophers in handling the issues raised by technological advances in medicine. It blossomed as a response to the perceived doctor-knows-best paternalism of the traditional medical ethic and today plays a critical role in health policies and treatment decisions. Bioethics claimed to offer a set of generally applicable, universally accepted guidelines that would simplify complex situations. In *Thieves of Virtue*, Tom Koch argues that bioethics has failed to deliver on its promises. Instead, he argues, bioethics has promoted a view of medicine as a commodity whose delivery is predicated not on care but on economic efficiency.
>
> Koch questions the "founding myths" of bioethics by which moral philosophers became practical ethicists who served as adjudicators of medical practice and planning. High philosophy, he argues, does not provide a guide to the practical dilemmas that arise at the bedside of sick patients. Nobody, he writes, carries Kant to a clinical consult.
>
> At the heart of bioethics, Koch writes, is a "lifeboat ethic" that assumes "scarcity" of medical resources is a natural condition rather than the result of prior economic, political, and social choices. The idea of natural scarcity requiring ethical triage signaled a shift in ethical emphasis from patient care and the physician's responsibility for it to neoliberal accountancies and the promotion of research as the preeminent good.
>
> The solution to the failure of bioethics is not a new set of simplistic principles. Koch points the way to a transformed medical ethics that is humanist, responsible and defensible.[201]

In light of my earlier observations on bioethics, a great deal of Koch's analysis sounds familiar. Indeed, bioethics appears to have emerged from such a moral landscape. To my eye, however, Koch's conclusions seem to miss the mark by a mile. To be sure, there are the "founding myths" of bioethics, but it seems that to Koch nearly the entire foundation of bioethics rests on these myths, and in fact, bioethics as a field only amounts to a neoliberal policy dressed in some awkward philosophical clothes. No matter, then, the evident aspirations of bioethics to be socially inclusive

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[200] Tom Koch, *Thieves of Virtue: When Bioethics Stole Medicine* (Cambridge, MA: MIT Press, 2012).
[201] The jacket text of Koch, *Thieves of Virtue*.

or to foster intellectually open-ended discussion, or anything to this vein. This was just a bunch of philosophers trying get hired by the affluent medical world—or, rather, this was a bunch of "thieves of virtue."[202]

I am wondering from where such contemporary distrust of bioethics—common not only in Koch's thinking—originates. It seems too pessimistic to be based on hard facts. I can understand that bioethicists have ruffled the feathers of many, and this in itself has invited much negative response. Nevertheless, this cannot explain all the distrust, if not contempt. There has to be at least some reasonable facts behind this criticism—but what are they? Or, can such a bleak view be fully justified after all? I find it hard to believe that such a pessimistic depiction of bioethics could do justice to the field, at least on the whole, but I will not rule out this possibility at this point. Perhaps it is me who is wrong here, perhaps I have missed the mark by a mile.

Thus, let us investigate Tom Koch's work below the surface. His central claim against bioethics revolves around the notion of bioethicists being cold, calculating specialists who use their rationalism to find out who deserves care and what kinds of care in the clinical setting. Ultimately, to decide who lives and who dies. In chapter seven of *Thieves of Virtue*, Koch illustrates this by discussing some eminent bioethicists' views on the matter. He uses moral philosopher and bioethicist Peter Singer as his prime example. In Singer's thought, Koch finds the epitome of utilitarian "lifeboat ethic," in which the weak, or in this case, people with disabilities, are sacrificed in favor of others and which is, according to him, typical of bioethical reasoning. Referring to Singer's conversations and disputes with Harriet McBryde Johnson—an activist, author, and lawyer with congenital spinal malformation[203]—Koch concludes:

> While some will reject Singer's . . . utilitarianism, and the conclusions from it, the argument he presents and represents shares much with the general bioethical perspective. None criticize Singer (or by extension others who agree with him) for his method of dispassionate, philosophically grounded analysis. His arguments are grounded in a belief in rationality as a criterion of the valued person and, too, in rationality as a kind of dispassionate discourse by which ethical issues are to be framed and then considered. Most bioethicists thus will accept Singer's methodology and many accept, to a greater or lesser degree, the criteria with which he weighs lives and their futures. With the exception of some "disability" theorists, in other words, the general landscape of the

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[202] For example, see Koch, *Thieves of Virtue*, 17–19.

[203] Ibid., 165.

Singerian argument is broadly bioethical even if its particulars may be disputed occasionally by some.[204]

It might be true that Singer thinks this way.[205] But what does this say about bioethicists in general? Contrary to what Koch is saying, it is very well known that there are many in bioethics who strongly disagree with Singer, and with utilitarianism. As even Koch admits, Singer stands alone in his own universe, which in itself is a subject of independent scholarly study.[206] Moreover, in a response to Koch's article "The Ideology of Normalcy,"[207] in which Koch repeats his criticism, Singer himself disputes these claims:

> My disagreement with Tom Koch's article begins with his title. To refer to a set of views as an "ideology" is to suggest that they come as a self-reinforcing package that is beyond reasoning and critical scrutiny. But bioethics as a branch of applied ethics, which in turn is a branch of philosophy, and the hallmark of Western philosophy since Socrates has been its willingness to question everything, including conventional beliefs, no matter how unpopular such an approach may make one. Many disability advocates, too, defend their positions with arguments that are open to rational scrutiny. Instead of characterizing views held by bioethicists and disability advocates as ideologies, therefore, it would be more fruitful to examine the arguments that they put forward in defense of their positions.
>
> I also find if unhelpful to speak of "mainline bioethics" as if there were an established position in the field. I wish it were true that most bioethicists accepted my views, but I doubt that this is the case. Many bioethicists, especially Roman Catholics, some Protestants, and Orthodox Jews, support the traditional doctrine of the sanctity of human life. Others, like Adrienne Asch, Eva Kittay, and Stephen Post, hold views that are shared by disability advocates. Let's focus instead on the positions advocated by particular individuals. . . .
>
> To examine arguments fairly, it is fist necessary to set them out accurately. Unfortunately, Koch often gives prejudicial misreadings of positions that I and others hold.[208]

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[204] Ibid., 168.

[205] However, I want to emphasize that I am not here saying that this would be an accurate depiction of Singer's thought; this is beside my point.

[206] Koch, *Thieves of Virtue*, 167.

[207] Tom Koch, "The Ideology of Normalcy: The Ethics of Difference," *Journal of Disability Policy Studies* 16 (2005).

[208] Peter Singer, "Ethics and Disability: A Response to Koch," *Journal of Disability Policy Studies* 16 (2005).

But let us leave Singer, for Koch names others too. Interestingly, Koch comes to Rawls, who was not a bioethicist but, as we know, presented an influential challenge to such utilitarian thought that Koch laments. Despite this, Koch writes:

> In opposing Singer's normalcy McBryde Johnson was challenging a tradition that, as we have seen, stretches back to the nineteenth century and the birth of eugenics. She thus challenged as well, in the present, an established set of valuations whose adherents extend beyond the immediate world of Singer's influence. Contractarian justice theorists like John Rawls have been repeatedly criticized for a similar set of assumptions. In his 1971 *A Theory of Justice*, Rawls assumed a normal range of functioning as a common standard in which difference is disability and the disabled are to be excluded from his definitions of political justice in modern society. Thus Rawls's "fair equality of opportunity" was only for those with similar characteristics and potentials. Those whose cognitive, physical, or sensory characteristics deviate negatively from the norm were simply off the Rawlsian justice map.[209]

It seems striking that Koch labels Rawls indifferent to people with disabilities. Furthermore, Koch finds others in this category, too. Koch returns to bioethicists:

> More recently, Norman Daniels invoked a similar idea of "species normal opportunity range," as a standard for his healthcare ethics. Those with limiting characteristics are outside that range and thus largely beyond the bounds of justice and beneficence in the dispensing of scarce health resources. They can be discounted . . . in the lifeboat ethics of a world of limited resources.
> And yet, the idea of "normal opportunity range," like the Singerian equation of impairments with suffering, unhappiness, and disutility, is challenged by a generation of researchers. . . . Brody summarizes the central conclusion of this literature by distinguishing "impairment" ("a dysfunction of the body") from the "handicap" that results from social constraints limiting the person with impairments. "Disability" becomes in this ordering the result of social policies that disadvantage persons with specific attributes rather than the inevitable consequence of individually limiting characteristics. Differences exist, in other words, but it is the manner in which they are addressed or ignored by the community at large that makes them disabling and thus painfully burdensome.
> "The importance of these distinctions is shown by research on quality of life as perceived by persons with disabilities," writes Brody. "Medical people

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[209] Koch, *Thieves of Virtue*, 172–173.

[and most bioethicists] generally assume that the more severe one's impairment or disability, the worse the quality of life that will be experienced. This turns out generally to be untrue. Instead, one's quality of life is almost completely bound up with handicap. The extent to which society will or will not make accommodations." It is this conclusion, defining disability as an unjust social outcome rather than a naturally disadvantageous reality that bioethicists from Callahan to Singer and Daniels do not so much contest as ignore. In doing so, they absolve society and themselves, as citizens and bioethicists, of any responsibility for the disability-creating failure of social support. It follows (although Brody does not make this point) that to the extent bioethics does not address the social elements that disable the person, it is complicit in their effect on persons of difference.[210]

And finally Koch summarizes what he sees bioethics as doing here:

The old Hippocratic ethic and its "human centred western tradition" irrespective of capacities is out the window. Modern neoliberal perspectives demand nothing less of its bioethics.[211]

Koch's claims are astonishing. However, it is clear that they are also quite dubious. In fact, they might just be plain wrong. I must say that Koch's choice of theorists here is quite fitting, for—excluding Singer—these are the very names that I have deemed important for this study. The irony is that I have taken an interest in these thinkers from Rawls to Daniels and Callahan exactly *because* of the very qualities Koch claims they are lacking. To my eye, it has seemed that Rawls and Daniels as well as Callahan are nearly literal embodiments of thinking "outside the box" of disinterested, antisocial rationalism; contrary to what Koch suggests.

And this still seems to hold true. For example, we should just remember Daniel Callahan's words from his editorial to the first issue of the *Hastings Center Report* in June 1971:

The kinds of problems now facing the life sciences, particularly those with ethical and social implications, require the full range of human capacities. It is possible to think of the issues as *only* moral, or *only* legal, or *only* political, or to say that some are of the one kind and some of the other. But is it any longer wise, if it ever was, to so divide important human concerns? It is a rare moral

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[210] Ibid., 173; the insert with brackets is original. Koch refers to Howard Brody.
[211] Ibid., 174.

problem which has no legal implications, and a rare legal problem which has no moral implications. Public policy will normally reflect the values and desires of a society, a particular reading of pertinent data, a balancing of social interests, and a concrete understanding of the political and cultural uses of law. If it is possible to separate these ingredients in theory, it is rarely done in practice.[212]

It is obvious that "society" and the fact that it is located in the intersection of philosophy as well as law and politics, and should be taken as such, is the whole point here, not some disinterested way to do philosophy. Moreover, in this insistence Callahan has been very consistent, which can be seen in his works from broad social analyses, such as *Taming the Beloved Beast: Why Medical Technology Costs are Destroying Our Health Care System*[213], to more subtle moral ruminations, such as his recent autobiography, *In Search of the Good: A Life in Bioethics*[214]. Of course, one does not have to agree with Callahan, but this does not mean that the scope of his thought is limited; that he is ignoring the role of society in creating disabilities, or anything like this.

It appears that Koch's neglect of this difference between Callahan's scope of thought and the conclusions that he draws has led to a misunderstanding of him, which becomes very clear, to my mind, elsewhere in *Thieves of Virtue* when Koch accuses Callahan of siding with neoliberal economic interests to cut down medical spending. In order to prove this, Koch pays attention to Callahan's 1990s book, *What Kind of Life? The Limits of Medical Progress*[215], in which, according to Koch, for Callahan, "[t]he villain . . . [is] medicine and its traditional, Hippocratic insistence upon patient care as a social and communal good irrespective of economic concerns"[216] and "[m]edicine's goal . . . should be the maintenance of economically valuable workers."[217] I was unable to track down some of Koch's quotations from Callahan, nevertheless, it is difficult to see that Callahan would be advancing such an one-sided position—that he would ignore traditional medical ethics or human well-being for

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[212] Daniel Callahan, "Values, Facts and Decision-making," *The Hastings Center Report* 1, no. 1 (1971).

[213] Daniel Callahan, *Taming the Beloved Beast: Why Medical Technology Costs are Destroying Our Health Care System* (Princeton: Princeton University Press, 2009).

[214] Daniel Callahan, *In Search of the Good: A Life in Bioethics* (Cambridge, MA: MIT Press, 2012).

[215] Daniel Callahan, *What Kind of Life? The Limits of Medical Progress*, repr. (1990; Washington, D.C.: Georgetown University Press, 1995).

[216] Koch, *Thieves of Virtue*, 67.

[217] Ibid.

the sake of economy—when, among other things, Callahan writes the following in the book:

> We need to search for the right fit, the right balance. To achieve that we need a new dimension to our political debates. We must not hesitate to talk about human ends and the human good, and have the nerve to let the insights that emerge enrich and guide our political struggle. . . .
>
> A healthcare system that took its point of departure from our need as individuals to be cared for, that promised never to abandon us, would bring us back into continuity with the richest and deepest traditions of medicine. A system that focused its research efforts on enhancing the quality of life rather than on holding off death, or on means of preventing illness and reducing the debilities of old age rather than on high-technology cures, or on enhancing the general level of public health rather than on the special curative needs of individuals, would be a more rounded and coherent system. A healthcare system which understood that it was meant to be part of, and to serve the needs of, a broader social and political system would be one less prone to think only of its own needs, or to forget that health is only a means to living of a life, not its goal. A system that guaranteed a minimally decent level of healthcare for all, in turn asking each of us to rein in our private demands, would be a decent and manageable one. That is not an impossible deal.[218]

Sure, these lines can be read as saying that we should only have a "minimally decent level of healthcare," or something similar to this, but I think that it is obvious that Callahan's point is about something larger: it is about where to draw meaningful lines between seeking medical ends and other ends in life—that these lines should not only be drawn for the sake of money. I think that it is also quite clear that this *is* in line with traditional medical ethics, as well as ethics in general. In life, there are always multiple ends and balancing between these ends is inevitable, and not necessarily a neoliberal policy. The bottom line is that Koch simply seems to be wrong about Callahan.

This is not even all. My main doubt about Koch's analysis concerns Rawls and Daniels—I will begin with Rawls and then proceed to Daniels. As we saw, in Koch's view, Rawls simply excluded people with disabilities from his conception of modern justice, they were outside a "normal range of functioning" and thus outside his concerns for "fair equality of opportunity." Intuitively this seems striking because Rawls

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[218] Callahan, *What Kind of Life*, 264.

is well known for his defence of the weak, of all kinds, based on his Kantian insistence that people should be treated as 'ends' in themselves rather than mere 'means'. Perhaps Koch is right, certainly he is not the only one who has accused Rawls of neglecting someone. Thus we should investigate this claim, once again, beneath the surface. It is important to find out where Rawls truly stands in the matter because Rawls has influenced so many in bioethics, Norman Daniels being one of them—moreover, because there seems to be some kind of deep and integral connection between Rawls' thought and the field of bioethics in general.

So what does Rawls actually say about this? Central here is his concept of "primary social goods," or "primary goods" for short, which is at the heart of his theoretical construction. Rawls gives us a list of primary goods, which, according to him, are "various social conditions and all-purpose means that are generally necessary to enable citizens to develop and fully exercise their two moral powers [a capacity for a sense of justice and for a conception of the good] adequately, and to pursue their determinate conceptions of the good."[219] Furthermore:

> We look to the social requirements and the normal circumstances of human life in a democratic society. Primary goods are things needed and required by persons seen in the light of the political conception of persons, as citizens who are fully cooperating members of society, and not merely as human beings apart from any normative conception. These goods are things citizens need as free and equal persons living a complete life; they are not things it is simply rational to want or desire, or to prefer or even to crave. We use the political conception, and not a comprehensive moral doctrine, in specifying those needs and requirements."[220]

Then, Rawls divides these primary goods under five headings, which are "basic rights and liberties," "freedom of movement and free choice of occupation against a background of diverse opportunities," "powers and prerogatives of offices and positions of authority and responsibility", "income and wealth," and "social bases of

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[219] John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, MA: The Belknap Press of Harvard University Press, 2001), 57; for the "two moral powers," see ibid. 18–19; also John Rawls, *Political Liberalism*, exp. ed. (1993 & 1996; New York: Columbia University Press, 2005), 19.

[220] Rawls, *Justice as Fairness*, 57–58.

self-respect."[221] The definition of primary goods is of paramount importance because they are used as a metric of individuals' shares of justice in Rawls' theory. In other words, Rawls' "justice as fairness" aims at a fair distribution of primary goods, and nothing else.

The claim Koch is practically making is that all this concern about primary goods and their fair distribution seems to be dedicated only to people whose lives fall under the category of "normal circumstances of human life." Put differently, Rawls is neglecting the actual—and varying—capabilities of people to exercise these goods. What about people with disabilities, for example? What good is, say, the "freedom of movement," if one cannot move? In this criticism, Koch is not alone.[222] However, it does not follow that he is right. Indeed, it appears that if one reads Rawls carefully, it becomes obvious that this criticism is based on a misunderstanding of him.

I think Samuel Freeman, a former student and colleague of Rawls', is one who has addressed this misunderstanding convincingly. Without going into detail at length, this matter seems to hinge on a correct interpretation of the place Rawls assigns to primary goods in his theoretical construction. To put it simply, the purpose of primary goods is to help to design or to revise society's *basic political and social structure* so that *it* would be fair; so that this structure would distribute these primary goods fairly. For example, in practice, Rawls addresses questions such as what is at the core of our notion of citizenship, or, how could free and equal citizenship be defined. He operates on the level of basic political and social concepts, trying to come up with conceptions that enjoy shared moral support. He, then, does not go into details about how to live a good life in its totality, or how to support people's capability to participate in core political and social processes, let alone in daily life. He leaves these questions to be settled through practical deliberation—but a kind of deliberation, nevertheless, that is presumably influenced by prior Rawlsian agreements on more fundamental questions of society's basic functioning. In other words, in order to think about how to achieve citizenship, we first need to define it. In

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[221] There are slight differences in the wording of these headings between Rawls' different works. I am here following Rawls, *Justice as Fairness*, 58–59; for example, cf. Rawls, *Political Liberalism*, 181. Furthermore, I have shortened these headings a little in order to allow for readability.

[222] For example, cf. the so-called "capability approach," which is usually attributed to Amartya Sen and Martha Nussbaum; Amartya Sen, *The Idea of Justice* (Cambridge, MA: The Belknap Press of Harvard University Press, 2009); also Martha C. Nussbaum, *Creating Capabilities: The Human Development Approach* (Cambridge, MA: The Belknap Press of Harvard University Press, 2011). However, it seems to me that despite the claims of many proponents of the capability approach, Sen and Nussbaum want to extend Rawls' theory rather than challenge it.

addition, it is likely that if we define citizenship in the Rawlsian democratic terms, then questions of actual capability—everyone's—to achieve this citizenship *indeed* become important in more practical stages of deliberation. Furthermore, Rawls is clearly not indifferent to these practical concerns, as we can see for instance when he concludes that "[t]hose who have been favored by nature, whoever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out."[223]

It is easy to misconceive Rawls' theory; it can be a painstaking effort to grasp it and many have simply skipped this effort—even though they have often proceeded to criticize it. To be sure, one can say that Rawls should have come up with a different kind of theory, but to accuse Rawls of something he did not mean is a different thing—and this seems to be the case here. After a while of uncovering the actual contents of Rawls' theory, it appears that it is strikingly easy to find excerpts that directly counter what Koch is saying about Rawls, which, to be honest, leads me to wonder if Koch has read Rawls at all.[224]

On the other hand, we can also be more sympathetic to Koch's critique of Rawls. Perhaps Koch's criticism is justified in the sense that it highlights that Rawls was not very thorough in questions of health. Why was Rawls not more explicit about such important matters as disability, and could we somehow correct this? All in all, we seem to need further clarification. This, in turn, leads me to Norman Daniels—Rawls' complicit in the eyes of Koch—who, in fact, has shared this concern. It has been Norman Daniels, more than anyone, who has tried to see how Rawls' thought might be made more explicit in this regard; how it might be adapted to questions of health. Remember Jonsen's words:

> Daniels did what my Artificial Heart Panel colleague, Clark Havighurst, had suggested to me, and what I did not know how to do: he adapted the theory of justice elaborated by his teacher John Rawls to health care. . . .
>
> Daniels imports . . . [Rawls' equal-opportunity] principle into social institutions that provide the social good of health care. He seeks philosophically sounds answers to such questions as: "What sort of a social good is health care? Are there social obligations to provide health care? What inequalities in its distribution are morally acceptable? What limits do provider autonomy and

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[223] John Rawls, *A Theory of Justice*, rev. ed. (1971; Cambridge, MA: The Belknap Press of Harvard University Press, 1999), 87. For a longer discussion, see Samuel Freeman, *Justice and the Social Contract: Essays on Rawlsian Political Philosophy* (Oxford: Oxford University Press, 2007), 111–142.

[224] For example, see Rawls, *A Theory of Justice*, 86–93.

individual liberties of physicians and patients place on just distribution of care?" . . .

Health care is an enormously complex enterprise, ranging from recommending aspirin for headaches to transplanting hearts, from nursing care to neurosurgery, and from health education to accident prevention. Daniels sees in that complexity one fundamental aim, the preservation of normal species functioning that is impaired by illness and disability.[225]

It has to be noted that Daniels—rather a colleague of Rawls' than a student—emphasizes that his theory is an independent "extension" of Rawls' theory; that, for example, the plausibility of his thoughts does not implicate the overall acceptance of Rawls' ideas.[226] Still, I think that Daniels' work illustrates Rawls' theory well in relation to health, for the theories of these two thinkers are obviously compatible to a great degree.[227] Daniels himself defines his work as follows:

[This] extension will enable us to draw some justification from the arguments provided by Rawls for features his work shares with it, namely, the appeal to an objective, truncated scale of well-being and to the importance of protecting opportunity.

This extension of Rawls's theory is not trivial, since Rawls simplifies his theory by abstracting from the variations among people introduced by disease, disability, and premature death. His social contractors, as a first approximation, represent people who are fully functional over a normal lifespan. His account of justice applies to the simplified case involving idealized people who are never ill or disabled and who live full lives. By relaxing this simplification, the extension I propose greatly increases the power of Rawls's theory and arguably adds to its plausibility, for now it can respond to issues and to criticisms it could not before. I do not argue, however, for the overall acceptability of Rawls's theory. I make only a far more modest claim: If Rawls's general theory is correct, then, with my extension of it to health, it provides one plausible justificatory framework for relying on an objective scale of well-being that includes health needs and for our having an obligation of justice to protect opportunity (and therefore health).[228]

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[225] Jonsen, *The Birth of Bioethics*, 222.

[226] Norman Daniels, *Just Health: Meeting Health Needs Fairly* (Cambridge: Cambridge University Press, 2008), 47.

[227] For example, see ibid., 62–63.

[228] Ibid., 47.

In practice, Norman Daniels extends Rawls' theory to health by broadening "his notion of opportunity by including health-care institutions among the basic institutions involved in providing for fair equality of opportunity."[229] It is worth noting that despite what some might intuitively expect, and some have indeed suggested for this purpose, Daniels does not supplement Rawls' list of primary goods with health or health means.[230] This avoidance is understandable on the other hand because, as we noted, primary goods serve a very particular purpose in Rawls' theoretical construction, and are defined accordingly. Thus, Daniels connects to a different part of Rawls theory, to his principle of "fair equality of opportunity." In effect, Daniels integrates health into the core of Rawls' theory, making it at the same time somewhat stronger as well as—and more importantly—more explicit in this setting. Daniels writes about this:

> Because meeting health-care needs has an important effect on the distribution of opportunity, the health-care institutions should be regulated by a fair equality of opportunity principle. Once we note the connection of normal functioning to the opportunity range, this strategy seems the natural way to extend Rawls's view.
> With this proposal, the primary social goods themselves remain general and abstract properties of social arrangements—basic liberties, opportunities, and certain all-purpose, exchangeable means (income and wealth). Health care is not a primary social good, but neither are food, clothing, shelter, or other basic needs. We assume that the latter will be adequately supported by fair shares of income and wealth. The special importance and unequal distribution of health-care needs, like educational needs, are acknowledged by connecting the needs to institutions that provide for fair equality of opportunity. But opportunity, not health care or education, remains the primary social good.[231]

I think that Daniels' amendment of Rawls' theory, if not already my discussion of Rawls' theory in itself, makes it now very clear that there is no neglect of people with disabilities in either theory as Koch claimed. As we can see, it is obvious that primary goods, the goods that are to be distributed among "people who are fully functional over a normal lifespan," do not, after all, amount to the neglect of people with disabilities.

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[229] Ibid., 57.
[230] Ibid., 56–57.
[231] Ibid., 57.

Finally, one more criticism needs to be addressed. Koch also claimed that Daniels was using a metric of "species normal opportunity range" to exclude people with disabilities from health care:

> More recently, Norman Daniels invoked a similar idea of "species normal opportunity range," as a standard for his healthcare ethics. Those with limiting characteristics are outside that range and thus largely beyond the bounds of justice and beneficence in the dispensing of scarce health resources.[232]

But once again, it seems that Daniels is, in fact, doing something completely different than what Koch claims he is doing. First of all, strictly speaking, there is no such concept as "species normal opportunity range" in Daniels' theory. Instead, there are two concepts that come close to this: Daniels uses a concept of "normal species functioning" for the purpose of constructing another, and more important, concept of "normal opportunity range." What Daniels has in mind is that, according to him, society has a duty to protect people's fair shares of the "normal opportunity range"—to protect "the array of life plans reasonable persons are likely to develop for themselves [in a given society]."[233] In other words, society needs to ensure that people have the opportunity to live reasonable lives. Deficits in health often cause a significant impediment to exercising this opportunity, which is why Daniels sees that society is obligated to help individuals to somehow overcome these deficits—to prevent or to cure them, or to otherwise mitigate their detrimental effects. On the other hand, such claims are notoriously expansive and some lines have to be drawn as to what society owes in this respect. To do this, Daniels proposes the concept of normal species functioning, a concept that is rather intuitive, albeit difficult at times to define precisely.[234]

To put it simply, normal species functioning is what is typically expected of human health, taking into account age, gender, and other general variables. For example, we expect that younger people can perform normal daily tasks, say, shop for groceries, but we would not expect that older people can, by default, run marathons—the former case falls under the spectrum of normal species functioning, whereas the latter does not. In the former case, society needs to try to ensure that younger people have adequate health to perform such routine tasks; in the latter case,

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[232] Koch, *Thieves of Virtue*, 173.

[233] Daniels, *Just Health*, 43.

[234] For Daniels' thought at length, see ibid., 29–46.

society has no duty to actively support health. It is easy to see why such a concept is needed. By setting up a more or less objective minimum for individual health, this concept avoids, for instance, running into trouble with various "expensive tastes" that people often have concerning their health. It might be one's desire to be a mountain climber, and surely this is allowed, but it is not society's duty to ensure that one can actually climb mountains.

It becomes clear, then, that Daniels' theoretical construction is *strongly* committed to helping people with disabilities to overcome their impairments; and not just by concentrating on disability as a medical or preventive problem in the classical fashion but—and more—by redesigning society in order to ensure that people with disabilities are guaranteed their fair shares of the normal opportunity range; that they can pursue "an array of life plans reasonable persons are likely to develop for themselves." Daniels writes about this:

> Though promoting and protecting health is aimed at preserving normal functioning, sometimes significant impairments of normal functioning cannot be prevented or cured. Chronic illness, both mental and physical, is one important set of examples, but so do physical and mental deficits that interfere with important kinds of functioning and contribute to important types of disabilities. . . . [W]e cannot, for example, prevent or cure all instances of significant sensory deficit, such as blindness or deafness; nor can we prevent or cure significant motor deficits, such as paraplegia or quadriplegia; nor can we prevent or cure various cognitive deficits, such as important forms of mental retardation or deficits induced by brain trauma. All of these count as significant departures from normal functioning on the account we have developed.
>
> Our obligation to preserve fair shares of the normal opportunity for individuals does not stop when we encounter such deficits. Sometimes we can provide alternative means that allow individuals to function in equivalent, if not species-typical, ways. Eyeglasses, contact lenses, or corneal surgery are different ways of correcting for a sensory deficit such as myopia, though only the last offers a cure. . . . [Daniels lists various other cases.] Many of these measures, and many others, would presumably be included as health sector interventions on the opportunity-based view we have developed. . . .
>
> Our obligation to protect individuals' fair shares of the opportunity range does not stop at the boundaries of the health sector. Often, interventions outside the health sector are key to protecting the range of opportunities open to people. Put quite generally, we can design our institutions so that they are

more or less inclusive of people with disabilities, and our obligation to protect opportunity pushes us toward more inclusion.[235]

All in all, I consider that it is fair to conclude that Koch is simply wrong about Daniels. Moreover, there is a certain irony in this situation, as I already suggested earlier, as Daniels criticizes bioethicists for not being very attentive to large-scale social determinants of health—something that vaguely—but in no way fully—resonates with Koch's claims. Daniels calls for more "upstream" thinking in this regard:

> A health inequality is an inequity if it is the result of an unjust distribution of the socially controllable factors affecting population health and its distribution. A good illustration of a just distribution of those factors is offered by Rawls's principles of justice as fairness. My use of a Rawlsian illustration is not intended to be exclusive, and I noted earlier that [Amartya] Sen similarly suggests that we need to appeal to a view about social justice to say when a health inequality is an inequity. I conclude this discussion by returning to an issue raised earlier: the failure of bioethics to look upstream from medicine to the social determinants of health and health inequalities and to matters of social justice more generally.
>
> The failure of bioethics to look at the social determinants of population health is not primarily a philosophical failing, nor is it simply disciplinary blindness to the social science or public health literature. Rather, people in bioethics, like the public more generally, concentrate on medical care rather than social determinants for complex sociological, political, and ideological reasons that we can only mention here. The public, encouraged by scientists and the media, is fascinated by every new biomedical discovery and has come to believe that our "success" in improving population health is entirely or largely the result of exotic science. Vast economic interests benefit from keeping the public and the field of bioethics focused on this scenario. The economic incentives to people in bioethics come largely from medicine and the scientific and policy institutions that interact with medical delivery. The idea that scientific medicine is responsible for our health blinds us to socioeconomic inequality as a source of worse population health. Science, we are told, can rescue us all from our shared biological fate. Therefore, we should all unite in supporting a focus on medicine and, if we care about justice, on the equitable access of all to its benefits. Challenging deeper inequalities in society, however, is divisive, not unifying, and it threatens those with the greatest power and the most to lose. In the absence of well-organized social movements capable of challenging that inequality, the complaints of public health advocates pointing

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[235] Ibid., 147–148.

out the need for more basic change, rather than simply joining existing forces asking for more and better medical care, may seem utopian. However, it remains important to point to the broader ways in which social justice underlies public health.[236]

I think that Daniels voices the themes of my earlier discussion well here, especially those of the previous chapter—about social capital. To my eye, ultimately, this excerpt strengthens the claim that bioethics as a field seems to be in dire need of appropriate social capital, as well as a concomitant system of thought, or simply, identity—for bioethicists appear to be too easily persuaded to join ranks with everybody else and forget their own point of view. In other words, I do not think that Daniels is, despite his remark about "economic incentives to people in bioethics," suggesting that it is mere money, or some other crude self-interest of bioethicists, that is at play here; rather, he is speaking of larger, and more mundane, interaction between bioethicists and the rest of society. At the same time, I also see that Daniels—rightly—distances himself from such critics of bioethics such as Koch, who claim that there is almost some kind of hidden neoliberal agenda, or something similarly deeply questionable, behind the defects of the field.

What should one think of Koch?

It is time to evaluate Koch's point of view on bioethics as a whole. I began this chapter by introducing Koch's grim remarks about the field, noting that Koch is not even alone in his deep pessimism. To Koch, bioethicists are merely "thieves of virtue." I wondered whether this claim might be justified, and decided to investigate it beneath the surface. In practice, I took a closer look at a single chapter of Koch's book as an illustrative case—which it is, indeed, for the rest of the book is similarly spirited. It then became obvious that Koch's claims about bioethics are often founded on various misunderstandings and unjustified interpretations, deliberate or not—as Singer suggested. Sure, bioethics has its defects, but it is difficult for me to see that these defects justify calling bioethicists "thieves of virtue."

This observation, then, leads me to a new kind of question. I am wondering where such an unfavorable *attitude* toward bioethics originates, for it seems that Koch has more or less *beforehand*—before reasoned analysis—adopted his pessimism. Why is

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[236] Ibid., 101–102; see also Renée C. Fox and Judith P. Swazey, *Observing Bioethics* (Oxford: Oxford University Press, 2008), 186–187.

he so agitated? The answer cannot simply be that bioethicists "have ruffled the feathers of many," as I already declared. Surely, there *are* some reasonable reasons behind such a fierce criticism; but these are not explicitly voiced in Koch's book. Seen from this perspective, to my mind, the following passage from the introduction to *Thieves of Virtue* seems to offer a clue to the answer:

> There have been other histories of bioethics, other studies of its ideas. Most have been by bioethicists who believe in their demi-discipline and its place in the world. This is an alternate history by an ethicist and gerontologist working in medicine who believes in ethics and philosophy—who believes in principles of care—but not in bioethics. It is at one level a social critique of bioethics, its promises and its premises. At another it engages a critique of bioethics' deployment of philosophy as a legitimating ideal.[237]

It seems to be deeply important to Koch that he is committed to day-to-day health care; that he is in the front line fighting the good fight of medicine to make the world healthier. In tune with this, time after time, he emphasizes the "complexity" of medical reality, how, in practice, this reality has to be the starting point as well as the ending point of engaging in philosophy in this context, and furthermore, how elegant philosophy has to be rejected in the daily routine of health care.[238] In other words, what seems to be proper for Koch in this setting is a kind of *supremacy* of the medical viewpoint over the philosophical, or anything else. Thus, it is the values of classical medical ethics—understood in Koch's exclusive terms—that are the only true values; it is the practical wisdom that grows out of daily *medical* practice that can be the only correct way to apply these values. It becomes understandable, then, that seen from this perspective bioethicists can easily seem like unwelcome outsiders, or intruders, or something worse, no matter what they do.[239] And, indeed, Koch's comment now makes very much sense:

> Mark Kuczewski was wrong when he said bioethicists have been guests in the house of medicine. Rather, they have been strangers camped at the door of a practice whose realities few experienced or understood. As visitors they could have aligned themselves with their hosts' old medical ethic that argued for care

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[237] Koch, *Thieves of Virtue*, xiv.

[238] Koch, *Thieves of Virtue*.

[239] For this theme, see David J. Rothman, *Strangers at the Bedside: A History of How Law and Bioethics Transformed Medical Decision Making*, 2nd ed. (1991; New Brunswick: AldineTransaction, 2003), which is a classic.

as a social duty and an interpersonal virtue. They might have said that each generation must consider how to order relations between the healthy and the sick, the powerful and the weak. Their brief then would have been to mediate the necessities of care within the *realpolitik* of contemporary political wills. Instead what began within the best of liberal sentiments became just another neoliberal instrument that denied its best hopes in the name of an economics whose grounding principle is efficiency and whose focus is future good.[240]

We can easily see here whom Koch considers as the hosts and whom he considers as the guests—if even guests—in health care, in the "house of medicine." But one might reasonably ask this: Who owns medicine, ultimately, who owns health? The fact that, say, doctors were involved in these matters before bioethicists does not, in itself, make it justified to think of the bioethics viewpoint as an outsider—which, in effect, denies bioethics a fair chance to be heard. It is this fundamental truth, then, that appears to have been forgotten by Koch, which in my eyes seems to be the underlying reason he is so agitated about bioethics. In fact, this mistake now appears evident even by looking at the subtitle of Koch's book: "When Bioethics Stole Medicine." *Stole* from whom? Who *owns* medicine? Put differently, despite Koch's seeming sympathetic to the early bioethics—which could have continued on a path that "began within the best of liberal sentiments," had it not fallen from grace—I think he is categorically, and thus unjustifiably, averse to the field, for he has not understood that it is *not* a handyman for traditional authorities in medicine and health, nor should it be. And it does *not* follow from this that bioethics is a handyman for neoliberal policies either—even if it was true that bioethicists have failed to "look upstream from medicine to the social determinants of health and health inequalities and to matters of social justice more generally," as Norman Daniels complained.

But let us move beyond Koch's book in itself and consider its broader implications. What is interesting about Koch's book, and his work more generally, is how it has been received. The reaction has been mixed. It is not surprising that many in bioethics, or those close to the field, have felt that Koch's criticism is quite unjustified and biased.[241] On the other hand, there are also those who laud the book for its candid and sobering revelations about bioethics.[242] For example, in the back cover

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[240] Koch, *Thieves of Virtue*, 254.

[241] For example, see David M. Johns, a review of Koch, *Thieves of Virtue*, *Global Public Health* 9 (2014); Aaron Klink, a review of Koch, *Thieves of Virtue*, *Library Journal* 137 (2012).

[242] For example, see Pravin Thevathasan, a review of Koch, *Thieves of Virtue*, accessed July 3, 2014, http://www.cmq.org.uk/Book-Reviews/thieves-of-virtue.html.

of *Thieves of Virtue*, Denis Wood writes that "[Koch's] painstaking, case-by-notorious-case critique is devastating. His dispassion may not allow him to say it, but I can: as currently advocated, bioethics is simply unethical."[243]

To me, Koch's criticism hardly seems "devastating," if only for the reason that it lacks a sufficient connection with actual reality, to what has actually been said and done in bioethics. Then again, not many know the facts about bioethics; in fact, bioethics, overall, is a strange creature to many. Thus, Koch's story can be easily sold. Koch also taps into the common presupposition that something has gone profoundly wrong in medicine and health care, and that this is the result of some malignant forces—in this case, of bioethicists. Moreover, Koch utilizes the pessimistic moods that currently surround bioethics—for various reasons—to his benefit, too. Lamentably, the end result of all this is that Koch creates a bioethics straw man for everyone to beat.

The bottom line of this case to me is that all this is possible because bioethics is still a relatively unknown field; such unfounded and biased claims could not find much of an audience if they were about more established fields. In other words, to its detriment, bioethics still is, and will continue to be, too vulnerable to prejudiced interpretations. This sorry state of affairs, in itself, then seems to be a significant source of criticism of bioethics.

However, luckily, this is not all. There are also different kinds of critical assessments of bioethics than that of Koch's, and I want to pay attention to those next. For me, Koch's criticism will serve as a warning example of how *not* to conduct criticism, rather than anything else. On the other hand, there will be similarities between Koch's work and other assessments of bioethics, and I will indicate these similarities when I see them—with similar implications than those that I attribute to Koch's work.

4.2   Too Much Impatience with Bioethics

A somewhat benevolent reading of Koch's criticism could conclude that he is simply too impatient to consider all sides of the story of bioethics. Moreover, Koch is not alone in this. His impatience, however quite extreme in his case, seems not to be uncommon among the general assessments of the field. A sign of this impatience of the genre is that typically there appears to be only one clear trait of bioethics that is

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[243] The back cover of Koch, *Thieves of Virtue*.

worthy of being highlighted, in practice, worthy of being praised or reprimanded—usually the latter in current literature. There is not much time for tentative propositions or questions that are left unanswered—in effect, multiple layers and dimensions of explanation—precisely the traits that I hope to be characteristic of this work. In fact, one can already anticipate a criticism here that the reader is burdened with too much theory, too much speculation, too much reading, before presented with the final results, if there are even any "results." But patience is a virtue.

Furthermore, this is not the whole picture of the impatience that seems to surround bioethics. Alternatively, there have, indeed, been rather rounded depictions of the birth and development of the field but they have also been impatient, or fairly restrained, with respect to *expanding* the understanding of the field—going beyond the obvious—something that this study also aspires to do. It is understandable that in the case of bioethics, a fairly young field, such basic assessments are needed, and it is laudable that they are done. Nevertheless, it is also clear they can only make limited contributions to debates about the value and recommended future directions for the field, which are of pressing significance. To put my point simply, perhaps the difference could be best categorized as one between mere *descriptive* historical assessments and those that are *critical*. What I am seeking is the critical, instead of the descriptive.

Moreover, alarmingly, it seems that such basic, or descriptive, work is sometimes done for the wrong reasons; reasons that are based on a misguided understanding of the nature of critical thinking; based on a view that a cultural object of study such as bioethics can be reduced to few simple contextual factors, those of, say, relating to economic settings or ambitions of certain professions. Such factors are surely part of the story of bioethics but they are, in no way, *the* story. It is important to stress that critical thinking, especially in the case of history writing, which is a central component of any general assessment, can never be "just about the hard facts," which is also the reason it should not try *too much* to be that.

Then, particularly the first kind of impatience—one characterized by attempts to oversimplify the story of bioethics in order to reduce it to a single dominant feature, or development—has been well noted also by others. Social scientists and other scholars oriented in this direction have seemed especially well aware of it.[244] For

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[244] I will continue by discussing sociologist Alan Petersen's account of this matter, which, I think, falls into this category. For similar views, look for Fox and Swazey, *Observing Bioethics*; John H. Evans, *Playing God? Human Genetic Engineering and the Rationalization of Public Bioethical Debate*

example, sociologist Alan Petersen writes about this pitfall in his *The Politics of Bioethics*:

> Bioethics histories tend to present a teleological view of history in that the present is portrayed as somehow an inevitable outcome of a series of antecedent events or circumstances. . . . [The proponents of such histories] highlight the novel character of bioethics, and its distinction from earlier forms of medical ethics. These novel aspects include the focus on increased respect for individual autonomy, the creation of new medical technologies, the involvement of actors outside academe (e.g. lawyers, policymakers), the increased focus on allocation of resources, and the secularization of medical ethics.
>   . . . [B]ioethics is seen to involve the incremental accumulation of knowledge about the "rights and wrongs" of policies, practices, and programs, and the gradual uncovering of truth through reason. Problems requiring bioethical reasoning and action arise as a result of the actions of altruistic individuals, or social, economic, and technological changes that predispose to a more progressive view on the institutionalised practices that become defined as problematic. . . . Such histories tend to be descriptive—focusing on particular innovations, events, problems, programs, and personalities—rather than explaining how a particular set of conditions or circumstances predisposed to the emergence of bioethics as a field of knowledge and practice. They mostly lack a sense of the dynamic interplay of economic, political, and social factors in the evolution of knowledge and fail to offer insight into the role played by contending interests in the establishment of policy agenda.
>   Most histories of bioethics arguably serve to buttress the epistemic authority and legitimacy of bioethics, in much the same way as the histories of particular professions, such as medicine and law, serve to confirm their status and power. As such, they do not substantially advance our understanding of why a certain form of reasoning and associated expertise and domain of practice should emerge and become increasingly pervasive in the late twentieth and early twenty first centuries. Less still do they cast light on the conception of society and of the ideal social order that informs interventions.[245]

To my eye, Petersen's critique seems to capture a number of problematic aspects common in general assessments of bioethics; however, I would modify the claim

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(Chicago: The University of Chicago Press, 2002), 174–204; John H. Evans, *The History and Future of Bioethics: A Sociological View* (Oxford: Oxford University Press, 2012).

[245] Alan Petersen, *The Politics of Bioethics* (London: Routledge, 2011), 8–9. In the excerpt, Petersen is partly relying on Kim Little's Master's Thesis, *Making History: Bioethics, Culture and the History of Moral Ideas* (Melbourne: Monash University, 2002).

and argue that as often as serving the end of legitimating the field, these assessment and histories—currently—seek an opposite end, in an equally unconstructive fashion. But this is not my main disagreement with Petersen. To my mind, it seems that even Petersen's criticism, despite all its precautions, falls victim to a potential pitfall in depicting bioethics, namely, to the latter kind of impatience that I lamented earlier—the impatience to look beyond the basic contextual factors surrounding bioethics. As a sociologist, quite understandably, Petersen is fond of all kinds of deep structures that underlie society. Thus, it is the basic building blocks of society—the bread and butter of sociological analysis—that are given the predominant status in his analysis. This, in itself, might not sound unreasonable; however, the problem is that even though Petersen employs terms such as "socio-cultural" and "contextual," it becomes clear that in his somewhat technically-minded analysis there is considerably little room for anything more subtle than the usual clear-cut factors of social studies, such as economy or political ideologies. And eventually, ironically, this way of reasoning also seems to lead, in its own way, to the first pitfall: to unjust simplifications.

In practice, what Petersen ultimately presents is the story that is often heard—how bioethicists, despite their noble intentions, have merely served to legitimize the interests of the powers that be:

> Bioethics is a product of a particular time (1960s and 1970s) and place, namely the US, and reveals the worldview and interests of relatively powerful, Western elite groups. . . .
>
> As critics point out, bioethics concepts and principles reflect a Western liberal view of the world that, in its application, arguably serves to legitimise rather than challenge dominant relations of power. It reflects a historically and culturally specific concept of the human subject—as a rational, independent decision-maker—and of human freedom—conceived as absence of constraint and ability to pursue one's own interests. Bioethics' conception of citizenship is one that became increasingly dominant from the 1970s, namely, that of neo-liberalism. In this conception, 'society' is either downplayed or ignored in favour of the assumed interests of the 'individual'. In the effort to develop abstract universal principles that apply without favour to individuals in similar situations, the notion of the broader public good has been sidelined, and the views and experiences of particular groups (women, people with disabilities, minority ethnic groups, religious minorities) have been excluded. Bioethics' inattention to socio-cultural contexts and to empirical evidence, noted by critics, is reflective of these views on self and society. . . .

. . . What is needed is greater deliberation on the desired ideals of citizen-ship with specification of the rights and responsibilities of different constitu-encies ('stakeholders') in and between societies and acknowledgement of the different interests at stake in science and technology developments. The inca-pacity of bioethics to respond critically and usefully to the challenges posed by the biosciences and biotechnologies has become increasingly evident as developments in a number of fields gain momentum.[246]

To be sure, Petersen is right in his claim that bioethics has, more than once, con-tributed to undemocratic or otherwise questionable ends. Nevertheless, it seems hardly justifiable to reduce an intellectual—eventually, truly cultural—phenomenon such as bioethics to mere power relations, or to such a bleak view of them. Moreover, strikingly—or, tellingly—it is difficult to follow Petersen's argument even if taken at face value, for it lacks a clear definition of what it is ultimately concerned with, namely, "the worldview and interests of relatively powerful," in practice, most of all, *neoliberalism*, which "became increasingly dominant from the 1970s." Rather, what Petersen supplies to the reader is scattered remarks about neoliberalism and its in-fluence. Petersen provides perhaps his most accurate account of the culprit, besides the earlier one, when he addresses the relation between informed consent and ne-oliberalism:

A fundamental problem with clinically-based informed consent as it has been conceptualised within bioethics is that it has emerged within and been shaped by a set of institutional arrangements and practices that have undergone or are undergoing rapid change under the influence of neo-liberal philosophy and policy. In particular, it overlooks the reconfiguration of the relationship be-tween citizens and the state and changes in supportive institutions and policies that have occurred in many countries since the mid-1970s. This includes a greater emphasis on self-governance (e.g. care of the self, individual manage-ment of risk), the "downsizing" of government with a greater reliance on the private sector for the provision of a range of basic services, especially healthcare, and the substantial liberalisation of markets assisted by various pol-icies (e.g. taxation) and programs (e.g. social insurance).[247]

In effect, the problem Petersen sees with current informed consent practice is the following:

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[246] Petersen, *The Politics of Bioethics*, 17–19.
[247] Ibid., 90.

The process of achieving consent has become established over time as a largely routine (i.e. institutionalised) affair; that is, it entails adherence to an agreed set of protocols and rituals (e.g. adherence to research ethics guidelines, the submission of an ethics application to an ethics committee constituting appropriate expertise, the presentation of consent forms and information sheets to participants, the recitation of the "subject's" right to withdraw at any stage of the research, and the "subject" "giving their consent" via the signing of the consent form). In other words, these social arrangements have fabricated and addressed human subjects in quite specific, standardised ways mostly without reference to the socio-political context shaping thinking and action. While this may serve to fulfil established ethico-legal requirements—with due process being seen to have been rigorously followed—it fails to acknowledge the complexity of individual decision-making and the longer-term social consequences of individual decisions. . . . The drive to standardise the process of consent has led to its reification. The routine, reified nature of the process of consent is reflected in the use of particular language—for example, reference to the "consenting" of "subjects".[248]

Once again, I agree with Petersen's lament that informed consent and its processes should be reconsidered, for they are, obviously, far from perfect. On the other hand, there seems to be a short supply of bioethicists of serious nature who would not agree with this. But this is beside the point. The bottom line here is that it is difficult to see how the shortcomings of informed consent, or anything similar in bioethics, necessarily lead to neoliberalism. The main reason for this is that Petersen's picture about neoliberalism remains quite murky after all of his occasional references to it.

Nevertheless, it is possible to see the core of the argument that Petersen is making: that neoliberalism suggests that individuals—imagined, idealized ones—should take precedence over society, and that many policies that have been put in place in the West since the 1970s have tried to ensure this. Thus the conclusion is that the worldview of neoliberalism has more or less reigned, and bioethics, full of individualistic aspects, has been caught in this larger dynamic, alongside other parts of society. Then again, all of this seems too vague to my eye to be something that could be quite so easily reduced to a specific worldview or an interest, or even a set of those—something that would, moreover, be originating from "relatively powerful, Western elite groups."

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[248] Ibid., 92.

To my mind, Western societies are far more complex than this picture suggests: there have been countering trends, too, there have been many conflicting interpretations of the cry for individualism, and there is surely more disagreement among the ranks of the elite, whoever they are. The timing is also problematic, for the aspiration to place individuals ahead of society is hardly a new phenomenon in the West; however, perhaps its success is new. At least it is clearly unmerited to make such claims without further evidence concerning neoliberalism in itself. Furthermore, it seems too easy, indeed a mistake, to attribute much of the failings of bioethics to neoliberalism. First of all, one might reasonably question if all individualistic aspirations in bioethics are necessarily part of the neoliberal agenda; in other words, if it is justified to say that neoliberalism holds a monopoly on individualism in bioethics. Moreover, it seems difficult to believe, if this was claimed, that neoliberalism would be so ubiquitous that it would permeate all the major flaws of bioethicists, or that it would be the central founding reason for the field. Bioethicists are surely capable of making mistakes even without neoliberalism harassing their minds. Finally, if it was true that mainstream bioethics was caught in the web of neoliberalism, it would also be the case then that many in the field lived in huge denial about this—for this interpretation is surely not what an average bioethicist would agree on—thus it seems a little far-fetched.

However, I think that Petersen's vagueness about neoliberalism only masks, and is symptomatic of, a more fundamental mistake that he commits. His mistake is that of a sociologist: as I already suggested, in the case of bioethics, he is discussing something that is ultimately a rich cultural entity—but he is viewing it as a mere reflection of more fundamental societal forces, namely, power relations, understood in conventional political and social terms, those of money, political influence, and the like. There is, indeed, a great debate revolving around the proper understanding and use of the cultural domain, and sociologists traditionally have taken a rather reductionist and skeptical attitude toward everything labeled "culture."[249] Ironically, then, acknowledging this difference in perspectives, between different levels of analysis, at the same time contests and reinforces Petersen's claim. On one level, Petersen's lament about the interests of neoliberalism, or those of the elite, being served by the

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[249] At this point, I do not want to delve into the broad debate about the relationship between culture and other variables of social and human life as I think it is obvious how I see the relationship in this particular case. However, with regard to this interesting topic in general, I urge the reader to see especially Orlando Patterson, "Taking Culture Seriously: A Framework and an Afro-American Illustration," in *Culture Matters: How Values Shape Human Progress*, eds. Lawrence E. Harrison and Samuel P. Huntington (New York: Basic Books, 2000).

field of bioethics start to make more sense. It is arguably true, as Petersen constantly and in various ways suggests, that the influence of powerful advocacy groups has markedly grown, leading to serve some unhealthy "vested interests"[250] in terms of money and political and social sway. This has obviously worked to separate groups and individuals from one another, especially further separating the advantaged from the disadvantaged, the latter being mostly left without powerful spokespeople to protect them. However, that bioethics has been part of this picture, part of societies undergoing such a transformation, does not necessarily make it an accomplice, despite that there are individualistic tones in bioethics, or that bioethics has been utilized sometimes to serve the vested interests of the powerful. Bioethics, then, can equally be seen as a cultural counterforce for such political and social tendencies—one that desperately tries to swim against the tide—as I aspire to demonstrate—even if it was, ultimately, dragged the other way by the current. I want to remind readers that people, and especially their intentions, are not simply hostages to the "iron laws" of economics, politics, and other such forces.

Furthermore, Petersen's sociological analysis seems a little thin to me, which might be the most fundamental reason behind his analytic bias. To be honest, it is not too novel a revelation that such a social change, characterized by escalating political and social division on all fronts, has taken place. To my mind, what would have been more interesting, on this level of analysis, would have been to complicate the picture regarding these deeper political and social forces. Surely, there are various forces of such nature pulling in different directions, and not only one grand movement steamrolling ahead. For example, earlier I suggested that there might be new, and a new kind of, social capital that has begun to materialize and that it has been replacing the void left behind by the destruction of old social capital. Before this, on the other hand, I addressed the dynamics of political order and decay, which, if taken as plausible and fitting to this situation, highlight that changing political order, one losing its old uniform system in favor of more diversified representation, does not necessarily reflect a complete social crisis; rather, it might be a sign of healthy development of democratic institutions, where they attune themselves to incorporate new voices into the political process.

No doubt, both of these countercurrents that I have suggested are, at best, fragile forces. Even if they were taken as existing, they could still run out of steam or turn into antitheses of their promising natures. Despite this, the fact remains that they

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[250] Petersen, *The Politics of Bioethics*, 133.

also embody positive opportunity to turn the tide. In fact, they are more than opportunities, for they serve as an important lesson about the need to genuinely seek novel solutions to current problems. It seems to me that it is often the old political and social structures that imprison our perception about their potential renewal, and it is truly important to keep this in mind here. In other words, we need to bear in mind Putnam's earlier call for "an era of civic inventiveness to create a renewed set of institutions and channels for a reinvigorated civic life that will fit the way we have come to live" as well as his important addition that "what we create may well look nothing like the institutions Progressives invented a century ago, just as their inventions were not carbon copies of the earlier small-town folkways whose passing they mourned."

Keeping this and the other observations now made in mind, I want to move forward. At this point, let me give some directions with regard to what will follow. In this part of the work, my aim has been to review the current debates surrounding bioethics, especially concerning various general assessments of the field that have been suggested recently. Thus far, I have reviewed some predominant features of this discussion, namely, its pessimistic tones as well as its impatience to dig deeper into the intellectual landscape in which bioethics resides. In order to illustrate what I have in mind, I have dissected two books by two authors, Koch and Petersen. During this discussion, I have made some tentative remarks that I will now try to incorporate even more deeply into one another when I proceed to discuss the rest of contemporary debate about bioethics as I understand it.

Then, as a bridge to the rest of my review, I will first delve deeper into a topic that has, at this point, emerged more than a few times, namely, neoliberalism. It was already Koch who accused bioethics of being a servant of the neoliberal dogma. "Modern neoliberal perspectives demand nothing less of its bioethics," he admonished. And again, with Petersen we ended up with neoliberalism. At least according to these two critics, then, neoliberalism is something that is fairly central to bioethics, and perhaps this should be considered in more detail. It might be that even though I have resisted the claims of these two critics, they could still be heading in the right direction. In other words, perhaps others can argue more convincingly that this is indeed the case; that bioethics and neoliberalism are closely bound together. Therefore, I need to investigate this matter more thoroughly, despite having been clearly reluctant to pursue this—or any other similar—path that aims at uncovering something deeply questionable, such as a hidden neoliberal agenda, behind the defects of the field.

4.3   Neoliberalism and Bioethics

Let me try be fair to the critics and attempt to save the neoliberal argument by means of being precise. To me, the most plausible way to sustain the connection between neoliberalism and bioethics is to begin by concentrating more or less solely on the concept of autonomy, and respect for it, which, as noted before, has been at the heart of bioethics since the early days of the field—without which it would be hard to make sense of much of bioethical debate, or, of bioethicists' calls for resisting physician paternalism. To connect with the earlier discussion, we could see autonomy here as a restricted case of individualism in bioethics; and to limit matters even more, we should recognize that what is at play at this point is not the concept of autonomy in its totality but rather its application in the domain that bioethics is concerned with, namely, life sciences. In this case, then, the focal point is obviously the question of patient autonomy, or, patients' right to self-determination with regard to their care—something that bioethics has been adamantly demanding and defending from the outset.

Here, then, we could potentially see that bioethics has run amok: by overemphasizing and oversimplifying the concept of autonomy, a concept that has a rich and complicated history behind it; in other words, we could conclude that bioethics has, in its own way, *impoverished* discussion about autonomy. The reason for this would presumably be, judging by our previous account of the early days, a somewhat innocent overreaction to physician paternalism. Moreover, as our second step we could then see that by overemphasizing and oversimplifying the concept of autonomy, bioethics has opened the door for neoliberal agenda to infiltrate life sciences with its help, by—mostly unconsciously—interpreting autonomy, a bioethical key concept, in line with the—assumedly—overly individualistic tenets of neoliberalism.

In effect, this is a denial of the claim that there has been a neoliberal conspiracy behind bioethics, or that the worldview of neoliberalism has come to dominate bioethics, as both explanations as a whole seem a little far-fetched. Instead, this is a claim that bioethical debate about autonomy has been, *largely in itself*, impoverished and that this fault has then only found a natural ally and exploiter in neoliberalism—which has slowly but surely extended its dubious reach over various corners of society. To put all of this simply, we could call this line of explanation the "impoverished autonomy in bioethics" argument, instead of the "hidden neoliberal agenda" thesis introduced before, the main difference being that of the name, or locus, of *the main culprit*.

In order to prove this argument, then, it is necessary to find evidence for the two important steps now taken. First, one naturally needs to prove that the concept of autonomy has been impoverished in bioethics. For this claim, it is not hard to find supportive voices: as we will see soon, many have argued that this development has indeed taken place. This does not, however, necessarily mean that these voices are right about the matter. Second, if this was the case, we would need to establish a proper connection from this finding to neoliberalism—whatever we perceive this ideology or policy to be in closer examination. Some important questions arise. Has neoliberalism exploited this presumed weakness of bioethics? In practice, has bioethics systematically failed to "speak truth to power" in important decisions made about life sciences as a result of this unwelcome influence? Many have noted that bioethicists have often been surprisingly silent with regard to implementing "neoliberal policies," even if not completely supportive. Why has it been this way? Why has bioethics not done more to resist neoliberalism? These are good questions, we will reach them in a moment. But first, let us ponder our first step: the concept of autonomy in bioethics.

The perversion of autonomy

Williard Gaylin, a co-founder of the Hastings Center, together with another established name in bioethics, Bruce Jennings, have written a balance-seeking book about the state of contemporary America, especially about its health care, with a very indicative title, *The Perversion of Autonomy: Coercion and Constraints in a Liberal Society*. In the book, Gaylin and Jennings especially lament the current state of medical ethics, which places too much weight on the value of autonomy:

> In dealings between professionals and clients, a conscious concern for autonomy has led clients to demand a much more active and controlling role. Nowhere is this more evident than in the practice of medicine, where an ethical and legal emphasis on the patient's right of "informed consent" has supplanted the days of benevolent physician paternalism.
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> It is easy to see the ways in which this represents a gain; individuals are better protected from the exploitation inherent in the unequal power of the professional-client relationship. It is less easy, but no less important, to see what has been lost. Professional beneficence and dedication to the well-being of the client has suffered considerably from the recent autonomy-oriented and adversarial atmosphere. This loss is particularly apparent in medicine, where informed consent—the patient's right to know the diagnosis and to decide

upon treatment options—now reigns supreme. Today it is in fact the leading principle underlying modern medical ethics in this country, although not in others. In more homogeneous Sweden, where trust between physician and patients was a given, informed consent has had little sway until very recent times.[251]

Gaylin and Jennings prefer to use the term "medical ethics," but it is obvious that they are, in effect, using the term synonymously with bioethics. Tellingly, on the later pages of the book they acknowledge that:

> Autonomy has been the rallying cry within health care for patients' rights movements, particularly in the area of women's health. It has also been at the center of our field of study, bioethics, where the principle of autonomy or self-determination has been used most forcefully to bring about changes in the way medical research on human beings is conducted and also to change the assumptions and expectations underlying the physician-patient relationship.[252]

Thus, the broad outlines of the position of Gaylin and Jennings seem clear: among other topics, the issue here is indeed bioethics and its excessive reliance on autonomy, which is manifest in various prevalent claims for personal freedom and liberty. At the same time, throughout the book, the authors constantly underline that they are addressing the peculiarities of *American* culture, as we could see with the reference to Sweden earlier. Despite this, it seems to me that much of the core of their criticism can easily be taken to be applicable to the whole field of bioethics—at least as it stands in the Western world. To be sure, autonomy occupies a prime place in America, but it is not unusual in contemporary discussions in other Western countries either.

The reason I have introduced this book is that I want to start my deeper investigation of autonomy in bioethics by looking at what the book has to say on the subject. The book, then, makes a compelling point with the help of a number of touching and illustrative real-life cases that an overemphasis on autonomy has harmed in numerous ways the practice of medicine, especially the delivery of health care, alongside the rest of society—this is something which naturally connects directly to bio-

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[251] Williard Gaylin and Bruce Jennings, *The Perversion of Autonomy: Coercion and Constraints in a Liberal Society*, revised and expanded ed. (1996; Washington, DC.: Georgetown University Press, 2003), 49–50.

[252] Ibid., 213.

ethics. For example, the book tellingly begins by recounting the tragic case of "William Black, a fifty-five-year-old homeless man, [who] lived with his friends Bobby Tunkins and Lala Wigfall under the scaffolding at 113th Street and Amsterdam Avenue in Manhattan, just across the street from St. Luke's Hospital."[253] The story goes as follows:

> They made their living scavenging cans and bottles and collecting the deposit money. A good day would bring in ten dollars and keep them stocked with beer and wine.
>
> Pop, as his friends called him, was born in Baltimore, the son of a steelworker. As an adult he held various jobs, and he was married, with two children. In the mid-1970s he became unemployed, started drinking, and had some trouble with the law. His marriage broke up. In 1977 he moved to New York to work in a factory with his younger brother. In 1980 the factory closed. Life went downhill for Pop Black after that, and by the late eighties he was living on the streets.
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> On the morning of October 17, 1994, Mr. Black was making his rounds collecting cans when he complained of feeling achy and began to cough up blood. By late that afternoon he was too sick to move, so Mr. Tunkins left him sitting on a sidewalk grate and went across the street to the hospital to get help. There he was informed that hospital policy prevented any doctors or nurses from leaving the emergency room. "That would be counterproductive to the mission of the ER, confusing and a waste of time," a hospital spokesperson later said. Tunkins was told to call 911. An ambulance responded about seven minutes later.
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> At this point stories conflict. Tunkins believes that Black was delirious and did not know where he was or what he was saying. The EMS technicians believed that Black was lucid and reported that he refused medical assistance. They left him where he was. "We don't have a mechanism in place to force someone to go to the hospital," an EMS official said later. "He was an RMA—refused medical attention."
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> Shortly after seven o'clock the next morning Mr. Tunkins and Ms. Wigfall found Pop Black unconscious and called EMS again. After some delay the ambulance crew arrived and pronounced him dead at 7:37 A.M. But they still did not pick him up; other arms of the city bureaucracy are in charge of that. Normally a dead body on the street is removed as quickly as possible in New York City. However, that morning was a busy one and Pop Black lay on the sidewalk in death for four hours, as he had done for the final fifteen hours of his life. "The thing about William," his brother told a reporter from the *New*

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[253] Ibid., 1.

York Times, "was that he fell from grace." Just so. However, his autonomy, his right to RMA, was respected to the end.[254]

For Gaylin and Jennings cases such as this present a test of our deep morality. At the same time, they also offer their evaluation:

> Did we fail this test? William Black's story is particularly significant because it symbolizes one of the deepest moral and emotional divisions of our time. Virtually everyone to whom we have told this story responds with shock and sadness. A moral common sense, we believe, is still widespread in America, and it reacts almost viscerally to situations like this. Common sense tells us to reach out to those in need, to step up and take charge of a situation when we can clearly see disaster impending or needless hurt coming. Or course William Black should have been given medical attention. Of course the hospital across the street should have been open to him, and someone, somehow should have gotten him there. Of course.
>
> On the other hand, many people we have talked to about this incident shake their heads ruefully and say that they can understand exactly how this kind of thing happens. They appreciate the pathos of Pop Black, but they think the EMS policy of letting individuals who refuse medical assistance alone is the best the city can do. They recognize that paternalism is a dangerous thing, especially when officials of the state, like EMS workers, exercise power over adults, supposedly for their own good.
>
> What are EMS officials to do? They encounter strange, irrational, self-destructive behavior every day. Common sense can be overwhelmed by circumstances. In this case, the public policy response is to err on the side of a person's autonomy, even if the foreseeable result is that a person who could have been saved will die. Moral common sense is exasperated by that response— considers it a scandal, an outrage.
>
> Moral common sense would have us reach out to help, to do what it *knows* is right, without the nitpicking and quibbles that so exasperated G. E. Moore. It respects the humanity of others by sensing connectedness with them and with their vulnerability.
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> In our society the counterbalancing current to this moral common sense is respect for the personal liberty of the individual. This liberty consists in the right to live your own life in your own way; in the words of Justice Louis Brandeis, it is the right to be let alone. William Black's life was not unworthy

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[254] Ibid., 1–2; see also N. K. Kleinfield, "Everyone Followed the Rules, but a Man Died," New York Times, October 23 ,1994, 37–38.

of life; his humanity was not unworthy of respect, concern, and care from others. But then, neither was his life unworthy of freedom.[255]

It is obvious that autonomy has run amok here, as it has clearly done on many other occasions in the domain of bioethics, too. But exactly what conclusions should we draw from this remains unclear. Is it medical ethics, or bioethics, which is at fault here? In other words, are such failures primarily caused by prevailing ethics in general—or by something else, such as politics that dominates ethical inclinations—or both equally? And what about neoliberalism, could we attribute such tragic outcomes to its supposed reign?

Let us begin with the most ambitious of these claims, namely, the last one. We then take a look at what Gaylin and Jennings suggest regarding this. According to them, the evidence indeed points in the direction of something that we have been calling neoliberalism—a powerful political force, or current, that has demanded ever more individualism. However, instead of the term, or a single source of this phenomenon, they refer to various different parties who have contributed to this end. Most of all, they highlight "many powerful movements on the right wing of the ideological spectrum," such as "economic conservatives [who] extol the virtues of free market competition; philosophical libertarians [who] defend private property rights and resist government taxes; and most uncompromising of all, militant anarchists, such as the citizen militia groups, [who] seem to reject any form of governmental or social authority."[256] Besides these right-wing movements—which, according to Gaylin and Jennings, seem merely to be the tip of the iceberg of a broader antigovernment mood, although an important part of it, undoubtedly—they name others, too. They particularly note the existence of "the intellectual 'new' left, based now almost entirely in university and academic settings and having no significant political constituency of its own, [a movement that] has displaced the 'old' left of the labor movement and working-class solidarity."[257] They claim that "since the 1960s, the new left has embraced autonomy every bit as tightly as right-wing libertarianism," concluding that "what holds these strange ideological bedfellows together in this bewildering transitional period is the ideal of autonomy."[258] Thus, at least in the eyes of Gaylin and Jennings, we seem to have a body of clear political culprits that has,

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[255] Gaylin and Jennings, *The Perversion of Autonomy*, 3.

[256] Ibid., 50.

[257] Ibid., 68.

[258] Ibid., 68.

to a large degree, quite consciously helped to bring about the current deplorable situation. But then again, what truly is this situation, intellectually speaking?

To put the discussion into perspective, Gaylin and Jennings also note in the book that autonomy in itself is nothing new in American culture[259]; furthermore, they note that autonomy is a natural component of any desirable political make-up[260], and that it does not necessarily imply overly individualistic, or egoistic, behavior[261]. However, they still insist that autonomy has been overemphasized during the post-war era—in fact, an unhealthy and all-pervasive *culture* of autonomy has emerged—ranging from politics to ethics, and basically to all corners of life—which has then led to deplorable outcomes in many respects. A monster has been created: an overly individualistic concept of autonomy has come to reign, and thus autonomy has become a disruptive and destabilizing force in society by encouraging egoistic and often shortsighted behavior.[262] They primarily seem to blame the forces that were mentioned before for this result—for, according to Gayling and Jennings, it is the one-sided language and imagination of these forces that have captured public discourse. The remedy is, then, natural: what is proper and needed is not only individualistic autonomy, or freedom, *but also* a balancing fulfillment of "the promise of civic community and mutuality that courses through the Western political tradition."[263]

But are Gaylin and Jennings on solid ground here? And what should we make of their account? First of all, to my mind, they are largely on the right track with their rich analysis: an overly individualistic and dominant concept of autonomy appears to have indeed invaded the political, moral, and ethical aspects of public imagination to an unhealthy extent. The strength of their account is that it is clearly culturally-oriented, thus leaving room for a nuanced analysis—unlike the depictions introduced before, which merely lamented individualism and neoliberalism as some kind of blunt instruments—of, culturally speaking, mostly outside origin—that were wreaking havoc on bioethics and society at large. However, this is not the only reason that I have paid so much attention to the book by Gaylin and Jennings. The second reason is that it seems to depict a certain understanding that often surrounds bioethics fairly well, namely, one that claims—based on such cultural, or social, analysis—that

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[259] Ibid., 51–54.

[260] Ibid., 44–46.

[261] Ibid., 72.

[262] For example, ibid., 72–74.

[263] Ibid., 268.

bioethics is indeed too individualistic and that this is closely connected with the concept of autonomy, and—often to a lesser degree—with the prevailing political climate, which could be at least partly identified as "neoliberal." In fact, the analysis presented by Gaylin and Jennings could be taken as a somewhat standard criticism in this genre. Then again, this does not mean that they are completely correct. In fact, I also disagree with them, along with others who think in this way.

We need to return to the questions that I presented before in order to show what is problematic about their account. I acknowledged previously that autonomy has run amok in life sciences on many occasions, especially in the context of health care. I then asked if these failures were primarily caused by prevailing ethics in general, or by something else, such as politics that dominates ethical inclinations—or both equally. Besides these broad questions, I especially wanted to pay attention to the question about the potential influence of neoliberalism. Now, then, we have seen how these questions have been answered by Gaylin and Jennings, among many others who have seriously investigated the field of bioethics. To put it simply, the answer has been found in the identification of an all-encompassing *culture of autonomy*, which has originated especially from the political sphere and which has then pervaded bioethics among many other aspects of society—not directly but rather indirectly, with the help of the language and concepts that have impoverished the political, moral, and ethical aspects of public imagination. The problem with this answer, however, is that it *subsumes* too much under the same category.

In order to illustrate what I mean by this claim, let me draw an analogy between this and another case: A certain kind of discussion often emerges after something serious has happened, caused by religious zealots who commit fanatical acts that cause a lot of social disruption, such as suicide bomb attacks in public places, and of whom are usually relatively few. In this discussion, many members of the public, enraged by these acts—say, for example suicide bomb attacks—are tempted to demand that the religion that motivated the zealots to carry out their attacks is not only deeply questioned but resisted; in practice, that everyone who closely adheres to the religion in question should be stigmatized and suppressed in various ways. What happens here is that everything is *subsumed* under one category. Then, it does not usually take long after these demands for someone to point out that believers in a particular religion are not homogeneous; not everyone will support or commit fanatical suicide acts. The earlier act of subsuming will be refuted. Furthermore, with many religions and with all the major world religions, it is often reminded that most of their sacred texts along with their major interpretations condemn such fanaticism.

Nevertheless, despite this, the damage is often already done and stigma and discrimination will live on, and much of what happens then will be influenced by these.

Now, one might wonder what this has to do with bioethics. The answer is that I see bioethics, to some degree, as a victim of such condemnatory and biased thinking. In other words, often when critics are heaping blame on bioethics because of problems with autonomy, they are barking up the wrong tree. My claim is that the criticism in this case is misdirected: it should rather consider the religion—bioethics—than its autonomy zealots, so to speak. If this would happen, the picture would be different.

To be sure, autonomy has had a central place in bioethics since the very beginning of the field. During the post-war decades, the cry for autonomy was, evidently, a large part of bioethics; moreover, this took place in very individualistic terms. It was demanded that everyone's voice had to be heard when decisions were made in life sciences, especially when life sciences were implemented in health care—which arguably was not the case before. But surely this cry for inclusion and open-ended discussion was reasonable at the time—it is difficult to see a connection between this and anything overly individualistic, such as something that has now been referred to as neoliberalism. Furthermore, what has happened since the early days is that bioethics has been indeed successful in its claim: autonomy and individualism increased; patients and research participants, professionals in life sciences, and everyone else were given considerable latitude. What also happened was that some, in fact many, began to exercise their newly acquired freedom in ways that were clearly unreasonable to others. And, in this sense, an unhealthy "culture of autonomy" was born at the same time. But was this the fault of bioethics? And why exactly has this all gone to such excesses so frequently?

I argue that this outcome is not actually the fault of bioethics, at least not if this claim is based on arguments presented thus far. Bioethics merely did what was the right thing to do: it aspired to secure everyone a fair chance to be heard, and for this to happen a clear emphasis on autonomy and individualism was needed. The reason that autonomy has run amok, then, lies primarily elsewhere. To me, the reason seems to reside in that not many were used to having such freedom; society did not have much experience of it, and because of this lack of experience society was not prepared to handle the situation very well. The problem is, in other words, most of all, *a practical one*. The good news is that this setting can improve over time—the bad news is that this can presumably happen more or less only by muddling through all the mistakes that the new freedom provokes. On the other hand, there is another potential path to follow: autonomy and individualism can be taken away, which also

eliminates the problems that they cause. But to me this sounds like throwing out the baby with the bath water—a very important baby indeed. I also wonder how many would truly want to take this route. And if we do not want to take this route, as I assume, we just have to try to fare better with autonomy and individualism, both of which inevitably occupy a central stage in an open and inclusive cultural landscape.[264]

Thus, I conclude that it is dangerous to merge everything, bioethics, autonomy, individualism, and neoliberalism, together in a very straightforward manner and then blame bioethics for all that has gone wrong at *a practical level*. To be sure, neoliberal attitudes, or something in this vein, have had an impact on the way bioethical discussions have been conducted in everyday life. However, this does not mean that it is neoliberalism, or something similar, that has impoverished or corrupted bioethics—or related in any reasonable way too much to the field—or that there would necessarily be anything impoverished or corrupt in bioethics' call for more autonomy and individualism. To put it simply, it does not seem to be bioethics' fault that society has struggled to cope with autonomy and individualism, with the freedom that it has finally acquired.

This is not all. The case is still far from being settled. Even though it now seems obvious that many of the complicated issues of autonomy and bioethics could rather be malleable practical problems than flaws relating to bioethics *in itself*, this does not overrule the possibility that the conception of autonomy that bioethics has advocated might still be impoverished at its core: too individualistic; or at least too permissive in this regard. And if this was so, it might even turn out that this was partly because of the influence of neoliberalism, or that this was in some other way connected with neoliberalism, after all—even though I have refuted this intellectual connection on several occasions already. Thus, let us leave behind the theme of the "perversion of autonomy," and delve deeper into this new topic.

Autonomy and trust

Possibly the most frequently cited recent philosophical critic of autonomy in bioethics is Onora O'Neill. The revered British philosopher has taken a careful look at the

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[264] For studies that seem to reach somewhat similar-tempered conclusions, and which then also address this problematic ethical and social landscape in detail from such a perspective, see Carl E. Schneider, *The Practice of Autonomy: Patients, Doctors, and Medical Decisions* (Oxford: Oxford University Press, 1998); Alfred I. Tauber, *Patient Autonomy and the Ethics of Responsibility* (Cambridge, MA: MIT Press, 2005).

topic, sometimes more, and sometimes less, directly in various books: *A Question of Trust*; *Autonomy and Trust in Bioethics*; *Rethinking Informed Consent in Bioethics*.[265] Based on all this, I think it is reasonable to assume that we can acquire a fairly good general understanding of the philosophical aspects of the matter by following her thinking on it—and this is indeed the direction I will now pursue.

First of all, O'Neill affirms the accusation of excessive individualism, tracking it down to its deep intellectual origins in bioethics:

> The claims of individual autonomy, in particular of patient autonomy and reproductive autonomy, have been endlessly rehearsed in bioethics in recent decades. By themselves, I have argued, conceptions of individual autonomy cannot provide a sufficient and convincing starting point for bioethics, or even for medical ethics. They may encourage ethically questionable forms of individualism and self-expression and may heighten rather than reduce public mistrust in medicine, science and biotechnology. At most individual autonomy, understood merely as an inflated term for informed consent requirements, can play a minor part within a wider account of ethical standards.[266]

Furthermore, O'Neill stresses the point that it is usually a very particular kind of conception of autonomy that is behind such lamentable thinking—for there are many different possibilities for interpreting what autonomy actually is:

> Despite this proliferation of conceptions of autonomy, there is probably more agreement about it in contemporary bioethics than elsewhere. In bioethics, and in particular in medical ethics, autonomy has most often been understood as a feature of individual persons. It is generally seen as a matter of *independence*, or at least as *a capacity for independent decisions and action*. This conception of individual autonomy sees it as *relational*: autonomy is always autonomy from something; as *selective*: individuals may be independent in some matters but not others; and as *graduated*: some individuals may have greater and others lesser degrees of independence. . . .
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>   It is, I think, no great mystery that autonomy should have been understood as a matter of individual independence in and beyond bioethics for some decades. Yet if autonomy is a matter of independence, it is very easy to see why

[265] Onora O'Neill, *A Question of Trust* (Cambridge: Cambridge University Press, 2002); Onora O'Neill, *Autonomy and Trust in Bioethics* (Cambridge: Cambridge University Press, 2002); Neil C. Manson and Onora O'Neill, *Rethinking Informed Consent in Bioethics* (Cambridge: Cambridge University Press, 2007).

[266] O'Neill, *Autonomy and Trust in Bioethics*, 73.

it bears hard on relations of trust. Independent people may be self-centred, selfish, lacking in fellow-feeling or solidarity with others—in short, the very people in whom one would have least reason to place trust and who might encourage a culture of mistrust. Alcibiades was splendidly autonomous, and betrayed all the trust placed in him. Once we interpret autonomy *simply* as independence from others, or from others' views or their preferences, the tension between autonomy and trust is unsurprising. Trust is most readily placed in others whom we can rely on to take our interests into account, to fulfil their roles, to keep their parts in bargains. Individual autonomy is most readily expressed when we are least constrained by others and their expectations. Trust flourishers between those who are linked to one another; individual autonomy flourishes where everyone has "space" to do their own thing. Trust belongs with relationships and (mutual) obligations; individual autonomy with rights and adversarial claims.

If we are worried about loss of trust, we may wonder whether and why individual autonomy should now be so much admired.[267]

According to O'Neill, this current individualistic fervor, which undermines valuable trust in society, largely stems from something that could be called the "Millian approach," according to John Stuart Mill, although O'Neill mostly avoids using this label. Nevertheless, O'Neill makes it clear that in her eyes the prevailing, and flawed, thinking about autonomy in bioethics fundamentally shares a lot in common with what Mill thought. In her view, the problem, then, is that Mill relied on a particular—naturalistic—view of human action, which is a position that can be, and has been, strongly contested—and the same usually goes for many current advocates of individualistic autonomy, too, regardless of them acknowledging their resemblance to Mill or not.[268]

Put short, the naturalistic position, or proposition, that is targeted here is that individuals are able to connect with their deeper nature in a meaningful way, with their "character," which consists of, for example, their deeper desires and beliefs; something that originates from themselves rather than from surrounding society or culture. The claim is that individuals are fundamentally *independent*. This underlying assumption demands that individual autonomy should be politically and socially protected, for it allows each individual to embrace her inner character. Moreover, this is not only beneficial for individuals themselves but eventually for the well-being of humankind, too. Herein, then, lies the serious justification for endorsing individual

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[267] Ibid., 23–25.
[268] Ibid., 28–34.

autonomy; it is not about mere choice, which sounds too arbitrary to many, but rather about endorsing profound independence that is claimed to be an essential component of the human condition, and flourishing. This can sound tempting because of all its positive connotations, but as O'Neill suggests in her own way, one might justifiably ask just how much of our characters is truly of our own creation. In other words, how deeply can we *truly* be independent in this sense?[269] To illustrate the problem, O'Neill offers a telling story:

> One of my students illustrated this rather well at about the time that I first encountered bioethics. She joined a group of male students in welcoming spring weather to New York City, only to have the Columbia University student newspaper publish a photograph of them streaking across Broadway. I asked her why she had done it, and she told me that she felt that she had finally proved that she was autonomous. It was clear enough that her action was independent in some ways, although possibly not in others (did she not defer to male initiative?). She may well have been thinking that she had now shown herself independent of her parents, or of social conventions. However, this sort of independence doesn't invariably have merit. . . . Presumably there has to be something over and above mere, sheer independence that has made appeals to individual autonomy so attractive and ubiquitous in contemporary bioethics.
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> Some sociologists of medicine have suggested that the appeal of autonomy, understood as individual independence, in medical ethics is that it gives only the *illusion* of challenging professional authority, while *in fact* leaving that authority largely intact. The autonomous patient is not actually going to be allowed to determine his or her own treatment. He or she is only going to be allowed to accept or refuse treatment proposed by professionals: the cash value of what is termed "patient autonomy" is a right to refuse treatment that is offered, a right that is costly to exercise where there are few or no other options of treatment. . . .
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> I do not, of course, want to suggest that patients' rights to refuse are unimportant. But where options are few, where cognitive and decision-making capacities are limited, procedures of informed consent may become a burden or a ritual, and ideas of "patient autonomy" may seem more inflationary than liberating. If autonomy is really fundamental to bioethics, we need an ethically more convincing account of autonomy.[270]

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[269] Ibid.

[270] Ibid., 25–27; see also O'Neill, *A Question of Trust*, 85–87.

To answer this call, O'Neill then develops a clearly socially-oriented conception of autonomy that she calls "principled autonomy." The conception is influenced by Kant, and it is intended to stand in a clear contrast to the individualistic Millian framework:

> Principled autonomy requires that we act only on principles that can be principles for all; it provides a basis for an account of the underlying principles of universal obligations and rights that can structure relationships between agents.
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> A primary focus on interaction and relationships, on obligations and rights, does not prevent those committed to principled autonomy from assigning due—but no more than due—weight to individual autonomy. Without some capacities for and some use of individual autonomy (variously interpreted) agents will lack the resolution and the self-confidence to fulfil their obligations and to respect one another's rights. Acting with principled autonomy needs a modest capacity for individual autonomy; but that necessary minimum is only one minor aspect of principled autonomy.[271]

The conception is fairly challenging. To be sure, "principled autonomy" is quite theoretically-oriented; the core idea of the conception might be somewhat difficult grasp intuitively because of the heavy Kantian philosophical arsenal behind it— which might be a serious problem. Furthermore, the conception places much weight on mutual obligations, which might be seen as unrealistic. For example, O'Neill writes that her conception will particularly entail, among other things, "a commitment to reject deception [that] will have many implications"[272]:

> It will be expressed in refraining from lying, from false promising, from promise breaking, from misrepresentation, from manipulation, from theft, from fraud, from corruption, from passing off, from impersonation, from perjury, from forgery, from plagiarism and from any other ways of misleading. More positively, it will be expressed through truthful communication, through care not to mislead, through avoidance of exaggeration, through simplicity and explicitness, through honesty in dealing with others, in a word, through trustworthiness.[273]

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[271] O'Neill, *Autonomy and Trust in Bioethics*, 96.

[272] Ibid., 98.

[273] Ibid.

It seems excessive to demand for this in everyday life, although O'Neill allows for rather reasonable limits. Particularly, her conception seems to demand a lot of *trust*. However, perhaps something to this end can be achieved, this at least seems plausible if O'Neill could offer, or sketch, some tangible ways to achieve this end. And indeed O'Neill strives to do this with the help of a myriad of cultural and institutional suggestions.[274] To put it simply, her main argument in practical terms is that "principled autonomy" is as *conducive* to trust as it is clearly *demanding* in this respect—especially as it seeks to avoid undermining trust unnecessarily, unlike the Millian approach. O'Neill concludes:

> If we take principled autonomy seriously we must also take obligations to reject deception seriously; and once we take the rejection of deception seriously we will have reason to build—or rebuild—institutions that help us to discriminate between cases. In building those institutions and practices we would foster rather than undermine relations of trust, and would allow individual autonomy its due place, but no more.[275]

Now, I do not want to delve deeper into O'Neill's arguments, for her theoretical framework has become clear at this point. The claim has been that bioethics is largely influenced by an overly individualistic conception of autonomy, one that has its roots in a kind of thinking that dates back to the days of John Stuart Mill. With this claim, O'Neill, for her part, has affirmed our suspicion: that bioethics—in itself—is, indeed, influenced by undue individualism—one that reaches down to its very intellectual core, and one that is presumably not too far away from the neoliberal call for more individualism, even if bioethics was not necessarily a product of this call.

But is O'Neill right about the matter? It seems to me that a closer inspection of her claim reveals several troubling sides to the story, and thus I have to differ about her diagnosis. First of all, her account seems to neglect some vital aspects of bioethics that relate to its practical context. One of these is the *gravity* of the situation that bioethics has aimed at challenging from the very beginning of the field, namely, undue medical authority over patients and research participants, which has usually manifested itself in the guise of benevolent physician paternalism. In this, bioethics has indeed been "relational," in O'Neill's terms, for it has sought to free many from such situations that have clearly *not* been providing much autonomy, in any meaningful

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[274] See also O'Neill, *A Question of Trust*; Manson and O'Neill, *Rethinking Informed Consent in Bioethics*.

[275] O'Neill, *Autonomy and Trust in Bioethics*, 192.

sense of the word. My claim, then, is that even though O'Neill seems to welcome, to some degree, this challenge that has been presented by bioethics, she still fails to grasp the full scope of the severity of the context and what has been needed to turn the tide.

Tellingly, a closer look at her previous story about the streaking female student now reveals new aspects: O'Neill suggested, or hinted, that surely this kind of action—streaking across Broadway with male students—was something that would make us to question whether autonomy, or independence, invariably has merit. Perhaps so, but equally well the act of doubt here—in fact, the act of tacitly moralizing, which is easily recognized—can be taken as something that underlines the need for space, even considerable space, for independent decisions that one feels are in tune with her autonomy—these could very well be the kinds of decisions that someone else will find morally inappropriate. One could reasonably ask: what would be the serious alternative to such latitude? Moreover, curiously, it is only the female who is reprimanded here, being seen as the one who just quite possibly deferred "to male initiative." As we are now judging the way autonomy was exercised in this case we could ask if this kind of strange bias secures a fair deliberation about *her* autonomy as well. Lastly, we should remember that O'Neill is writing and arguing about autonomy in *bioethics*, which deals with topics such as patients who make decisions about their life and death. It is then hardly helpful to draw analogies between such serious questions and streaking.

This somewhat nitpicky example that I have dissected only highlights a broader flaw that I see in O'Neill's account: it does not appear to take gravely enough the fact that the autonomy of patients and research participants was, and still is, potentially *seriously* jeopardized by the exclusivity of the medical profession and its tendency to have a monotone voice in this regard, or at least a legacy of this conduct, which can easily provoke new kinds of similar monotonies. Against this practical backdrop, it seems clear to me that we cannot so *easily* assume any superior position of knowledge and evaluate when and how autonomy in itself, as a value, is appropriate and when it is not; this knowledge is not readily accessible for medical professionals, or philosophers, or anyone else. Then, to engage with this topic properly it appears necessary to have a lively field of inquiry that is *genuinely* open-ended and inclusive—an ongoing endeavor—and in my mind, to pursue this very end, among other things, bioethics as a field was indeed established. Revealingly, then, O'Neill does not even recognize the field or give much weight to its origins as an independent entity—a development that I have in contrast characterized as a somewhat radical breakthrough from the established medical ethics of the time, which was a line

of ethics that seemed rather restricting of such open-ended and inclusive debate for which bioethics called. For example, the reader will find an outright refusal of this thinking that I have advocated on the opening pages of O'Neill's book *Autonomy and Trust in Bioethics*: "Bioethics is not a discipline, nor even a new discipline; I doubt whether it will ever be a discipline."[276]

But what if, contrary to this, bioethics was indeed a new discipline, something genuinely new, something that was more than the sum of its parts, something that was different from the aspects that it shares with other fields: a unique entity. In its full scope, what could this claim entail? With this question, I want to highlight that to me it seems that bioethics was not, after all, only a practical reaction to its environment but something even more: perhaps a new intellectual challenge and a radical social movement. Thus, I disagree with O'Neill about more than only about the practical environment surrounding bioethics.

We can benefit of the groundwork that was done before when illustrating this: the lengthy discussion of political philosophy and of research on social capital, among other topics, that I conducted earlier. Intellectually speaking, then, it seems that the birth of bioethics is closely related to something that was embodied in what I have termed the "Rawlsian turn." In its broadest sense, this was an intellectual attempt to be open to various viewpoints, moreover, it was an attempt not only to be open but to incorporate these viewpoints together with the help of new theoretical constructions, and eventually, a new kind of language. Socially speaking, on the other hand, it appears plausible to think that bioethics was among those kinds of social movements that Robert Putnam, and many others, have called for: one that not only sought to diminish social capital that maintained the old social order but one that also—even if only unconsciously—aimed at creating a new kind of social capital and social order related to it, which would be characterized by social inclusivity. New social capital here, then, would be the glue that would hold different voices together, and moreover, something that would ultimately provoke new thinking. In other words, mere intellectual revolutions are not meaningful or powerful if people are not socially motivated, or, *empowered*—and united—by them.

This is at least what I have hypothesized and proposed; something that appears to be a real possibility. But none of this is manifest in O'Neill's thinking. To me, then, O'Neill's claim about a kind of Millian fixation on autonomy in bioethics seems somewhat thin: it seems that she cannot see the wood for the trees. To be sure, on

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[276] Ibid., 1.

some level, a Millian way to conceive autonomy might very well reign in bioethics, and this can also be deplorable, but it is important to see the larger picture: bioethics offers the possibility for a Millian approach as it offers possibilities for other, and considerably different, interpretations, too. In fact, O'Neill's own position only reflects this considerable room for *various* possibilities of interpretation, of which there are, in fact, many. In practice, she challenges as well as supplements the way autonomy is conceived in bioethics. In Rawls' philosophical terms, O'Neill participates in a reflective equilibrium that balances between different claims and seeks a proper way to establish autonomy in bioethics. The constantly evolving result of this equilibrium is something on which no-one completely agrees, rather, it is something on which everyone can still reasonably agree. Not rationally, but *reasonably*. Then, herein appears to lie, in effect, the true and deepest autonomy that bioethics advocates. One can ask if such a dialogue was possible when the doctor knew best, in the era before bioethics.

All in all, after this philosophical inquiry, it seems clear to me that the conception of autonomy in bioethics is *not* impoverished after all, even if it easily appears so on the surface. Indeed, bioethics as a field is evidently quite permissive of various interpretations in this regard, it even encourages this, which, in itself, is hardly a problem, quite the contrary. Thus, at this point, as the impoverished autonomy thesis seems to collapse, we can finally ask if our starting point, the criticism of bioethics being overly neoliberal, can be justifiably refuted. It seems so. At the same time, however, this conclusion leaves us with some troubling questions: have all the critics been wrong, is the criticism merely imagined? Usually, there is no smoke without fire— so, the matter still appears to be worth investigating. On the other hand, it seems that using bioethics as our primary perspective does not help us much anymore. Thus, we need a change of perspective. I want to change my perspective from that of bioethics to mere neoliberalism in itself to finally resolve the matter. In other words, I have now been asking if bioethics has been corrupted by neoliberalism, via autonomy, but I have not asked deep questions about what neoliberalism truly is in the domain of bioethics, in life sciences. We saw earlier what kind of havoc neoliberalism can, at least allegedly, wreak on life sciences, and especially on everyday health care, but we did not stop to ponder the nature of this creature more thoroughly—this is indeed what I intend to do next.

To the roots: Neoliberalism itself

It's not surprising that the meaning of the term "neoliberalism" is deeply contested as well as unclear.[277] The only certain thing about it seems to be that the term carries a clear pejorative meaning in current debates. Nevertheless, it appears that nearly everyone agrees that neoliberalism is at least two things, which are strictly speaking rather mutually exclusive but in practice often go hand in hand. First of all, neoliberalism is considered to be a *deep ideology* that places the individual ahead of the state, or other communities, as it cherishes individuals and their judgment for the sake of individuals' freedom and well-being. In this sense, neoliberalism comes close to "libertarianism," although neoliberalism is usually more restricted in its scope—limiting itself especially to the economic sphere. Second, neoliberalism is regarded as—often merely—a set of *economic assumptions and policies* that embody this individualistic fervor. These policies advocate for reforms such as liberalizing markets and restricting the role of the state.

On this level, the matter seems fairly straightforward. Neoliberalism has two major meanings, which are more or less interrelated. However, problems arise, for example, when one tries to distinguish between neoliberalism and its close cousins: classical liberalism, social liberalism, political liberalism, right-wing liberalism, left-wing liberalism, and so forth.[278] Where does one end and one begin? In addition, it is difficult to value them because of this. Even if one would have a clear distaste for one branch, it is hard to dismiss them all, and vice versa. For instance, classical liberal thought occupies a prime place in liberal democracy—a form of government that prevails throughout the Western world. In other words, in contrast to the scorned neoliberalism, not so many seem to criticize liberal democracy, which also holds individuals in high esteem, especially as a result of the influence of classical liberalism. As I have suggested earlier, it is the *exaggerated* reliance on individualism, rather than

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[277] For example, see Taylor C. Boas and Jordan Gans-Morse, "Neoliberalism: From New Liberal Philosophy to Anti-Liberal Slogan," *Studies in Comparative International Development* 44 (2009); David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005). For an interesting, and obviously related, discussion of the theme, see also Donna Dickenson, *Me Medicine vs. We Medicine: Reclaiming Biotechnology for the Common Good* (New York: Columbia University Press, 2013), especially 19; however, I will not address Dickenson's thinking at this point, as I think she is more technology-oriented in her analysis, instead of focusing on the field of bioethics in itself.

[278] For example, see Scott Mann, *Bioethics in Perspective: Corporate Power, Public Health and Political Economy* (Cambridge: Cambridge University Press, 2010), 23–31.

individualism in itself, then, that has enraged so many at neoliberalism. Put differently, this appears to be rather a matter of degree than of quality.

To make this investigation more tangible, let us move into the domain of bioethics, into life sciences, and especially consider their application in health care. Here it is easy to observe at least one major development that comes close to neoliberalism; it is something that has taken place since the Second World War, and especially during the recent decades: this has to do with *money*. Health care has become much more expensive—not only in absolute terms but also in in relative terms in comparison with most other goods in society—which has meant hard choices: either society or individuals, or patients, have had to bear the brunt. At the same time, health care has become a thriving business, creating riches for its owners and practitioners within it. Moreover, the same dynamic has taken place in research in life sciences, too. Naturally, this has provoked inequality and various kinds of social problems, which has, in turn, invited fierce criticism. And in this, particularly, it seems, neoliberalism, or what could perhaps be more accurately termed the "neoliberal mindset," has made the difference. It has firmly, and often successfully, taken the stand to defend the current trend: that those who provide ever-evolving medicine should be allowed to keep their equally ever-evolving rewards—as long as certain basic rules of the game are respected, for this presumably encourages competition and development in health care and life sciences, for the benefit all, or at least for the benefit of many.[279]

Ethically speaking, this has often meant a kind of *laissez-faire* climate. The "certain basic rules of the game" have not necessarily meant much against the backdrop of the temptations of sizable financial rewards. If this new era has meant anything serious ethically, critics tend to say, it has meant that a new kind of ethics has had to be developed to justify this gold rush of life sciences—and here we come to bioethics, which has often been awarded this dubious honor. But as I have shown in various places before, it is not bioethics that is to blame here. According to my interpretation, a central aspiration of bioethics has been to foster open-ended discussion in life sciences, and to be socially inclusive, two goals that, if taken seriously, are hardly conducive to such an amassing of wealth. In other words, bioethics has indeed advocated for individualism, but it seems far-fetched to say that it has called for such an exaggerated version of it. In any case, one can justifiably ask how much bioethics or bioethicists have had a say here, in the grand scheme of things. Perhaps we should then look elsewhere. In addition, it is easy to think of at least one party that has

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[279] For example, see ibid., 198–220.

definitely had much more leverage on this issue than bioethicists, and which has also stood to benefit greatly from the current situation. Maybe it is this party, then, that is the true culprit here, if anyone is—a party that has also willingly, at times, blamed bioethicists for the deplorable social outcomes of individualism—as they, as a relatively new and obscure profession, can easily be blamed for a thing or two.

Not surprisingly, the party to which I am referring is *physicians*, or more broadly, the whole medical establishment that arguably still revolves around physicians, even if it might be more and more dominated by other forces, such the pharmaceutical industry. However, I do not want to delve too deeply into this topic, which could be a subject of a lengthy investigation of its own; rather, I merely want to consider the subject briefly in order to sketch a broader picture that helps to understand the discussion about neoliberalism in this context. Then, I think that sociologist and historian Paul Starr's Pulitzer Prize-winning *The Social Transformation of American Medicine*[280], is a good place to begin.

The subtitle of the book well depicts what Starr does in the book, it is: "The Rise of a Sovereign Profession and the Making of a Vast Industry." In other words, the book does two things: it follows the deep history of how physicians rose to prominence in the nineteenth and twentieth centuries by eliminating their competition and securing their social freedom and authority—or, autonomy—and it also depicts the creation of "corporate medicine" that is of much more recent origin, something that has taken place especially since the late 1970s. Starr's investigation of the former theme is laudable; however, understandably, his 1982 book does not quite achieve this quality with regard to the latter, more recent theme.[281] In retrospect, Starr clearly was right about the "creation of the corporate medicine" at a broader level; however, his concomitant prediction that this would *significantly* diminish the autonomy of physicians now seems clearly incorrect. Starr wrote:

> Medical care in America now appears to be in the early stages of a major transformation in its institutional structure, comparable to the rise of professional sovereignty at the opening of the twentieth century. Corporations have begun to integrate a hitherto decentralized hospital system, enter a variety of other health care businesses, and consolidate ownership and control in what may

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[280] Paul Starr, *The Social Transformation of American Medicine: The Rise of a Sovereign Profession and the Making of a Vast Industry* (New York: Basic Books, 1982).

[281] Cf. Paul Starr, *Remedy and Reaction: The Peculiar American Struggle over Health Care Reform*, rev. ed. (2011; New Haven: Yale University Press, 2013), although it is evident that the book has a somewhat different focus.

eventually become an industry dominated by huge health care conglomerates.
. . .

   The great illusion of physicians and the hospital industry in the 1970s was that liberal government was causing their troubles. The real threat to their autonomy lay in the demands they were placing upon private health insurance as well as public programs. Private insurers and employers want medical expenditures to be controlled. And though business has become more wary of planning and regulation, it wants medicine put under constraint of some kind.
. . .

   The profession was long able to resist corporate competition and corporate control by virtue of its collective organization, authority, and strategic position in mediating the relation of patients to hospitals, pharmaceutical companies, and use of third-party payment. Today, physicians still hold authority and strategic position, but these have eroded. Specialization has diminished the scope of relations between doctors and patients. . . . Employers and the government have become critical intermediaries in the system because of their financial role, and they are using their power to reorient the system.

   In addition, the profession is no longer steadfastly opposed to the growth of corporate medicine.[282]

In other words, in terms of physicians' autonomy, Starr painted a fairly bleak picture, although even then he also readily reminded that:

   Doctors are not likely, as some sociologists have suggested, to become "proletarianized" by corporate medicine. "Proletarianized" suggests a total loss of control over the conditions of work as well as a severe reduction in compensation. Such a radical change is not in prospect. Corporations will require the active cooperation of physicians. Profit-making hospitals require doctors to generate admissions and revenues; prepaid health plans, while having the opposite incentives, still require doctors' cooperation to control hospital admissions and overall costs. Because of their dependence on physicians, the corporations will be generous in granting rewards, including more autonomy than they give to most other workers. . . .

   Nonetheless, compared with individual practice, corporate work will necessarily entail a profound loss of autonomy.[283]

Starr was most certainly right in arguing that physicians would lose some autonomy, but it is difficult to see that this loss would be significant, all things considered.

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[282] Starr, *The Social Transformation of American Medicine*, 428 & 444–445.

[283] Ibid., 446.

No doubt, American physicians have been increasingly, and more deeply, absorbed into "corporate medicine" on a variety of fronts, but the real question is if this has worked for or against physicians. And, at least in terms of pay, it seems evident that physicians have not gone anywhere near the proletarian state of affairs, so to speak, despite some arguing that they could have earned even more.[284] In many other ways, too, physicians do not indeed seem to fare badly under the current environment, at least as long as they suppress their conscience to some degree. For example, one book that lively depicts this cynical—but evidently tempting—culture that all too often prevails behind the scenes of medicine currently is Carl Elliot's *White Coat, Black Hat*[285], in which *some* bioethicists also get their share of the criticism. In short, it turns out that physicians can equally well be friends as well as foes of corporate medicine.

In any case, the upshot is that over thirty years since the publication of Starr's book one thing remains certain and undisputed: physicians are still *the* gatekeepers of life sciences, and whatever takes place in this domain has to pass through them. Bioethicists merely have a side role in this play, if even that—to which Elliot's book serves as a telling testament. It is true even today, then, that as Starr put it "corporations . . . require the active cooperation of physicians." Thus, if neoliberalism truly reigns in life sciences, which is a profound question of its own, to me it would be more sensible to begin investigating this matter by taking a look at the current behavior of physicians, rather than bioethicists. One good, however tentative, example of how this could be done is Jill A Fisher's article "Coming Soon to a Physician near You: Medical Neoliberalism and Pharmaceutical Clinical Trials."[286]

Furthermore, it seems clear to me that this trend is not fully confined only to the United States, albeit it is true that other Western countries often differ from it in many relevant respects, especially in terms of how health care is delivered. Nevertheless, these neoliberal ideas and mindsets are surely manifest elsewhere, too, and in order to grasp these developments, I would, based on the American experience, urge first and foremost to pay close attention to the role of physicians in other contexts, too.

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[284] For example, see Seth A. Seabury, Anupam B. Jena, and Amitabh Chandra, "Trends in the Earnings of Health Care Professionals in the United States, 1987–2010," *Journal of the American Medical Association* 308 (2012).

[285] Carl Elliot, *White Coat, Black Hat: Adventures on the Dark Side of Medicine* (Boston, MA: Beacon Press: 2010).

[286] Jill A. Fisher, "Coming Soon to a Physician near You: Medical Neoliberalism and Pharmaceutical Clinical Trials." *Harvard Health Policy Review* 8 (2007).

However, it is not my intention in this study to address neoliberalism in any more depth than what I have now done. My interest has merely been to investigate its relation with *bioethics*; in practice, to understand why so many have criticized bioethics for being too close a bedfellow of neoliberalism, perhaps even its very manifestation in life sciences. To me, then, it seems that this criticism has largely been misplaced. Too many things have been conflated and placed under the heading "bioethics." My final verdict in this matter is that bioethics, as a field—save for some individual exceptions—essentially represents quite different aspirations than what neoliberal individualism stands for, or at least what has been indicated under this label. Moreover, this has been true for bioethics since the early days, and it *still* seems to be, despite the charge by some that bioethics has changed along the way. At least I have not found anything indicative of such a change. Instead, as I already pointed out, I think that bioethics has often been misunderstood in this regard. As the field has aimed at truly opening the space for open and inclusive deliberation, it has been necessary for it to follow this calling even when it has led to unexpected outcomes. To my eye, bioethics has indeed mostly done this. Then, in this pursuit for example autonomy can be a fickle friend. It is difficult to take autonomy back when it is exercised in ways that some deem inappropriate, once it has been incorporated deeply into public awareness. This should not be a problem for the truly open-minded; rather, it should be a call to participate in the debate, and a call to at most *persuade*, rather than condemn and limit, others in how they exercise their autonomy. Put short, strong *moralism* and true respect for autonomy, or open debate, do not go well together.

Neoliberalism and bioethics: Conclusion and a broader perspective

As it has become clear to the reader by now, for me, neoliberalism and bioethics hardly seem to be close bedfellows, or anything else in this vein. In allowing neoliberalism to enter life sciences in its part, bioethics has merely been following its calling to be intellectually open-ended and socially inclusive. Then again, this does not obviously mean that bioethics would have unequivocally embraced "neoliberal" ideas and mindsets. Thus, the issue now seems settled. However, besides the topic itself, I have been equally interested in observing how this charge has been so fiercely levelled at bioethics, and moreover, how it has seemed so plausible to many. Thinking about this brings us back to a broader theme, or perspective, that I have wanted to emphasize in my study in order to foster a better understanding of bioethics.

Earlier I observed how there has been often too much impatience to comprehend bioethics. I lamented that "typically there appears to be only one clear trait of bioethics that is worthy of being highlighted, in practice, worthy of being praised or reprimanded—usually the latter in current literature." On the other hand, I also noted that "there have, indeed, been rather rounded depictions of the birth and development of the field but they have also been impatient, or fairly restrained, with respect to *expanding* the understanding of the field—going beyond the obvious." In other words, I stated: "To put my point simply, perhaps the difference could be best categorized as one between mere *descriptive* historical assessments and those that are *critical*. What I am seeking is the critical, instead of the descriptive." Now, I think that my discussion of neoliberalism and bioethics has offered, once again, a good illustration of this prevalent sin of impatience in many respects. Here, then, I see a lesson to be learned, even more generally, beyond the current topic.

Put simply, the central problem appears to be that bioethics aspires to be something genuinely new, and because of this it is difficult to comprehend it well, and much more difficult to judge bioethics in a balanced way. I have already made this argument many times, but I want to emphasize and refine it as my investigation progresses. It now seems that perhaps the greatest obstacle standing in the way of a deeper realization of the field's potential might be pure ignorance, inside as well as outside bioethics. One significant outcome of this situation is that bioethics can be, and has been, an easy target for critics who utilize the fear of the unknown. This is manifest, for example, in how bioethics is often, and all too easily, branded with everything that is regarded deplorable—which itself, in turn, frequently appears to be synonymous with the somewhat mysterious "neoliberalism." One could contrast this with the positive aura that usually surrounds the popular image of physicians. It does not take much, then, especially for someone who is eager to do it, to tilt this imbalanced situation in favor of the more established forces. Ironically, but very typically of current discussions, the outcome can easily become something that seems quite absurd: as bioethics sets out to remedy the shortcomings of the medical profession, among many other issues in life sciences, it often gets the blame for these *very* shortcomings, as if it had caused them.

Another central, and to me more interesting, outcome of the prevailing situation is that even those who have basic knowledge of bioethics, typically those who work in the field, do not seem to realize its full potential, which naturally hampers how bioethics can function and ultimately benefit society. Then, perhaps the hardest aspect of bioethics to grasp is something that could be termed its *deliberate shallowness*, or alternatively *deliberate ambiguity*, a somewhat unsatisfactory term that I use for a

lack of a better one—nevertheless, a core feature of bioethics that appears evident to me at this point. This could be seen as relating to the "Rawlsian turn" that I identified earlier. I wrote: "Most of all, Rawls reinforced a belief in moral reasoning about human affairs. According to him, these affairs were not, after all, just matters of incommensurable personal opinions or blind customs, as many then thought. They could be addressed through reasoning; there was still common ground from which to judge right and wrong, albeit this ground had narrowed down considerably." Indeed, at the time when Rawls introduced his *A Theory of Justice* in 1971, this moral ground had narrowed down considerably, but it was still there, even if it was a somewhat *shallow* version of what it had used to be. For me, then, one manifestation of this radically new kind of thinking—of which Rawls was perhaps the most visible embodiment—could be observed in bioethics. Even if it is often read only in between the lines, I think this has been evident throughout much of my study; for example, in my recent discussion about the autonomy of the field. On the other hand, from a social standpoint, I echoed this theme earlier when I discussed Robert Putnam's "bridging" social capital. All in all, this has been a common thread running through my work.

But I have rehearsed this line of argument, or at least its broad contours, more than a few times already. I now want to make it more tangible. Earlier, I also introduced political philosophers Judith Shklar and Philip Pettit, who, I think, could help us to achieve this end. However, apart from a few brief references to them, I have not made much use of their ideas thus far. Thus, as I proceed, I intend to reverse this trend and utilize their theories more—for the very purpose of making the "deliberate shallowness" of bioethics, a core feature, perhaps even the essence of the field as I perceive it, more tangible. What I have in mind, in practice, is that I will emphasize that there needs to be more patience to comprehend bioethics, especially with this difficult concept.

Broadly speaking, with the deliberate shallowness of bioethics I mean, first of all, that the field seems to me very *adamant* about certain norms, perhaps contrary to some connotations of the term, especially about those of open-ended and diverse knowledge and broad and inclusive public debate. Moreover, as Shklar and Pettit illustrate, these are not merely norms that originate from, or exist in, thin air; they have rich historical roots and they also aim to permeate much deeper levels than merely that of explicit political and social processes and structures. In short, these norms appear to reside primarily in the *cultural* realm, which is something more than what can be seen in everyday life. This is also the reason mainstream sociology, for instance, seems to have such difficulty in reaching these norms. Yet, they have clear

significance for society, for example via social capital. The deliberate shallowness, on the other hand, also means that bioethics as a field obviously seeks to avoid excessive moralism, or any other such complacency. Bioethics is, and must be, truly an ongoing project. This again points in the direction of harboring openness and inclusion, or reflectiveness, for new ideas and participants in bioethics—and not merely at the ground level where they are applied in practice, but throughout the whole field. The bottom line is that despite the superficial connotation of the term "shallow," bioethics seems to be an ambitious and deep venture; but one that was set out to be *deliberately* shallow.

I think this aspect of bioethics, and the lack of its appreciation, is no more evident in other discussions in bioethics than in the one about "principlism." I will address this discussion next. In order to avoid repeating myself and to ease the reader's burden, I will try my best to utilize the observations from this chapter, and from the earlier pages. For example, autonomy is a central component of this new topic, too, but I see no more need to concentrate on it as extensively as I addressed it before. Moreover, as a more general theme, I will continue to emphasize the need for patience in understanding bioethics. Bioethics, for me, seems a very delicate field and thus prone to easy misunderstandings, but also something that could perhaps be on the verge of blooming only today.

4.4 The "Deliberative Shallowness" of Principlism

While reading my account of bioethics, many who are acquainted with the field might have been wondering why I have not addressed before a branch of thought known as "principlism," an influential part of bioethics. The reason is that I think that it would have been dangerous to incorporate such a powerful way to conceive bioethical questions into my study earlier. There is ample evidence that this can go awry; for example, a significant body of people, especially outside the field of bioethics, currently seem to think, quite innocently, that the principlist approach to bioethical topics is the *same thing* as the whole field. This misconception is easy to refute, as it is clear that the approach was not around by the time the field took its first steps, nor is it anywhere near the only intellectual framework in current bioethics, which is clear to anyone who has ever read a single issue of any mainstream bioethics journal or been to a bioethics conference. Others, on the other hand, criticize bioethics for being overly prone to adopting the principlist perspective, or applying it in a too

straightforward manner, which is a much more interesting line of criticism and something that I will focus on—now utilizing my earlier observations in order to place this powerful branch of bioethics into its proper context. In fact, tellingly, the whole term "principlism," which currently carries a somewhat neutral connotation, was originally—and retrospectively—coined to convey a pejorative meaning, implying a too extensive and arbitrary, even deeply conflicting, reliance on moral principles.[287]

However, first I will need to recount the story of how principlism came into being and how it has evolved since then. There has been some dispute over the fine details of the origins of principlism, but there is a clear agreement that its beginnings are closely connected with the drafting and publication of the famous *Belmont Report*[288], which was issued in 1978 by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, and published in the *Federal Register* in 1979. As I noted earlier when I mentioned the report in passing, it became a milestone in research ethics and in bioethics more generally. In practice, the document is best known for its identification of three "basic ethical principles" that should govern research on human participants: the principles of respect for persons, beneficence, and justice—principles that closely resemble three of the four core principles that lie at the heart of principlism as it stands today.[289]

Quite understandably, the publication of the influential report is usually credited as the birth of "principlism." However, to be more precise, the *Belmont report* coincided with the publication of undoubtedly the most celebrated application of this approach in bioethics. This celebrated publication was written by Tom L. Beauchamp, who was a staff member of the National Commission, and James F. Childress: it was the first edition of the *Principles of Biomedical Ethics*[290] in 1979, almost at the same time with the *Belmont Report*. This work, currently in its seventh edition

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[287] For example, see Danner Clouser and Bennard Gert, "A Critique of Principlism," *The Journal of Medicine and Philosophy* 15 (1990).

[288] National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, *The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research* (Washington, D.C.: U.S. Government Printing Office, 1978).

[289] For a basic description of the commission and its work, see Jonsen, *The Birth of Bioethics*, 99–106; however, note that there has been some discussion about factual errors in Jonsen's account—to me these errors do not appear critical. For this discussion, see for example James F. Childress, Eric M. Meslin, and Harold T. Shapiro, eds., *Belmont Revisited: Ethical Principles for Research with Human Subjects* (Washington D.C.: Georgetown University Press, 2005); also Renée C. Fox and Judith P. Swazey, *Observing Bioethics* (Oxford: Oxford University Press, 2008), 128–145.

[290] Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics* (Oxford: Oxford University Press, 1979). *However, in the following pages, references will be to the 7th edition from 2013.*

(2013), has indeed since then become quite a centerpiece in the genre of principlism, and in bioethics more generally. Thus, when discussing principlism, it is of paramount importance to take this particular work into account. Moreover, it needs to be stressed that the *Belmont Report* is substantially, although not altogether, different from *Principles of Biomedical Ethics*[291]—as, in fact, every work that can be attributed the principlist label tends to be from another in some respects. In other words, there are differences; nevertheless, the upshot is that I think it is fairly safe to rely on *Principles of Biomedical Ethics*, as it has been at the heart of the evolution of principlism since the early days,[292] as I proceed to evaluate the principlist approach on the following pages.

Some key coordinates

In order to understand principlism, it is fruitful to start by noting two key differences between the *Belmont Report* and *Principles of Biomedical Ethics*, which are arguably the two most prominent applications of the genre. The most visible difference between them is the collection of central principles that they propose for bioethical reasoning. Where the principles that the *Belmont Report* suggested were the principles of respect for persons, beneficence, and justice, the principles advocated by *Principles of Biomedical Ethics* were the principles of respect for autonomy, nonmaleficence, beneficence, and justice. Much ink has been spilled on the differences between these two sets of principles and on their inner coherence and meaning, but I will not cover this discussion in detail here.[293] Rather, in accordance with my earlier decision, I will concentrate on addressing only the principles put forth by *Principles of Biomedical Ethics*, and moreover adopt a general perspective on them, broadly investigating their relation to the field of bioethics as a whole. Nevertheless, it is important to note this difference between the two collections of principles, which is very emblematic of the genre. Many have understandably noted this difference, as it is indeed such sets of principles that lie at the heart of the principlist approach. In other words, what prin-

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[291] See Tom L. Beauchamp, "The Origins and Evolution of the *Belmont Report*," in Childress, Meslin, and Shapiro, *Belmont Revisited*, 15–18.

[292] For example, see Fox and Swazey, *Observing Bioethics*, 168–173.

[293] For example, see Tom L. Beauchamp, "The Origins and Evolution of the *Belmont Report*," in Childress, Meslin, and Shapiro, *Belmont Revisited*, 15–18; also, naturally, Beauchamp and Childress, *Principles of Biomedical Ethics*.

ciples are chosen into these exclusive groupings obviously bears significant consequences in this framework, at least on the surface. However, as I will proceed to argue it appears to me that from a broader perspective these different choices in principles do not necessarily lead to such significant variations in outcomes, after all.

Another evident, and illustrative, difference between the *Belmont Report* and *Principles of Biomedical Ethics* is evolution. In practice, the *Belmont Report* has not been updated since it was published in the late seventies, which is understandable as the document was drafted by the National Commission, which disbanded in 1978. Beauchamp and Childress, in contrast, have made long careers in bioethics since those days, updating their work every few years. As many have pointed out, this evolution is both in order and potentially problematic at the same time. As *Principles of Biomedical Ethics* has attained a somewhat canonical status in some corners of the bioethics universe, which I suspect was never intended by its authors, it has also become a problem for some that the work is being updated. The true believers understandably ask how the work can be taken to be authoritative, a kind of bioethics bible, if its word can be modified and perhaps even overturned in the next edition, as indeed has been the case to some extent. Naturally, this is not such a problem if the canonical status is abandoned. Nevertheless, even from a more mundane perspective, this can be a problem to some extent, as it easily casts doubts of arbitrariness on the approach that obviously places a premium on its somewhat fixed point of view—on adopting certain key principles, based on a systematic review of the main intellectual positions, then aspiring to apply them to practice in a coherent and predictable way.

As to the evolution of principlism, it seems to me that a certain very general observation or theme emerges that transcends previous criticism as well as the particularities of the principlist approach; namely, the *solidification of the language of autonomy* into bioethical imagination. Regarding this, Albert Jonsen very tellingly observes that during the early days of bioethics and before the introduction of the principlist approach, "the phrases 'respect for autonomy' or 'respect for persons' . . . [did] not even appear in the indices of the moral philosophy textbooks by such luminaries as William Frankena and Richard Brandt, nor . . . [were] they found as entries in the *Encyclopedia of Philosophy* or even in the 1978 *Encyclopedia of Bioethics* . . . As bioethics began, then, the notion that was to become its hallmark, respect for autonomy, was rare in the ambient philosophical air."[294]

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[294] Jonsen, *The Birth of Bioethics*, 334.

Thus, I think it is fairly safe to conclude that herein lies the most central contribution of the principlist approach to bioethics, as it is virtually undisputable to claim that it is this very line of thought that is *the* perspective of autonomy in bioethics, and autonomy, in turn, is unquestionably a "hallmark" of bioethics, as Jonsen puts it. However, as successful as the approach has been, it has also fallen victim to its reputation. As Jonsen notes, "although Beauchamp and Childress refined their treatment of the principle of autonomy in each successive edition, giving it more careful definition and application, in the wider bioethical discourse the more careful definitions were often lost. Although autonomy had been launched as one of a quartet of principles, along with beneficence, nonmaleficence, and justice, it seemed to dominate the rest and even swamp them."[295] Here, then, something that has very fundamentally—directly as well as indirectly—defined the evolution of the principlist approach from the outset appears to become evident: the quest to *prize* autonomy, but only *among* other values, in order to avoid provoking its impoverished and detrimental interpretation, as well as implementation; something that spreads all too easily, as we have seen.

In a way, then, we come nearly right back to the earlier discussion about autonomy.

What the critics say

The prevalent criticism of principlism echoes the previous setting in various ways. First of all, there is often pure ignorance as to the way the principlist approach is conceived, which is arguably rightfully lamented by critics. Renée C. Fox and Judith P. Swazey offer a good overview of the situation in their book *Observing Bioethics*:

> Nevertheless, in the burgeoning multidisciplinary field of bioethics, what developed were precisely the over-expectations of principles that Beauchamp and Childress thought should be avoided, and their use in an "overly simplified, reductionistic, . . . mechanically applied way"—"along the lines of a narrow engineering model," as Childress put it—accompanied by a tendency to think that "if one can repeat those [principles] or use them, then you're a bioethicist" . . .
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> Biologists, physicians, lawyers, and some public officials and social scientists, with little or no background in philosophical thought, were among those

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[295] Ibid., 335.

who joined these "throngs [of converts to bioethics awareness]," along with a number of philosophers and religionists whose prior education in principles-oriented ethics and experience in utilizing it were meager. "I was introduced, along with legions of students, to medical ethics through . . . this classic text," wrote South African health lawyer/bioethicist Theodore Fleischer in a review of the fifth edition of *Principles of Biomedical Ethics*. "Most health givers, even if they haven't read the entire book, have absorbed the four principles of medical ethics popularized by the authors . . .—or the 'Georgetown mantra,' to use the code phrase." Short, intensive courses designed to introduce initiates to the "basic principles" of bioethics were organized.[296]

Not surprisingly, in such an environment the general understanding and implementation of the principles was almost certainly going to be impoverished, as it has indeed been all too often. And equally predictably, much criticism has then been levelled at bioethics, based on *similar misconceptions*. All this has had to do especially with autonomy, largely in the same fashion than was depicted in the previous chapter, overlooking other principlist values. Put simply, the principlist approach was, and has been, intended to be applied *only* through careful, holistic and contextual deliberation, not as a ritualistic mantra, and this is often what has been lacking.[297]

At this point, I could engage at length in a discussion similar to my previous one about neoliberalism and autonomy: to depict how bioethics has unjustly been criticized for being something that it is actually not—or at least as it was originally meant to be, and as it is still conceived by those who see beneath the impoverished surface. But, to my mind, what this would produce would still be too narrow an understanding of the subject. We need to delve deeper, carry on from where I left at the end of the previous chapter when I briefly discussed the "deliberate shallowness" of bioethics. In other words, it seems obvious that the principlist approach becomes truly meaningful only against the backdrop of such rich cultural analysis; not even the previous diligent deliberation of how to properly conceive and implement these ideas is enough, at the end. One has to step *well beyond* the principlist scheme.

This kind of criticism has also been raised before. Fox and Swazey, again, are among those who advocate for such a broader understanding, and not only in order to better relate to the principlist approach but to the field of bioethics in general. Speaking merely of contemporary "U.S. bioethics," but, to my mind, more or less of bioethics as it stands throughout the West, they quite thoroughly summarize:

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[296] Fox and Swazey, *Observing Bioethics*, 169–170.

[297] For example, see ibid., 168–169.

What, then, can be said in overview about the current state of "thinking socially and culturally" in U.S. bioethics? Although the principle of individual autonomy has remained salient in bioethical thought, insistence on its supremacy is not as paramount and unequivocal as it was earlier. Principlism is still the "leading theory in the field," [Daniel] Callahan maintains, and its "driving force . . . in practice is autonomy." But, as he points out, "even among those who espouse 'principlism' . . . there is a lively awareness of its problems and liabilities." And efforts have been made within the field to broaden its conceptual framework by incorporating other moral theories and methods into its analytic philosophy-dominated perspective—among them feminist ethics, the ethics of virtue and care, pragmatism, and communitarian, contextualist, and casuistical approaches.

In addition, American bioethicists have been manifesting growing appreciation for the importance of moving beyond being locked into their own consciousness by the logic and cogency of their abstract, "experience-distant" thought, and for the value of developing and learning from close-up empirical knowledge of "lived" ethical situations. In this connection, they have embraced ethnography (to some extent, as we have shown, with facile assumptions or over-expectations). They are also showing an interest in developing a humanistic, narrative form of ethics in which the "story" of an illness and the effects it has had on the people involved is usually recounted by a patient or a family member.

Nevertheless, the integration of social and cultural reflection and analysis into the body of U.S. bioethical thought is still more tentative than firm—inhibited by the converging impact of multiplex factors. Among these factors . . . are the enduring power of the concept of respect for autonomy, and the persistent tensions in the field between an individualistic and a communitarian vision, the factual "is" and the moral "ought" of descriptive and normative ethics, and between universalism and particularism. These factors, in turn, have played a role in the subordinate status that bioethics has accorded to social and cultural context and differences, and to pluralism, social suffering, and justice. Additionally, the relatively shallow interdisciplinarity in bioethics has contributed to the problematic aspects of the field's relationship with social sciences. There are, first, significant disparities between the ethos of the social sciences and that of bioethics. Second, for reasons attributable to both fields, there has been a sparse representation of social scientists among bioethicists. These reasons include the failure of social scientists to recognize the social and cultural import of the phenomenon of bioethics, and, in bioethics, a continuing uneasiness with "the contention that the social sciences offer a better way forward" for the field . . .

To break through these constraining factors, and make further progress in more deeply embedding social and cultural knowledge and insights, perspectives and modes of thought in the analytic framework of bioethics will require systematic conceptual work that is both resolute and collaborative.[298]

It is not surprising that I largely agree with this analysis, or at least with its broad contours. However, it also still seems a little thin to me. We need something more. It appears to me that truly stepping beyond surface reasoning in, or about, bioethics needs to be something more than just an attempt to better *incorporate* new perspectives, especially those of social scientists, into the field—of which Fox and Swazey seem to be mostly speaking, despite their broad call for "embedding social and cultural knowledge and insights, perspectives and modes of thought."[299] In other words, it appears insufficient to take bioethics—such an ambivalent and somewhat new field—more or less as something *fixed*, and evidently lacking in these respects, and then aiming to apply something new to it. Of course, in a way, this is what I have been calling for, too, but the difference is that for me much of what Fox and Swazey are longing for seems to be, in fact, *already* embedded in bioethics, embedded in the deep nature of the field, even though this might not be quite readily visible to an observer or fully blossoming for the time being, and perhaps never will be. At first, this difference in interpretations might appear somewhat trivial. However, it has significant consequences, and seeing this helps to grasp the kind of understanding of principlism, and of bioethics as a whole, that seems most justified to me. This is where I will head next.

Toward a deeper perspective

Let us begin with a maritime story. The sinking of the *Titanic* has come to be a great symbol of the principle "women and children first." What happened was that many, if not all, men, acting according to an *informal* chivalric code of conduct, "bravely put women and children into the lifeboats, and met a freezing death as a result."[300] As

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[298] Ibid., 192–193.

[299] Regarding this, I have to note that I find the personal observations of Fox and Swazey especially convincing, and I also sympathize with them; on the other hand, I suspect their experiences have made them a little too critical of the field already; on this, see ibid., 199–211.

[300] Lucy Delap, "Shipwrecked: Women and Children First?," accessed April 15, 2015, http://www.cam.ac.uk/research/discussion/shipwrecked-women-and-children-first. The article offers an interesting examination of the myths and complex nuances that surround the theme. I

there was not enough room in the lifeboats for everyone, women and children took a clear precedence over men, and seventy percent of the women and children were saved, compared to twenty percent of the men.[301] What is obviously so remarkable here is that what took place, at least to a significant degree, was something that no one could grasp by solely looking at official and the most *explicit* documents, such as maritime laws, as the code of conduct that was followed was so evidently informal. *Nor* could one have predicted with certainty from afar even with more rounded reasoning that such mood would prevail—but it did, and in retrospect, it is even fairly easy to see why, as many histories of the sinking have done. With hindsight, we can conclude that this thinking that became manifest in the sinking of the *Titanic* had *fairly quietly* informed the whole maritime practice for quite a while before the *Titanic* sank in 1912. It was clearly familiar to many onboard, and it was also something that resided at the heart of the social and cultural milieu of the time. Put simply, this principle, or what it signified, was obviously essential in making sense of everything else in the social and cultural sphere in this context—a kind of social and cultural *cornerstone* of the larger construct—*even though* it was only rarely openly present, made explicit only by the most unfortunate and unexpected of circumstances.

What is the lesson of this story for us? The obvious lesson is of course that in order to grasp the complexities of the social and cultural realm we need to look deeper in the previous vein; however, to be more precise, we need to do this not only in order to add new layers to our interpretation, new nuances, but, in fact, to make sense of the whole scheme of things *in the first place*. If we do not do this, we can easily be left with a false conclusion that what takes place in a given social and cultural setting is, typically, near madness or utter stupidity—looking from the outside we miss the inner, and often *deeply tacit*, logic of the actors. For example, with our historical inquiries, we can be led to believe that what has taken place in the past has been, even if taking into account the explicit standards of the day, thoroughly unreasonable—or rather, irrational—which, given that the human nature and its capacities seem to stay somewhat constant through time, can be usually assumed to be unlikely at least on a general level. In short, we have to be more committed to, and more *patient* in, reasoning *with* those whom we are studying in order to make sense

need to emphasize that in relation to the claim that I am making here, these details are, however, somewhat beside the point.

[301] Broadly on this theme, see also Mikael Elinder and Oscar Erixson, "Every Man for Himself: Gender, Norms and Survival in Maritime Disasters" (Working Paper 2012:8; Uppsala: Department of Economics, Uppsala University, 2012, accessed April 15, 2015, http://www.pnas.org/content/109/33/13220).

of them; if nothing else, we have to seek to incorporate this into our working hypotheses. This might now seem a trivial observation, but it appears to be forgotten strikingly often, perilously so.

Then, let us take a look at principlism from this perspective. For example, we could consider the four major principles of *Principles of Biomedical Ethics*: the principles of respect for autonomy, nonmaleficence, beneficence, and justice. Understandably, one can wonder what these principles mean after all, as many have done. On the surface, *even when taken quite seriously*, they can obviously mean everything and nothing at the same time: they can be understood and applied in too many ways, which easily undermines the point of the whole exercise. If so, one can reasonably add, why choose these particular values, or principles, over other values such as "dignity," or "solidarity"[302]—in fact, why designate any particular set of values at all. Furthermore, from a certain perspective, these principles can also seem fairly absurd when taken together. For instance, do "nonmaleficence," "do no harm," and "beneficence," "do good," not mean basically the same thing? Put succinctly, even with the best of intentions and well-rounded basic knowledge, it is all too easy to become utterly confused, moreover, it is equally easy to ridicule the approach with the help of such confusions.

The question that soon arises, then, is if the approach has to eventually lose its credibility altogether as it now begins to appear so deeply irrational. To push the envelope, one can also wonder whether those who have contributed to the approach, or adhered to it, have not only been ignorant in general but something worse: a little slow-witted, or alternatively, having a hidden agenda and "playing it dumb," so to speak.

Then, as the reader can guess, my answer to these intellectual accusations is resolutely no. In order to illuminate why I think this, it is important to truly unearth the *invisible* that seems to lie at the core of the whole principlist approach, which I will strive to do next—keeping in tune with the earlier lesson from the case of the *Titanic*. In other words, the difference between my following account and the earlier one presented by Fox and Swazey is that I seek to be more *sympathetic* to the advocates of principlism, taking the principlist approach more at its face value and then seeking

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[302] For example, see Matti Häyry, "European Values in Bioethics: Why, What, and How to Be Used?" *Theoretical Medicine and Bioethics* 24 (2003). The discussion here closely resembles the previous one about autonomy, in fact, it is essentially the same. Moreover, I acknowledge that there is a broad literature on this topic area, especially on bioethics and human dignity; however, it seems to me unnecessary to the review this literature at this point as I am not trying to promote any particular values or sets of them. Rather, I am addressing these issues on a more general level.

to uncover something that it also stands for, even if it does not succeed in being very explicit about this by itself. Thus, there will not be that much need for lamenting or adding anything; my investigation will rather be a very *patient* attempt to uncover something that seems to have been overlooked but which appears to be already present, and which helps to make more explicit sense of the approach—something that might, I hope, make all the difference in the end.

Following in the footsteps of Montaigne

In order to step beyond the surface reasoning here, then, it is understandably important to clearly distance ourselves from the subject at hand, to consider something that might at first seem quite unexpected in everyday bioethical reasoning. Thus, we can finally, and especially, utilize some parts of the theoretical construction I introduced already some time ago but which I have not made use much since then, namely, the political philosophies of Judith Shklar and Philip Pettit. At the same time, this also means returning back to the theme of the "deliberative shallowness" of bioethics.

Let us begin by bringing back to the mind the central thesis of Judith Shklar's political philosophy, the "liberalism of fear." I wrote earlier:

> What the term implied was a kind of liberalism that was, first and foremost, informed and inspired by the need to avoid fear in political life. This was a dedicatedly *political* liberalism, operating within a political framework, aspiring to prevent politically driven repression and terror. According to Shklar, fear would come hand in hand with cruelty, inspiring more fear along the way, ultimately destroying the whole society. Moreover, fear would usually seek to influence the political sphere and institutionalize tyranny. Thus, political institutions should be insulated from such influences; the main instrument being the division of political power, at all levels, so that no one authority could rise above the others and terrorize the rest of society. . . .
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> . . . What was at stake was something more than just an attempt to minimize the adverse effects of cruelty on society. Rather, all of this represented an implementation of a very peculiar kind of moral psychology—one that would be needed to accompany new political ideas; a moral psychology that Shklar also sought to elaborate, being especially inspired in this task by Rousseau.
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> In her moral psychology, Shklar thought that in order to safeguard society from cruelty—and from fear—some other vices would need to be more tolerated in turn. In practice, the traditional Christian perspective on sins would need to be abandoned in public life. Moreover, the mundane sins of everyday

life, "ordinary vices," such as many forms of hypocrisy, snobbery, betrayal and misanthropy, would need to be more readily accepted as part of the normal functioning of society. All in all, many religious and political conventions would need to be radically rejected in favor of a free and peaceful society. In practice, this would call for a new kind of state of mind . . .

At first, Shklar's thinking might seem quite radical, which it is, indeed, in some respects. However, perhaps strikingly, as I also argued before, it is *not* radical in the sense that it would, after all, significantly differ from the moods that appeared to be *de facto* prevailing in the post-war West—which I especially presumed to be embedded in John Rawls' well-known and influential political philosophy. I contended that the benefit of introducing Shklar's thought, and, illuminatingly, its connection with Rawls' ideas, was that this helps to make visible the cultural landscape of the time, the political hopes and fears of the latter part of the twentieth century. I especially claimed that Shklar made explicit the consciousness of the past that informed Rawls, among many other contemporaries. Moreover, I noted that the origins of this perspective were easy to observe in Shklar's personal past, one that was very emblematic of the era:

> Where did this state of mind originate? Its source seems obvious when one recalls what Judith Shklar had gone through in her life. Time and again, she had learned how humans were capable of inflicting cruelty and fear on others, and that this was to be avoided at all costs. Being a Jewish survivor of the Second World War, she had also witnessed the effects of institutionalized terror. It was vice, not virtue, and it was injustice, not justice, that had guided her path. This helped her to affiliate with the disadvantaged, which was very evident in her last two books, in which she employed her theoretical insight, explicating it against a backdrop of everyday life.

In other words, Shklar, who was born in Riga, Latvia in 1928 to a German-speaking Jewish family that had fled from the Bolshevik Russia, merely in order to belong to a despised minority in the new country; who fled the country with her family eventually to Canada as the Second World War broke out; who fought her way through the ranks—and initial humiliations—of the male-dominated American academia of the day to break the glass ceiling as one of the very first female professors in her field; and who then composed her political philosophy out of these experiences, seems to me an excellent guide to the moods and historical imagination of the time. Shklar's life was full of the "most unfortunate and unexpected of circumstances," or at least something nearing this, the types of circumstances that tend to

unearth, as with the case of the *Titanic*, something vital but rarely seen of the everyday life—which, to my mind, put her in excellent position to shed light and comment on deeper social and cultural forces of the time.

But where does this all lead us with regard to Shklar in the end? I think that it is beneficial to conceive the answer to this question through the lens of the theme of the "deliberate shallowness of bioethics," which I introduced earlier. Put differently, the various aspects of Shklar's thinking appear to come together in something that is very similar and closely connected with this theme. Thus, let us recall the core of the claim that I made with this regard before.

I stated that with the deliberate shallowness of bioethics I intend to convey that "the field seems to me very *adamant* about certain norms, perhaps contrary to some connotations of the term, especially about those of open-ended and diverse knowledge and broad and inclusive public debate." I also added that I do not think of these norms as something that originates from, or exists in, thin air; rather, I see them as having rich historical roots and also aiming to "permeate much deeper levels than merely that of explicit political and social processes and structures." The bottom line at which I arrived was the following:

> In short, these norms appear to reside primarily in the *cultural* realm, which is something more than what can be seen in everyday life. This is also the reason mainstream sociology, for instance, seems to have such difficulty in reaching these norms. Yet, they have clear significance for society, for example via social capital. The deliberate shallowness, on the other hand, also means that bioethics as a field obviously seeks to avoid excessive moralism, or any other such complacency. Bioethics is, and must be, truly an ongoing project. This again points in the direction of harboring openness and inclusion, or reflectiveness, for new ideas and participants in bioethics—and not merely at the ground level where they are applied in practice, but throughout the whole field. The bottom line is that despite the superficial connotation of the term "shallow," bioethics seems to be an ambitious and deep venture; but one that was set out to be *deliberately* shallow.

Here, then, I think we can see a good reflection—an embodiment—of Shklar's thought. In other words, the liberalism of fear and its underlying moral psychology sought to pave the way for exactly something of this kind, or rather, make it comprehensible and justified as it was already taking place in the post-war West. Put differently, we can see what Shklar's call for radical toleration—which seeks to abandon the confines of too binding and suffocating, or oppressing, social ties and customs in favor of a "free and peaceful society"—can look like in practice. Put simply,

it seems to me that *both* bioethics and Shklar's thinking are deliberately shallow, or calling for shallowness, as described previously. Moreover, as bioethics appears to reflect Shkar's thought well, this thinking in turn seems to reflect and illuminate bioethics, which is obviously the reason I have introduced it in this study.

Shklar can add to this study a deeper cultural imagination, especially by making explicit a certain fundamental historical consciousness, which helps to grasp the deliberate shallowness of bioethics, which includes principlism, the topic to which we will soon return. Then, the historical and other consciousness Shklar has in mind is of course a *liberal* one, which, according to her, rose to prominence in the West after the Second World War, inspired by a steady flow of political terror and cruelty dating back to the European religious wars of the sixteenth and seventeenth centuries, and beyond.[303] With regard to this, and referring to her personal hero, Renaissance humanist Montaigne, Shklar wrote:

> Indeed, hating cruelty, and putting it first, remain a powerful part of the liberal consciousness. It is not, however, as simple a position as those who just intuitively say "I hate cruelty most" may think. Such an ordering of the vices has consequences that perhaps only Montaigne faced fully. It makes political action difficult beyond endurance, may cloud our judgment, and may reduce us to a debilitating misanthropy and even to a resort to moral cruelty. . . .
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> Montaigne's concentration on cruelty is, of course, difficult to endure. That is why we are just as evasive when we talk about cruelty as were our philosophical ancestors. When cruelty is mentioned we immediately say "sadism," which is a pathological condition, just as Aristotle chose to discuss brutishness. Even more often we dodge cruelty by gravely arguing about whether human aggression is innate and hereditary, or learned and conditioned by the environment. Presumably one of these alternatives gives us some hope that cruelty might abate eventually, though why this should be the case is far from clear. I suspect that we talk around cruelty because we do not want to talk about it. That might merely be intellectual cowardice, but I do not think so. It seems to me that liberal and humane people, of whom there are many among us, would, if they were asked to rank the vices, put cruelty first. Intuitively they would choose cruelty as the worst thing we do. They would then quickly find

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[303] Judith N. Shklar, "The Liberalism of Fear," in *Political Thought and Political Thinkers*, ed. Stanley Hoffmann (Chicago: The University of Chicago Press, 1998). Originally published in *Liberalism and the Moral Life*, ed. Nancy Rosenblum (Cambridge, MA: Harvard University Press, 1989). See also Judith N. Shklar, *Ordinary Vices* (Cambridge, MA: The Belknap Press of Harvard University Press, 1984).

themselves faced with all the paradoxes and puzzles that Montaigne encountered. These will not go away. They are there waiting for us; we simply do not choose to recognize them as we would have to if we spoke about what we know.[304]

How Shklar feels about cruelty and its close cousin, fear, has now become obvious, along with how she attributes this to the somewhat dominant liberal conscience of the post-war era. This soon leads us to an interesting question, namely, how *exactly* Shklar proposes that this disease of fear and cruelty she has diagnosed is—or should be—cured. Then, relying on Montesquieu, arguably *the* father of modern constitutionalism and a follower in Montaigne's footsteps, Shklar summarizes her thoughts in this regard:

> A diffuse distrust of humanity became the basis of constitutional government, especially in America. That was one of Montesquieu's many contributions to politics. In underwriting his preferred free constitution, Montesquieu's moral psychology was thoroughly misanthropic. A government was to be designed so as to avoid its own worst vices, cruelty and injustice; and it was set up by and for people who could do no better than to indulge in lesser vices in order to avoid worse ones. The whole point of limited and representative government was that it would not matter much who performed its offices. A small bureaucracy and the separation of powers would create a division of political labor so minute that no particular agent could be significant. No great talents were required. Procedure replaced personality. "Rotation" in office, not distinction, was to matter. Ideally, judges with no discretion were to apply rigid rules which would allow selfish individuals to pursue their ends without hurting one another excessively. In a predictable and secure environment, no one need suffer fear or alarm. This was misanthropy's finest hour. It was put to work on behalf of the most humane of political systems. . . . The very idea of the modern legal state was meant to prove that misanthropy need not express itself in personal despair or political violence. It was to be a shield against aggression. This is the misanthropy that laughs and exerts itself to avoid tears, bitterness, and an anguish that may drive us to the politics of destruction.
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> Convincing as Montesquieu's liberalism was, especially to Americans, the limits of his doctrine and of political impersonality soon became plain. Romantics of every kind had no use for unpoetic and uninspired policies, and neither justice nor efficiency pleased them. In the nineteenth century, liberalism was far more threatened by nostalgic romantics than by egalitarian radicals. It was constantly accused of being hypocritical, leveling, vulgar, passive,

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[304] Shklar, *Ordinary Vices*, 43–44.

and the mere servant of the "masses." The very word "masses" was and is an expression of a revived misanthropy. The aesthetic and refined sensibility applied it to all classes of the modern age, signifying an overwhelming general disgust. . . .

. . . Montesquieu could begin with a general contempt for mankind and go on to build a fortress against tyranny. For him, the questions of politics were simply no longer a matter of good and evil persons at all, but of weak and strong groups. . . . There is no trust, no friendship, and no virtue required or expected. To assume misanthropically that abuses of power are inevitable unless carefully restrained is the whole basis of this kind of liberalism. It is the very perfection of a generalized misanthropy that makes no exceptions, is contemptuous of fame, and has no faith in military valor. It looks to a balancing of ambitions that will make physical cruelty difficult and persuade men to concentrate their energies on the less lethal pursuit of wealth and peace. . . . .

The impersonality of the legal state was long accepted as the proof of its rationality. It created an island of reason in the sea of human irrationality. That absolved the "système" from vice and virtue. Civilized political life, it was generally agreed, was possibly only if the legal order was protected from the vagaries of personal preferences and attitudes. And that order was expected to encompass all public activity eventually. But, in fact, it was in the political system which accepted Montesquieu's ideas most readily, the United States, that its limits soon became evident. In spite of every impulse to turn political disputes into legal cases, to be impartially decided by judges, and in spite of an enduring dream of "a government of laws, not of man," representative government involves highly personalized politics. They are not those of the monarchial past, but trust and distrust, loyalty and betrayal, [which] are very much a part of electoral politics. Every candidate presents his character to an electorate that must be persuaded not only by arguments, but even more by emotional preferences. In spite of the early engineers of equilibrated institutions and factions, the liberal order was not a self-regulating "système." Democratic politics are not impersonal. . . . Personal political authority is based on something close to love which is unstable and incalculable, and it has made the liberal state far less procedural and far less predictable than its first designers had hoped. Nevertheless, a balance of trust and distrust, of hope and fear, of benevolence and misanthropy has underwritten this disorderly political nonsystem, and its liberal outcome. It has even preserved a degree of judicial impartiality.

Electoral politics as an avenue to personal leadership do not always have a liberal outcome. In the immediately post-monarchial régimes of Europe, they proved disastrous. From the first, sociologists and psychologists—Weber and Freud, to name only the greatest—knew that personal leadership would not disappear, and that the years after the First World War would be marked by

emotionally charged leader-and-follower politics and with them the destruction of the impersonal state, especially its judicial part. From the very first, Europeans doubted whether the liberal state could live up to its claims and whether it had not been a sham all along. Was the impersonal state not just a cover for either the exploited or exploiting interests? Was it not rotten with hypocrisy? Was it not just a machine that crushed individuality in the interests of commercial enterprise and entrepreneurial vulgarity? Had it not ground every tradition down and had it not enslaved rather than freed those who labored for their daily bread? Indeed, impersonal government was not nearly as faceless, as fair, or as free as its defenders had hoped. It was merely the least cruel and the least oppressive of known regimes.[305]

If we think that Shklar's argument is somewhat plausible, as it seems at least to me, we can see how the liberal pursuit of avoiding fear and cruelty—through the "système," at all levels of society—has been, as its critics often point out, obviously fraught with difficulties and dangers from the outset. On the other hand, it appears equally reasonable to me to follow Shklar in assuming that despite its flaws, this pursuit has also been quite understandable, even deeply justified, for it arguably succeeded—and still does—in establishing "the least cruel and the least oppressive of known regimes," which I presume to be, broadly speaking, a fairly undisputed way to describe contemporary Western societies, which are evidently in question here.

Then, as I already claimed, it seems to me that Shklar's illuminating account makes it easier to grasp many things that have taken place in the post-war West, including principlism, and bioethics more generally. Thus, let us re-examine principlism again, now from this more refined perspective. The key word here appears to be *language*. Earlier I noted Albert Jonsen's telling observation that "as bioethics began, then, the notion that was to become its hallmark, respect for autonomy, was rare in the ambient philosophical air."[306] Related to this, I also concluded that "As to the evolution of principlism, it seems to me that a certain very general observation or theme emerges that transcends previous criticism as well as the particularities of the principlist approach; namely, the *solidification of the language of autonomy* into bioethical imagination." However, later I reminded the reader that as central as autonomy is in this framework, there are also other values at play here, which is vital to remember as the key proponents of principlism have struggled to stress. All in all, what these scattered remarks make clear is that principlism, despite all its shortcomings,

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[305] Ibid., 196–197 & 217–221.
[306] Jonsen, *The Birth of Bioethics*, 334.

has served a greater role in bioethics than might be obvious at first, namely, broadening the bioethical vocabulary and imagination. This is no small contribution—and something that, one could argue, relates to Judith Shklar's previous thoughts, too. But how?

It should no longer come as a surprise to the reader that I find the answer to this question especially in the "deliberate shallowness of bioethics," a theme that bioethics as a field as well as Shklar's "liberalism of fear" appear to share according to my interpretation. However, the difference between my previous claims is that at this point we are in a better position to appreciate the depth of this shared level, namely, its Shklarian moral psychology, or the pursuit of the "système" that this moral psychology, politically speaking, implies and accompanies. This helps us to answer two more particular questions regarding principlism, and some other aspects of bioethics: those of why and how, *exactly*, these developments have come about.

Let us begin with the "why." Naturally, principlism did not emerge from thin air. So, where did it come from? Clearly it was developed at a specific time and in a specific place by particular people in order to confront particular pressing problems. But this is not what I am seeking here, for it is too confined to the obvious circumstances of the time; moreover, I have already gone through this background. In other words, despite the previous contours, the question still remains open on a *deeper* level: why confront the challenges of the day *exactly* this way; why conceive these principles, and ultimately this new "language." Put differently, when one tries to intuitively imagine the possible alternatives that were available in the beginning, principlism can easily seem a rather odd way to proceed. Why would one not keep on addressing bioethical topics with the tools at hand, at best refining them, with the help of standard moral discourse that was available then—why go to all this trouble?

It appears to me, then, that even though the thinkers and proponents of principlism have not been too explicit about this deeper level, perhaps not even fully conscious of it, it is right here where the reason resides: in the original, and essential, pursuit to establish a genuinely new way to address ethical and moral questions, a pursuit that sought to establish a new framework for thought and action *by merely* relying on a common language, *truly inclusively* available to all. In practice, this meant that this new framework was intended to be—following the perspective illuminated by Shklar—deliberatively shallow, without much content in itself, in order to avoid inflicting moral and political tyranny, fear and cruelty, on individuals, of which there was plenty of evidence from the past. Nevertheless, most importantly, this did not denote an expectation of a situation that would be impoverished, emptied of cultural content—ethical, moral, political, or otherwise—*quite the contrary*: there was so much

of such content *already present* in society, such a deep context for this new language, that it was clear that the outcome would inevitably be a rich cultural mosaic. Moreover, this was not only an expected outcome but also a *vital* backdrop, only against which the whole venture could seem sensible—the content that principlism would ultimately carry despite being careful of not committing to this content by itself. Put short, this was an attempt to introduce a language that would be somewhat inclusively, and neutrally, available to all—no more, no less—for this was what the dominant liberal conscience called for at the time.[307]

Now, let us consider the question of "how" from this deeper perspective. What has happened since the beginning? Then, the answer to this question is a very familiar one, similar to what arose in my previous and more general discussion of bioethics: the success of principlism has been mixed. The greatest success of principlism has been its enormous popularity, which is indeed a testament to the strengths of the approach: it works, it is capable of incorporating various parties into shared, and meaningful, discussion about bioethical questions. Moreover, it is clearly empowering. Here respect for autonomy, as well as other principles, typically nonmaleficence, beneficence, and justice—following *Principles of Biomedical Ethics*—have collaborated to invite participants to debate bioethical questions and allowed them legitimate and coherent vocabulary to introduce their thoughts into this discussion. The outcome has indeed been quite sensible, despite the worries about all the different potential shortcomings—*because people have made rather sensible use of the principles.* Put simply, by being fairly open and thus easily accessible, principlism has been a success story of inclusivity, which was obviously a key aspiration of bioethics. I think these remarks are fairly safe to make at this point.[308]

However, some dark clouds have gathered over principlism, too. Arguably the critics have also been right to some degree. It appears that not even the authors of *Principles of Biomedical Ethics*, not to mention others, have entirely and consistently conceived the social and cultural meaning of their work the way I have now done,

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[307] Cf. John H. Evans, "Max Weber Meets the *Belmont Report*: Toward a Sociological Interpretation of Principlism," in Childress, Meslin, and Shapiro, *Belmont Revisited*; in other words, the "language thesis," along these lines, is not a completely new one; however, I think that my point of view significantly differs from other such interpretations, such as the one by Evans.

[308] I think this resonance and somewhat sound applicability in the practical context is already evident in Beauchamp and Childress, *Principles of Biomedical Ethics*, 1–25, even if between the lines; also, see for example Childress, Meslin, and Shapiro, *Belmont Revisited*, which primarily addresses the *Belmont Report* but obviously closely relates to *Principles of Biomedical Ethics*. I emphasize that this is not a normative evaluation; rather, I am merely claiming that principlism has tended to work in this manner in practice.

and this shows—lamentably from my perspective—in the way the principlist approach has been developed and applied. One consequence of this situation seems to be that not enough attention has been paid to the social implications and requirements, the social nature, of this new setting. As I have emphasized, a language, the principlist language, becomes meaningful and effective only via its social context. And in this respect, it appears to me that not enough attention has been paid to what should be fostered in order for this new and inclusive language to fully take root, namely, social capital, or glue, that plays an integral part in tying together the various participants of the debate. This is one of my favorite themes that I have already rehearsed a few times in this study and which I take to be familiar to the reader at this point.

At the same time, it needs to be stressed that fostering social capital, as self-evidently vital as it seems to be, is obviously no simple matter here. The "deliberative shallowness," the essence of the whole approach to my mind, can also be easily ruined by fostering social bonding in the wrong way, by imposing too strict moral and political coherence on the bioethical debate. Thus, one needs to be inventive when pursuing the goal of fostering social capital; in other words, it is important to carefully seek out and build on the standpoints, or norms, that are genuinely shared in the social realm in this case. It is especially central to acknowledge and clarify what it means to be autonomous in this new social context, together with other autonomous participants, which is the very *starting* point of this inclusive project. To my eye, the principlist approach has been somewhat lacking in this regard.

Then, it seems to me that one promising way that can help with this aim is the political philosophy of Philip Pettit, a body of thought to which I will turn my attention in a moment. Before this, let us see how the authors of *Principles of Biomedical Ethics* themselves consider this issue. In this respect, there are two interesting passages in the latest edition of the book. The first one is about autonomy:

> To respect autonomous agents is to acknowledge their right to hold views, to make choices, and to take actions based on their values and beliefs. Such respect involves respectful *action*, not merely a respectful *attitude*. It also requires more than noninterference in others' personal affairs. It includes, in some contexts, building up or maintaining others' capacities for autonomous choice while helping to allay fears and other conditions that destroy or disrupt autonomous action. Respect, so understood, involves acknowledging the value and decision-making rights of autonomous persons and enabling them to act autonomously, whereas disrespect for autonomy involves attitudes and actions that ignore, insult, demean, or are inattentive to others' rights of autonomous action.

The principle of respect for autonomy can be stated as both a negative obligation and a positive obligation. As a *negative* obligation, the principle requires that autonomous actions not be subjected to controlling constraints by others. It asserts a broad obligation that is free of exceptive clauses such as "We must respect individuals' views and rights so long as their thoughts and actions do not seriously harm other persons." Of course, the principle of respect for autonomy needs specification in particular contexts to function as a practical guide to conduct, and appropriate specification will incorporate valid exceptions. This process of specification will affect rights and obligations of liberty, privacy, confidentiality, truthfulness, and informed consent . . .

As a *positive* obligation, the principle requires both respectful treatment in disclosing information and actions that foster autonomous decision making. Many autonomous actions could not occur without others' material cooperation in making options available. Respect for autonomy obligates professionals in health care and research involving human subjects to disclose information, to probe for and ensure understanding and voluntariness, and to foster adequate decision making. As some contemporary Kantians have argued, the demand that we treat others as ends requires that we assist them in achieving their ends and foster their capacities as agents, not merely that we avoid treating them solely as means to our ends.[309]

The second passage concerns "common morality," which is a central concept in the work[310]—which is in fact the ultimate source of its moral judgments—and the essentially Rawlsian reflective equilibrium that the authors suggest should be used to derive moral principles:

John Rawls coined the term *reflective equilibrium* to depict a way of bringing principles, judgments, and background theories into a state of equilibrium or harmony. The thesis is that justification in ethics and political philosophy occurs through a reflective testing of moral beliefs, moral principles, judgments, and theoretical postulates with the goal of making them coherent. Proponents argue that a theory or a set of moral beliefs is justified if it maximizes the coherence of the overall set of beliefs that are accepted upon reflective examination.

Method in ethics, in this account, properly begins with a body of beliefs that are acceptable initially without argumentative support. Rawls calls these

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[309] Beauchamp and Childress, *Principles of Biomedical Ethics*, 106–107.

[310] This concept, and position, has clearly evolved during the years; however, to me this change does not represent a fundamental shift in the approach. One could argue that the authors have simply become more aware of their basic premises.

starting points "considered judgments," that is, the moral convictions in which we have the highest confidence and believe to have the least bias. They are "judgments in which our moral capacities are most likely to be displayed without distortion." Examples are judgments about the wrongness of racial discrimination, religious intolerance, and political repression. "Without distortion" does not merely refer to correct judgments, which would run the risk of circular argument. It refers to the conditions under which the judgments are formed. These considered judgments occur at all levels of moral thinking, "from those about particular situations and institutions through broad standards and first principles to formal and abstract conditions on moral conceptions." . . .

The thesis [of the authors of *Principles of Biomedical Ethics*] is that reflective equilibrium needs the common morality to supply initial norms, and then appropriate development of the common morality requires specification, balancing, and reflective equilibrium, a method of coherence. A warranted approach using reflective equilibrium does not involve the relentless reduction to coherence of any set of preferred beliefs. We start in ethics with a particular set of beliefs—namely, the set of considered judgments that are acceptable initially without argumentative support. We cannot justify every moral judgment in terms of another moral judgment without generating an infinite regress or vicious circle of justification in which no judgment is justified. The way to escape this regress is to accept some judgments as justified without dependence on other judgments.[311]

There are a few interesting features in these two excerpts from our perspective. First, the passage about autonomy is clearly something more than a mere normative philosophical statement: it aims at promoting a certain pervading *culture* of respect for autonomy, something that is more than standard analytical formulations, even more than a certain general attitude toward the matter. To my mind, what this passage intends to convey, even if failing to be explicit about it, is that autonomy needs to be part of the social and cultural landscape in a way that people acknowledge that it is an integral component of the "social glue" that essentially binds them together. It intends to convey that autonomy is not a constraint but rather something that makes the meaningful construction of society possible in the first place—that it does not divide people but brings them together by allowing genuine social inclusivity.

In tune with such inclusive aspirations, the second passage then evokes the familiar theme of Rawlsian political philosophy, especially utilizing the "reflective equilibrium," a concept Rawls uses to seek common moral and political ground. It can

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[311] Beauchamp and Childress, *Principles of Biomedical Ethics*, 404–405 & 407–408.

be doubted whether the Rawlsian theoretical apparatus in itself is the best, or the most practical, way to achieve the end the authors are pursuing. Nevertheless, this theoretical choice signals a certain very reflective, or open-ended, attitude that is naturally compatible with deeply inclusive aspirations—in the same vein as Rawls' political liberalism is inclusive. Then again, "the common morality," which the authors see as the foundation of their work, is obviously a slightly dangerous concept from this inclusivist—in effect, liberal—standpoint, especially as they claim its universality.[312] On the other hand, the authors go to great pains to ensure that what they mean by the "common morality" is something quite conventional in the end; the claim is fairly thin. In other words, questions about the legitimacy of the concept are hardly an issue in the overall framework of the approach, especially as there is such a strong inclination toward practical applicability instead of addressing deep philosophical disputes.

Then, it seems to me that what both passages appear to be after, even if they are not very clear about it, is that the principlist approach represents, at the end of the day, something more than only a vocabulary for a shared bioethical debate and decision-making. In order for this framework to work well, this also needs to be acknowledged. To put it simply, the authors are striving to say, to my mind, that their ideas also aim at evoking something deeply shared, some core pillars of social inclusivity, and that this must be an integral part of the setting surrounding the principlist discussion, it must be its bonding glue. However, what seems to deter and almost prevent them from openly and fully embracing this factor is the acknowledgement that doing so puts the "deliberative shallowness" of the approach, its key strength, in jeopardy. Consequently, this might open the door for oppressive moralism; the danger that Shklar's thought underlined. Thus, it appears evident to me that the approach would benefit from some refinement of its ideas, which is the reason I will now turn my attention from the Shklarian "footsteps of Montaigne" to the political philosophy of Philip Pettit.

Philip Pettit and *One Flew Over the Cuckoo's Nest*

Earlier in this study I introduced the political philosopher Philip Pettit's influential work at length, which culminates in the "neo-republican" concept of "freedom as

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[312] Ibid., 2–5.

non-domination." I summarized what this notion means and advocates in the following way:

> So, in practice, according to Pettit, living in a reasonable and predictable political and social environment to which people genuinely adhere is more important than having the most comprehensive scheme of liberties, negative or positive. For example, laws that are perceived as legitimate, even if somewhat interfering with freedom, embody this ideal. Put differently, above all, Pettit calls for securing confidence in living free from being "at the mercy of another," so to speak, or from being under the domination of others, no matter how benevolent this domination might turn out to be.

I also quoted Pettit, who well illustrates his conception:

> The grievance I have in mind is that of having to live at the mercy of another, having to live in a manner that leaves you vulnerable to some ill that other is in position arbitrarily to impose; and this, in particular, when each of you is in a position to see that you are dominated by the other, in a position to see that you each see this, and so on. It is the grievance expressed by the wife who finds herself in a position where her husband can beat her at will, and without any possibility of redress; by the employee who dare not raise a complaint against an employer, and who is vulnerable to any of a range of abuses, some petty, some serious, that the employer may choose to perpetrate; by the debtor who has to depend on the grace of the moneylender, or the bank official, for avoiding utter destitution and ruin; and by the welfare dependant who finds that they are vulnerable to the caprice of a counter clerk for whether or not their children will receive meal vouchers.
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> Contemporary thought suggests that individuals in these positions retain their freedom to the extent that they are not actively coerced or obstructed. But whether or not they avoid interference, they certainly have a grievance. They live in the shadow of the other's presence, even if no arm is raised against them. They live in uncertainty about the other's reactions and in need of keeping a weather eye open for the other's moods. They find themselves in a position where they are demeaned by their vulnerability, being unable to look the other in the eye, and where they may even be forced to fawn or toady or flatter in the attempt to ingratiate themselves. . . . Freedom involves emancipation from any such subordination, liberation from any such dependency. It requires

the capacity to stand eye to eye with your fellow citizens, in a shared awareness that none of you has a power of arbitrary interference over another.[313]

I think that it should be rather easy to see what Pettit is after. Moreover, it seems evident to me that these thoughts of Pettit's are, after all, fairly compatible with the kind of political philosophy that I have been introducing, namely, that of John Rawls and Judith Shklar, a topic that I also addressed in detail before. However, despite the profound similarity, Pettit's account appears to be also enriching, for it adds a new, more practical, layer to the intellection framework. At the same time, this observation leads us back to principlism.

It seems to me that Pettit's thought offers one fruitful way to address the previously identified lack of clear commitment to deep social inclusivity, and themes related to this. To summarize, as the principlist approach could be conceived as a "language" that aims to be "deliberatively shallow," a kind of miniature version of the impartial "système" that Shklar called for, but also something that has been founded on a certain—liberal—historical consciousness, which carries particular social aspirations with it—namely, social inclusivity and broad intellectual tolerance—there is a clear need for something that can balance between these different aspects in a way that is effective but that does not sacrifice one aspect in the name of another. Then, to my mind, Pettit's "freedom as non-domination" fits well in the middle of all these coordinates, making the effort more tangible and robust.

Most of all, what Pettit's conception highlights is the day-to-day condition under which many people—in the case of bioethics, patients, research participants and scholars from various fields—were practically living at the time when bioethics was introduced during the post-war era, and under which many still arguably continue to live all too often. This has to do with initiative, or rather, lack of it. Obviously the deeply motivating reason for early bioethicists' efforts was that they wanted to open up the debate about the ethical, moral and social aspects of life sciences so that many, besides physicians and other traditional medical authorities, would also *feel* they could participate in the discussion and decision-making. To be precise, most of the time no one had prevented patients, research participants and others from contributing or speaking their minds, so to speak; rather, they did not feel *empowered* to do so. Part of this lack of empowerment was naturally that there were equally no reasonable channels to raise such voices, but this was only one part of the social setting that was

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[313] Philip Pettit, *Republicanism: A Theory of Freedom and Government*, paperback edition with a new postscript (1997; Oxford: Oxford University Press, 1999), 4–5.

wrought with subtle disincentives to participate, eventually, disincentives to prize one's individual value, one's autonomy in this context. The claim here closely resembles the worries that for example the feminist movement has often raised, not to mention various minority groups.

In practice, what "freedom as non-domination" highlights in this case is, unsurprisingly, the condition of being dominated—through a social setting that is essentially arbitrary and directs one to live, to a considerable degree, "at the mercy of another," something that can only go so far, so to speak. In other words, in this setting there is no true incorporation of various voices into decision-making, nor are there reliable channels of redress, besides a rough minimum. The standard answer one gets all too often is: "well, it depends." To put it simply, the feeling is that when one, say, enters a hospital as a patient, this comes with a concomitant loss of basic civil rights and liberties; and this has nothing to do with the biological limits imposed by illnesses or impairments. Put differently, the feeling is to some extent similar to becoming an inmate. This might sound a little far-fetched but when one considers, for example, personal accounts from the medical institutions of the post-war era, it starts to seem much more familiar—it could be said that the famous novel and movie *One Flew Over the Cuckoo's Nest* was not only a product of fiction. Moreover, what is in question here is something that is, despite its profound social and psychological effect, very subtle after all, and thus difficult to detect just by looking at the most explicit. As with the case of the *Titanic*, one needs to be willing to observe carefully, and patiently, the complexities of the social world.

Then, Pettit's notion helps to better grasp this situation, and it also offers a tool to navigate through it. To my mind, it would do no harm for the advocates of principlism to acknowledge, having been inspired to this by Pettit, that what they are essentially striving to do is to reduce the potential for domination in the sphere of life sciences. As it has become clear, domination seems to work primarily with the help of arbitrariness and lack of adequate protection; not so much through direct control, which is easier to detect and usually also to resist. Thus, we could say that the goal of principlism, as an antidote to such tendencies, has been, and is, to offer a neutral and easily approachable way—a language—for everyone to participate and voice their concerns, to empower everyone to do so. Moreover, it would be evidently important to be explicit about the rationale for doing this lying in the liberal consciousness—moral psychology—that seeks to avoid excessive moralism and oppression, to remain "deliberatively shallow," as I called this. I presume doing all this would foster the acknowledgement and appreciation of the social nature of the setting, which might make all the difference in the end. If this was clearly incorporated

into the approach, I doubt that there would be so much pejorative labeling of principlism as a hollow "Georgetown mantra" any longer—and for a good reason.

On the other hand, this new perspective does indeed point to some deep difficulties with the approach, too. As I noted earlier, there are some dark clouds over principlism. One of these dark clouds has appeared to be the lack of awareness and openness about the social nature of the approach, and I have now addressed this; however, this is not all. It seems to me that another weakness of the approach as it currently stands is that it is not necessarily open-ended enough; the "language of principlism" sometimes appears too limiting. This might be an outcome of the framework's success. What I mean by this is that principlism clearly did a great service to bioethics by introducing a workable solution to conduct meaningful bioethical discussion in which various viewpoints could be heard and brought together. As Jonsen more or less put it, it virtually imported the concept of autonomy, or "respect for it," into the bioethical realm, which was a true stepping stone for the field as it aspired to foster inclusive and open-ended deliberation. At the same time, it seems that principlism also did monopolize the discussion to some extent, which has naturally hindered the approach and the field from being truly open-ended, and as a result of this, also socially inclusive.

Too see this situation, one should ask if the principlist approach, *itself*, is in effect free from being a dominating force, which is a fairly obvious criticism of an intellectual framework that has become so central in bioethics, and beyond. Naturally, there is nothing wrong in being prominent, but in such a situation arises a true risk that the approach will become an end in itself, a kind of dogmatic belief, rather than only *one* way to address various issues. In particular, alarm bells should be ringing if the main advocates of the approach seem to see little legitimate room for *various* ways for dealing with the topic area; if the intellectual atmosphere appears more restricting than receptive. But is this the case, and if so, how much so?

It seems to me that the authors of *Principles of Biomedical Ethics*, whom I take to be somewhat indicative of the state of principlism in general, are, indeed, *on their level of reasoning*, fairly tolerant and supportive of new amendments as well as other approaches—but not necessarily so supportive of amendments on other levels. The work is, after all, a product of a certain philosophical tradition, in essence that of analytic philosophy. This *quite strongly* affects its style, as Fox and Swazey already observed. However, I want to emphasize that I do not see this background a problem in itself; to my mind, there is nothing that prevents analytic philosophy from embracing other ways of reasoning, which is well illustrated by John Rawls' philosophy in its totality. Nevertheless, in the case of principlism, something seems to be

lacking, mostly between the lines, with respect to cherishing an open-ended attitude toward other ways to approach bioethics. This lack of open-ended attitude seems to affect especially those ways that are genuinely different from principlism, for example, those that are more holistic in their reasoning and cannot so easily be analytically divided into digestible pieces. The testament to this is not so much open resistance than the omission of a clear and sustained discussion of such differences on the pages of *Principles of Biomedical Ethics*.[314] As an outcome it seems occasionally that everything could be somewhat easily processed through the machinery of principlism without serious loss of content—or, on the other hand, that some viewpoints are simply, and unduly, ignored. Then, as I have interpreted and emphasized, principlism is also, at the end of the day, a language, and languages can only have one vocabulary or grammar. Herein, then, lies the problem, which I suspect will become more pressing in the coming years as the field moves further away from its early schemes.

Therefore, it appears to me that in order for principlism to avoid unduly restricting, perhaps even dominating, bioethics, and life sciences for its part, it could, and it should, far better acknowledge and accommodate this shortcoming, which is not necessarily even too hard to do: most of all, the approach simply needs to be candid about its limitations and truly open for development. It is essential that the sight of the overall goal of the approach should not be lost: it should continue to aim at empowering everyone to participate in the bioethical debate meaningfully. In other words, principlism should not turn into a church that has high priests deciding what fits inside the church walls and what is left outside. At some point in the future, it might even turn out that the whole approach has become obsolete because of the emergence of other and better ways to address bioethical issues. This should be a real possibility for the advocates of principlism to admit. With great power comes great responsibility.

Concluding discussion

It is now time to conclude my investigation of principlism. As it has become clear, principlism has merits and downsides, as any approach does; moreover, it is still very much a work in progress. In this chapter, I have aspired to illustrate how I conceive these different sides from my particular perspective. I have not toured all the various

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[314] Beauchamp and Childress, *Principles of Biomedical Ethics*; however, for example, cf. 10–13.

aspects there are; instead, I have sketched some broad contours. In fact, my main aspiration has not been to address principlism so much in itself; rather, I have wanted to explore principlism as an embodiment of some of the features that I take to be illustrative of the field of bioethics in general.

I began this chapter by noting that the aspect of bioethics that I identified earlier, its "deliberative shallowness," is a central feature that should not go unnoticed; however, I also noted that it usually does and that this is especially evident in the discussion surrounding principlism. Once again, I called for more patience when evaluating the field, emphasizing that there might very well be more beneath the surface than what first meets the eye. Thus, my quest has not been so much about aiming to add or remove anything from bioethics, but it has rather been about excavating and exposing new cultural and social layers of the field.

In practice, I have, especially with the help of political philosophies of Judith Shklar and Philip Pettit, tried to step outside the box for a while, so to speak, and to think freely about principlism. At the same time, I have indeed strived to keep in mind and occasionally argue that it seems to me that many of these observations apply to the field of bioethics too, well beyond principlism. I aim to make this even more evident during the last and concluding part of this work, a part that will soon follow and in which I will leave behind what others have said about bioethics, concentrating more on how I see the field and its potential, utilizing my theoretical apparatus even more.

However, I hope that by now a few central themes that I have rehearsed several times have become obvious to the reader. To summarize, it seems to me that most of all bioethics could be categorized as a field that has, at least, deeply sought to be socially inclusive as well as intellectually open-ended, two features that tend to go hand in hand. In practice, this aspiration has meant, for example, that bioethics has often aimed at being "deliberatively shallow," so that it would leave adequate room for various participants to join bioethical discussion; a good example of this is the principlist approach. On the other hand, such features of bioethics have been so subtle that they have been easy to miss. This has then not only often invited undue criticism but also hindered the field from developing its full cultural and social potential. Confusingly, and perhaps ironically, it seems to me that eventually there is not so much shallowness about bioethics, after all—when this topic is addressed on deeper levels, taking into account the rich social context and history behind the field; the liberal aspiration to avoid fear and cruelty.

As I have already said so much, and have now investigated various viewpoints on bioethics, it is only natural that in the next chapter I will draw heavily on my previous

observations. My goal is to finish the current part, in which my aim has been to address prevalent perspectives on bioethics, with a kind of overview of all the remaining views—in practice, this summary includes the previous themes as well, and therefore encompasses the whole subject matter. To my mind, there are not that many genuinely new themes left; rather, the themes or categories of works that I will be addressing in this chapter are merely kinds of repetitions or variations of the previous ones, typically adding only secondary details to earlier discussions, for example by highlighting the role of different technological breakthroughs. Thus, in the end, it seems to me that the "big picture" remains the same. Even so, I think that the next chapter will serve as a vital bridge in this study as we move on to the last part, in which I will finally pull all the strings together.

4.5   Summarizing the Discussion

There is a theme, or a style, that very much characterizes the modern discussion about the nature and history of bioethics. This is a theme that I have wanted to avoid before as it can easily distract one from my central pursuit, which has been to truly appreciate the deep cultural character of the field. To my mind, very misleadingly—and ironically—this theme has often been labeled as the "culture wars" of bioethics. As to this, historian Sarah Ferber writes:

> In modern "culture wars," bioethics is a political minefield. Reading into bioethics culture, one becomes increasingly attuned to the personal or political starting points of authors. Routinely one wonders: Are they in the pay of a drug company? Is religion a motive? Are they afraid to seem radical/reactionary because of their professional position/the political climate? What exactly do they intend when they use the word "life"? Why did they leave out this or that piece of seemingly relevant information? Are they making a tacit case for/against abortion rights? Because bioethics by its very nature leaps across cultural divides – from legislature into the clinic, from the seminary into the courtroom, from the lecture theatre into the late news bulletin, from the deathbed onto the web – the starting points of academics involved in bioethics commentary are possibly more than usually exposed to public view.[315]

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[315] Sarah Ferber, *Bioethics in Historical Perspective* (London: Palgrave Macmillan, 2013), ix.

As a natural offspring of such bioethical culture wars, then, there is "cultural bi-oethics," a branch of bioethics that studies these wars in the context of the field, especially how they reflect their broader political and social origins. Mostly following Daniel Callahan's definition of cultural bioethics[316], Ferber summarizes this effort:

> "Cultural bioethics," then, acknowledges the intensely felt and politically charged nature of much bioethics debate; it is informed by an awareness of the essentially social encounters which make up modern medicine. In this per-spective, questions such as "Whose views shape debate?", "Whose are left out?", and "How do some issues come to be seen as more pressing than oth-ers?" play important roles in shaping the ethical landscape. Seen in this way, cultural bioethics seeks to understand the historical and present questions of medical choices and outcomes of individuals and groups, and the clinical and experimental cultures in which these are shaped.[317]

Now, the reader might assume that what I have aimed to do with this study is to argue for a better appreciation and utilization of "cultural bioethics." However, as I already suggested, this has *not* been my aim. What I have wanted to do in this work has been to look beneath the surface of bioethics, to grasp it as a complete cultural— essentially *human*—phenomenon. In order to do this, I have aspired to capture even some rather weak, but perhaps very significant, signals that are part of this complex state of affairs. In other words, I do not want to do cultural bioethics, nor take part in these culture wars, for it seems to me that what is termed "culture" here is practi-cally just shorthand for various worldviews and ideological positions. For me, the cultural level is essentially something significantly deeper than this.

Of course, it is hard to pinpoint exactly what "culture" is, then, but I see that it is not even necessary to define it that thoroughly in this case. What I only want to do here is to look beneath the surface of the most obvious, to reduce the under-standing of bioethics to a more elementary level. This is a level on which it is easier to see various connections between the fears and aspirations of the time, among other such basic factors of human and social life, factors that cut across the clean lines of various belief systems. In a way, Sarah Ferber, too, reflects this aspiration;

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[316] Daniel Callahan, "Bioethics," in *Encyclopedia of Bioethics*, ed. Stephen G. Post, 3rd ed., 5 vols. (New York: Macmillan, 2004), 281–282; see also Daniel Callahan, "Bioethics and the Culture Wars," *Cambridge Quarterly of Healthcare Ethics* 14 (2005).

[317] Ferber, *Bioethics in Historical Perspective*, 6.

perhaps just not as vigorously as I would hope. Naturally this level is nothing une-quivocal, or absolutely foundational; nevertheless, I hope that it sufficiently fits my purpose to enrich the understanding and appreciation of bioethics as a rich cultural phenomenon.

Thus, from the perspective of my particular "cultural" perspective the discussion about the nature and history of bioethics seems quite different. As I have already argued, from this point of view something important and of great value appears to reside in the deep nature of the field; something that has been overlooked often. At the same time, from this perspective many other perspectives that have been put forth begin to seem either somewhat secondary, adding only details around the core of the story, or simply ill-founded. All in all, my following discussion of these other perspectives will be somewhat different from the standard typology, as will soon become obvious. So, let us begin.

The optimism of the early days

As I have lamented several times, there is now often a kind of feeling of disillusion-ment hanging in the air about bioethics, perhaps "pessimism" is the right word for it. It seems to me that there are two main reasons for it at the end of the day. One of these reasons I have already explicitly addressed, namely, that bioethics and its potential are often misunderstood or constructed in some clearly biased way. How-ever, another central reason has been mostly implicit thus far: this is the optimism of the early days and the unrealistic expectations that it created. This has worked in various ways.

Firstly, the optimism was founded on views and beliefs of early bioethicists—a narrative that I mostly followed in the part in which I discussed the "perspective of the past." As many have pointed out, these views and beliefs were, however, not necessarily completely well-founded. I admit this, too, even though I claimed earlier that I find much of this narrative rather plausible. To be sure, at least to a degree, the early bioethicists overstated the challenges they were facing, such as undue med-ical paternalism, and their own abilities to neutrally confront these challenges. And in some other ways, too, the narrative has obviously been biased. What has happened has been something very human: the optimism, or the hope, of the early days became reality simply by wishing it so—a situation that can last only so long.

Another way optimism has worked in this setting is that it obviously caught on, and eventually, once it became obvious that all the earlier promises would not be fulfilled, invited much of the pessimism. From the perspective of the basic human

psyche, it is not difficult to understand why excessive optimism has been often replaced by excessive pessimism, a shift from one extreme to another. Nevertheless, clearly such pessimism should be avoided and an appropriate middle ground should be sought. Moreover, as to the clear and real failures of the field that have also contributed toward this pessimism, I have also tried to argue that the promise and the potential is still there. The first step toward realizing this promise and potential is simply acknowledging and understanding it better. In other words, one needs to look for the middle ground, as well as the potential it holds—indeed, one needs to *search* for it.

This gap between the early expectations and current disappointments is not a novel observation, even if my wording is a little different from that of others. Many bioethicists, and others, have acknowledged these pitfalls and tried to come up with balancing answers and solutions to them—with varying success. One common strategy has been to add more details to the story, or express qualified reservations about it, while in essence still maintaining the basic storyline. There are many works that could be placed into this category.[318] Of course, these studies have often been conducted also for other reasons, but it seems to me that indeed a central aspect of them, even if only implicitly, has been an attempt to balance between the optimism of the past and the pessimism of the present. To my eye, however, this strategy, and more

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[318] For example, see George J. Annas, *American Bioethics: Crossing Human Rights and Health Law Boundaries* (Oxford: Oxford University Press, 2004); Robert Baker, *Before Bioethics: A History of American Medical Ethics from the Colonial Period to the Bioethics Revolution* (Oxford: Oxford University Press, 2013); Robert B. Baker et al., eds., *The American Medical Ethics Revolution: How the AMA's Code of Ethics Has Transformed Physicians' Relationships to Patients, Professionals, and Society* (Baltimore: The Johns Hopkins University Press, 1999); Daniel Callahan, *The Roots of Bioethics: Health, Progress, Technology, Death* (Oxford: Oxford University Press, 2012); Daniel Callahan, *In Search of the Good: A Life in Bioethics* (Cambridge, MA: MIT Press, 2012); Arthur L. Caplan, *Smart Mice, Not-So-Smart People: An Interesting and Amusing Guide to Bioethics* (Lanham: Rowman & Littlefield Publishers, 2007); Jeremy R. Garrett, Fabrice Jotterand, and D. Christopher Ralston, eds., *The Development of Bioethics in the United States* (Dordrecht: Springer, 2013); Albert R. Jonsen, *The New Medicine and the Old Ethics*, new. ed. (1990; Cambridge, MA: Harvard University Press, 1992); Albert R. Jonsen, *The Birth of Bioethics* (Oxford: Oxford University Press, 1998); Albert R. Jonsen, *A Short History of Medical Ethics* (Oxford: Oxford University Press, 2000); Albert R. Jonsen, "Beating Up Bioethics," *The Hastings Center Report* 31, no. 5 (2001); Edmund D. Pellegrino, "The Origins and Evolution of Bioethics: Some Personal Reflections," *Kennedy Institute of Ethics Journal* 9 (1999); David J. Rothman, *Strangers at the Bedside: A History of How Law and Bioethics Transformed Medical Decision Making*, 2nd ed. (1991; New Brunswick: AldineTransaction, 2003); Robert M. Veatch, *Disrupted Dialogue: Medical Ethics and the Collapse of Physician-Humanist Communication (1770–1980)* (Oxford: Oxford University Press, 2005); Jennifer K. Walter and Eran P. Klein, eds., *The Story of Bioethics: From Seminal Works to Contemporary Explorations* (Washington, DC.: Georgetown University Press, 2003).

generally the works that have employed it, are often rather lacking in the depth of their critical perspectives. This is understandable for their aim is to do something different: to *enrich* the field of bioethics, and understanding of it. But enriching based on fairly fixed standpoints can only go so far. My argument is that at the end of the day, in order to grasp the whole essence of the field, one also needs to adopt a more critical approach. This more critical approach to my mind is usually one that radically combines different theoretical backgrounds and frameworks to shed truly new light on the field. The reader can see that I am echoing my previous criticism here relating to the division between the descriptive and critical assessments of the field.

A good example of the enriching genre is Albert Jonsen's work, on which I relied quite heavily earlier. Jonsen's thoughts are also a good example here because they well illustrate the division between the early optimism and later pessimism, and the author's recognition of this shift in the prevailing moods. It needs to be said that Jonsen, who is especially known for his seminal *The Birth of Bioethics*[319], is an excellent source of knowledge of bioethics for two reasons: he has been involved with the field since its beginning, and he has also obviously documented its past in a fairly comprehensive and balanced way. Thus, by following Jonsen, one can comprehend quite well, for example, the rationales that have guided the field. On the other hand, as some of his critics have eagerly pointed out, he is also an insider and therefore his views tend to be biased in favor of bioethics, in favor of the aspirations of early bioethicists, or his views at least carry clear potential for this.

However, this line of criticism has not escaped Jonsen's mind either, for it is obvious that by documenting the development of the field with a diligent accuracy, he is confronting his critics with a good pair of questions: What are the facts that I have gotten wrong, then, and how do these errors affect my conclusions? These questions are not always so easy to answer—at least answering them is not as easy as merely highlighting Jonsen's role as an insider and declaring his views biased, which is a more commonly heard criticism. In other words, Jonsen challenges his readers to consider, patiently with him, the actualities of the past and then to draw their conclusions based on this consideration. The point of the whole exercise, to my mind, is not only to simply document the history of bioethics but also to address, and fill, the troubling gap between early optimism and the reality that has hit the field as it has matured.

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[319] Jonsen, *The Birth of Bioethics*.

A careful reader can spot this ambition in Jonsen's work. Already almost at the beginning of *The Birth of Bioethics*, Jonsen offers us a good illustration of his aspirations when he rails:

> During the week this preface was being composed, the esteemed scientific journal *Nature* reported that the bioethics "industry" was booming: governments and industries were soliciting advice; and bioethicists were offering it—in commissions, at conferences, and through scholarly literature and media comments. The author argued, however, that "despite their growing prominence, it is far from clear whether US bioethicists have substantially shaped either the culture of science or the political decisions of recent years." As the article elaborated this skeptical view, citing fragments of history and quoting several self-depreciating bioethicists, it teetered on the edge of factual and interpretative inaccuracies. It is not quite correct that "the new prominence of bioethicists can be traced to the 1988 launch of the human Genome Programme." It is inaccurate to state that bioethics was "cloistered 30 years ago in university departments of theology and philosophy." It is not entirely true that the National Commission for the Protection of Human Subjects of Biomedical and Behavior[al] Research was "set up in response to the 1972 revelation that the US had for 40 years funded the notorious Tuskegee Syphilis Study." It is an exaggeration to claim that "everybody before would have identified . . . as theological literature" the earlier bioethical writings. And it is questionable that "apart from a couple of early, significant, victories, 'it is hard to show any concrete influence on policy by US bioethicists.'" Certainly, it is not easy to assess the influence of bioethics, now some thirty years old, on thought, culture, policy, and practice. Such assessments are haunted by the Missionaries' Fallacy: much preaching is done and many converts counted but how many hearts and minds are won? Still, an assessment demands an accurate historical recounting of why and how the field came into being. It is time to write that history.[320]

I highly value Jonsen's efforts. Nevertheless, as I suggested, the limits of his work seem evident to me, too. Moreover, Jonsen appears very emblematic of the genre he represents also in this case. These limits relate to his more speculative views. When I introduced his conclusions on bioethics in an earlier part of this study, I especially noted how much emphasis he puts on a particular "American ethos," which, for him, centrally consists of three facets—moralism, meliorism, and individualism—

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[320] Ibid., vii–viii.

and which is also closely related to the prevailing liberal mentality. Put simply, Jonsen's claim was that bioethics is first and foremost of American make, and that its wide acceptance in its native country is largely due to its profound compatibility with broader American culture. The reader should no longer be surprised that I disagree, to some extent, with such a heavy reliance on the *American* ethos, as opposed to mere Western; a criticism that I already voiced in passing before.

My disagreement with the American ethos thesis could simply be defended by observing that the same cultural qualities that have influenced and nurtured bioethics seem to be in place, quite firmly, throughout the West, although perhaps not to the same degree as in the United States—but not significantly so. It appears to me that the reason Jonsen views this matter in such a way is that he is, after all, not critical enough, not operating on a sufficiently deep, or broad, level; he is too caught up in surface facts, in some particular cultural variations. Naturally, it is good to be sensitive about cultural differences, but there is also the danger of overdoing this sensitivity. To my eye, then, the essential test here is the overall *dynamic* that seems to have led to the birth and development of bioethics; in Jonsen's terms, the *way* moralism, meliorism, and individualism, including the liberal mentality, have worked together in this case; the critical step in the equation, or rather, its core. As I have argued a number of times already, it seems to me that this dynamic has revolved around popular aspirations for open-ended knowledge and the social inclusion of different voices, something that arose against the backdrop of post-war challenges to established forces—a cultural force that has surely been present throughout the whole Western world. Jonsen misses this point to some extent. Thus, one could argue that the American ethos thesis is only a reflection of this more powerful, underlying force—a *single* cultural force of the West—dressed, to some degree, in particularly American clothes in Jonsen's account.

Am I wrong here? Interestingly, Jonsen acknowledges similar foundational forces that I have highlighted in passing when he notes:

> The traditional liberal spirit of Americans, sharpened by the fight for civil rights and against the war, looked with suspicion on this medical-technical complex [of the 1960s and 1970s]. Still, this thesis does not explain why that suspicion took the form of ethics. The civil rights and the anti-war movements were certainly inspired by moral sentiments and commitments but they did not create an ethical discipline. In both movements, the moral lines were in general clearly drawn, once the war could no longer be defended as a just war against communist domination and before reaction to affirmative action raised questions of reverse discrimination. Genuine moral problems arose in foreign and domestic policy and the students of ethics who were energized by these

problems explored them, but no disciplinary equivalent of bioethics appeared.[321]

Then, indeed, according to Jonsen, the force that transformed these moods into a "discipline and discourse called bioethics"[322] was the American ethos, as he describes it. But is this transformation, from underlying liberal sentiments to bioethics via moralism, meliorism and individualism, as smooth as Jonsen claims it to be? To me it seems clear that even though all of these factors, the "facets of the American ethos," surely had their role in this transformation, the explanation is, and needs to be, much simpler. I see that the key force at play was merely the call for truly basic and foundational matters such as more open-ended knowledge and social inclusion, to reflect the changing world—no need for any particular emphasis on "individualism" or anything else in this vein here. In other words, the force at play was something that resonated with so many people intuitively, first and foremost; it could have not worked otherwise. And as this was indeed a "call" for something, it was a normative attempt, which naturally involved debating and studying morals and ethics, alongside politics and other topics. This eventually urged the need to create new spaces for this debate: in this case, this meant establishing the field of bioethics. Put simply, the birth of bioethics was, it appears to me, rather a natural, quite instinctive, cultural and social reaction to the times. It was more this natural reaction than a product of more fine-tuned values such as moralism, meliorism and individualism, even though these values have obviously played their role in what has taken place, not only in America.

However, there is one potential counterargument. One could ask how bioethics was born particularly in the United States, if I claim that this event is so natural, almost universal. My answer is simply that "bioethics" was indeed born in the country but that the distinction of the country of origin is valid only if the most explicit level is considered. It seems obvious to me that this "discipline and discourse" became established *throughout* the West at the time, however, it was often established under different names and to varying degrees, of course—which is true even within the U.S. For example, as I noted earlier when I quoted the 1977 editorial of *Journal of Medical Ethics*, a British journal established in 1975, it appears that 'bioethics' is very much present on its pages, even though "bioethics" is usually substituted with

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[321] Ibid., 389.
[322] Ibid., 389.

"medical ethics," and the same goes for many bioethical key concepts such as "informed consent." All in all, this wide acceptance of what could be termed "bioethics" from our current perspective is quite understandable, for the Western world was arguably undergoing a similar broad scientific and societal transformation during the post-war decades.

Then, as I suggested before, it seems to me that in this kind of critical, although benevolent, nearsightedness Jonsen is very emblematic of the genre he represents, the genre of enriching, or descriptive, historical assessments of bioethics. From the more critical perspective, his merit, as that of many others, is obviously that he offers a needed middle ground between the optimism and pessimism surrounding bioethics, and between all kinds of black and white interpretations of the subject. However, the problem is that if we lack sufficient critical imagination, or commitment to it, we miss understanding the deeper dynamics of cultural and social life. This has two deplorable consequences: our histories will be unnecessarily impoverished, and our aspirations and plans for the future will be lacking in identifying the right sets of challenges and solutions to move forward.[323] Now, of course, the histories of bioethics cannot answer *everything*. Eventually *everyone*, no matter how critical, will be challenged. Nothing is perfect. Every truth conceals a deeper truth, which holds very much true for this study, too. The important goal is merely to reach deeper levels and to challenge conventional wisdom. It seems obvious to me that middle-aged bioethics is in dire need of this kind of work in order to stay true to its original, and arguably best, ambitions.

It is all wrong!

Quite understandably, then, besides the descriptive and fairly rounded assessments of the history of bioethics, there is correspondingly another category, which consists of works that are highly critical of the field—or rather, usually deeply pessimistic about it. A good example of this group is Tom Koch's *Thieves of Virtue: When Bioethics Stole Medicine*[324], which I discussed at length earlier. Of course, I am not claiming that all such voices equate Koch's work, but I would argue that they share a great deal

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[323] Interestingly, Jonsen seems to acknowledge this point after all, although he does this somewhat tentatively; see Albert R. Jonsen, "Why Has Bioethics Become So Boring?," *Journal of Medicine and Philosophy* 25 (2000).

[324] Tom Koch, *Thieves of Virtue: When Bioethics Stole Medicine* (Cambridge, MA: MIT Press, 2012).

with Koch, especially in terms of their highly suspicious moods. These works tend to argue that bioethics is merely a "window dresser" of some hidden agenda such as neoliberal policy, or that it is overly fond of individualism, too disengaged with day-to-day political struggles, too secular, and so forth.[325]

To no surprise to the reader, I disagree with this line of thinking, broadly speaking. I do this for two reasons. The first reason is that such criticism often simply does not conform to the facts of what has actually taken place, as we saw with Koch. The main reason for this shortcoming seems to be that bioethics is too messy a field to fit the neat descriptions that such deeply critical voices tend to offer. In other words, bioethics is not the straw man that it is often portrayed to be. According to my own interpretation, bioethics is an open-ended and socially inclusive project, also very much a work in progress. Thus, it is rather the case, even desirably so, that a cacophony of various voices exists in the field. Put differently, there is window dressing present in bioethics to be sure, along with the other possible flaws, but overall there is much more present, too. It seems unreasonable to pick one shortcoming, or perhaps even a single line from somewhere, and generalize about the whole field based on this—especially given that bioethics hardly operates in an academic or social vacuum in which everything that happens is solely the doings of bioethics.

The second reason I disagree with these critics is that they often appear to have in mind, explicitly or implicitly, a very particular vision of what bioethics, or its desired replacement, should be. But if we believe, as I do, that being open-ended and socially inclusive are the core aspirations of bioethics, it is somewhat impossible to have any deeply *particular* vision of the field, or whatever should take its place. Here we can clearly see the liberal claim I have made: bioethics' whole point is to make

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[325] For example, see Jonathan Baron, *Against Bioethics* (Cambridge, MA: MIT Press, 2006); Howard Brody, *The Future of Bioethics* (Oxford: Oxford University Press, 2009); Carl Elliot, *White Coat, Black Hat: Adventures on the Dark Side of Medicine* (Boston, MA: Beacon Press: 2010); H. Tristram Engelhardt, *The Foundations of Bioethics*, 2nd ed. (1986; Oxford: Oxford University Press, 1996); Williard Gaylin and Bruce Jennings, *The Perversion of Autonomy: Coercion and Constraints in a Liberal Society*, revised and expanded ed. (1996; Washington, DC.: Georgetown University Press, 2003); Koch, *Thieves of Virtue*; Scott Mann, *Bioethics in Perspective: Corporate Power, Public Health and Political Economy* (Cambridge: Cambridge University Press, 2010); Laurence B. McCullough, "Was Bioethics Founded on Historical and Conceptual Mistakes about Medical Paternalism?," *Bioethics* 25 (2011); Onora O'Neill, *A Question of Trust* (Cambridge: Cambridge University Press, 2002); Onora O'Neill, *Autonomy and Trust in Bioethics* (Cambridge: Cambridge University Press, 2002); Neil C. Manson and Onora O'Neill, *Rethinking Informed Consent in Bioethics* (Cambridge: Cambridge University Press, 2007); Wesley J. Smith, *Culture of Death: The Assault on Medical Ethics in America* (San Francisco: Encounter Books, 2000); M. L. Tina Stevens, *Bioethics in America: Origins and Cultural Politics* (Baltimore: The Johns Hopkins University Press, 2000).

room for various voices, and empower them to participate. What comes after this is not really the field's business. Of course, one can argue that such open-endedness or social inclusivity are always biased in some ways, presumably this is even the case to a degree, but then this is obviously a completely different kind of claim than the ones made by those who are deeply critical or suspicious of bioethics.

The social context argument

Let us move on with our summary of the discussion surrounding the nature and history of the field. The next set of works I want to place under the rubric "the social context argument." I think this category is one of the closest ones to my own work—but, as it has become clear, there are also significant differences between my own study and the works in this group that I want to highlight.

Put simply the claim of these works is that bioethics should be placed better into its social, or cultural, context, which would help understanding of the field and to see what is still missing—an argument that motivates and animates my own study, too.[326] Besides this, these works are often close cousins of the previous category in their deeply critical tones; however, I think that the argument for contextualization

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[326] For example, see Judith Andre, *Bioethics as Practice* (Chapel Hill: The University of North Carolina Press, 2002); Charles L. Bosk, *What Would You Do?: Juggling Bioethics and Ethnography* (Chicago: The University of Chicago Press, 2008); Nathan Emmerich, "Literature, History and the Humanization of Bioethics," *Bioethics* 25 (2011); John H. Evans, *Playing God? Human Genetic Engineering and the Rationalization of Public Bioethical Debate* (Chicago: The University of Chicago Press, 2002); John H. Evans, *The History and Future of Bioethics: A Sociological View* (Oxford: Oxford University Press, 2012); Sarah Ferber, *Bioethics in Historical Perspective* (London: Palgrave Macmillan, 2013); Renée C. Fox and Judith P. Swazey, *Observing Bioethics* (Oxford: Oxford University Press, 2008); Arthur W. Galston and Christiana Z. Peppard, eds., *Expanding Horizons in Bioethics* (Dordrecht: Springer, 2005); Rachel Haliburton, *Autonomy and the Situated Self: A Challenge to Bioethics* (Lanham: Lexington Books, 2014); Barry Hoffmaster, ed., *Bioethics in Social Context* (Philadelphia: Temple University Press, 2001); Hilde Lindemann, Marian Verkerk, and Margaret Urban Walker, eds., *Naturalized Bioethics: Toward Responsible Knowing and Practice* (Cambridge: Cambridge University Press, 2009); Jonathan D. Moreno and Sam Berger, eds., *Progress in Bioethics: Science, Policy, and Politics* (Cambridge, MA: MIT Press, 2010); Amir Muzur and Hans-Martin Sass, eds., *Fritz Jahr and the Foundations of Global Bioethics: The Future of Integrative Bioethics* (Münster: LIT Verlag, 2012); Alan Petersen, *The Politics of Bioethics* (London: Routledge, 2011); Charles E. Rosenberg, *Our Present Complaint: American Medicine, Then and Now* (Baltimore: The Johns Hopkins University Press, 2007); Susan Sherwin, "Looking Backwards, Looking Forward: Hopes for *Bioethics'* Next Twenty-Five Years," *Bioethics* 25 (2011); Duncan Wilson, "What Can History Do for Bioethics?," *Bioethics* 27 (2013); Duncan Wilson, *The Making of British Bioethics* (Manchester: Manchester University Press, 2014).

is perhaps the most sustainable line of criticism, and therefore it is harder to miss the mark here. Earlier I discussed Alan Petersen's *The Politics of Bioethics*, as well as *Observing Bioethics*, by Renée C. Fox and Judith P. Swazey, which are two works that fit into this group. However, as I emphasized regarding both books, one needs to look fairly deep below the standard level of social and cultural reasoning. For example, I argued, the classic sociological analysis that focuses on traditional power structures, such as explicit social and political factors and relations, seems insufficient here. To illustrate my point, I used the case of Titanic and the tacit, or hidden—but still significant—cultural backdrop that the tragic and exceptional events helped to uncover. Put simply, it seems to me that we need bolder and richer social and cultural imagination, and here is my main disagreement with many of the works in this category.

Of course, there is a price to pay for cultivating and having such imagination, as many will surely point out. When you begin *imagining*, you lose the essence of much of scientific inquiry: the chance to maintain scientific validity, or, all kinds of ways to make sure that the truth is sought and objectivity approximated, which is often thought to be the guarantor of scientific rigor and integrity. But, as we all know, arguments and different perspectives are all there is at the end of the day, and there is no way around this. So why not be bold and imaginative *for a change*?

Bioethics and technology hype

Throughout this study, I have avoided discussing much of the technological, or scientific, aspects of the environment surrounding bioethics. Instead I promised to weave technology into my investigation when I feel it necessary, which it has rarely felt. To many this might seem a profound mistake. However, I want to offer two justifications for this. First of all, there is the simple reason that the basic connections between technology and bioethics have been addressed in so many works already, which makes it a rather uninteresting topic at this point. The main reason is, however, a view that I share with bioethicist Ezekiel J. Emanuel, the view that there has been a very prevalent "technological axiom" when the field of bioethics, or "medical ethics" for Emanuel, has been portrayed and that for a great extent this axiom has been a false one.[327] In the words of Emanuel:

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[327] Ezekiel J. Emanuel, *The Ends of Human Life: Medical Ethics in a Liberal Polity* (Cambridge, MA: Harvard University Press, 1991), 9–13.

Why in contemporary American society have medical ethical questions become so interminable? To many there is an obvious answer expressed in one word: *technology*. Before the development of biomedical technologies, the argument [i.e. the technological axiom] goes, medical ethical questions did not arise. The advent of modern interventions, of antibiotics and respirators, of dialysis machines and organ transplants, has literally *created* these medical ethical dilemmas. The medical ethical questions that now preoccupy us are the inevitable, if undesirable, fruits of biomedical progress. . . .

Advancement in biomedical technology does affect medical ethical issues. It can make certain ethical issues more common and add to their complexity; it can shape the setting and clinical circumstances in which these issues arise; and, in some cases, it can provide alternative resolutions to these issues. In addition, advancement in biomedical technology can have a profound *psychological* impact on our expectations of what medicine can do—or at least should be able to do—in the face of illness. But technology has not *created* most of these medical ethical issues. The underlying questions—should we maintain the lives of defective newborns? should we withdraw care from terminally ill patients? how should we select recipients of scarce life-saving resources?— and the ethical considerations raised by these questions are as old as man and medicine. Technology has simply outfitted these eternal questions in new clothes, but it has not altered the fundamental ethical issues beneath the new appearances. In the words of Dr. Kenneth Ryan, the chairman of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research: "Although advances in technology have heightened ethical concerns in recent years, the problems of euthanasia, withholding or withdrawing treatment, truth telling, informed consent, and equitable access to health care have long been with us. They were just never on an open public agenda."[328]

Put differently, technology appears to have relatively little to do with the foundational questions of bioethics *in themselves*, rather it is an important *modifier* for these questions. The real issue here is rather that of publicity, or something else in this direction, as Emanuel hints at the end. At the same time, I want to note that I do not share all Emanuel's views, as I will explain shortly, but on this point I agree, perhaps contrary to many.

To be fair, perhaps no one is proposing that technology is all there is to the story of bioethics. Nevertheless, often a line is drawn in bioethics between the side that

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[328] Ibid., 9 & 13.

draws heavily on new technological and scientific advancements and the one that manifestly does not, actively trying to avoid the topic. There is also a clear tendency to draw a related line between the party that enthusiastically embraces new technological advancements and the one that resists them. In other words, technology, or rather the hype about it, and how people welcome it is often an underlying and fairly polarized theme in bioethical discussions and in assessments of the field. Technology as a very evident starting point in analyses and descriptions of the field, or if not directly the field then something close to it, can be seen in a number of recent works.[329]

I do not want to take anything away from works that weave bioethics and technology closely together, I simply think that the "technological axiom" as a starting point for depicting the field is misplaced, following Emanuel's reasoning. Once again, my argument is that we need to delve deeper beneath the surface and excavate the social and intellectual layers of bioethics in order to understand the field as a rich cultural entity that it inevitably seems to be.

The ivory towers of philosophy

It has been very clear from the outset that bioethics has wanted to escape the ivory towers of philosophy: be it, for example, Albert Jonsen's remarks about meta-ethics[330] or Daniel Callahan's frustrations with ethics that was isolated from everyday life[331]. The ethical landscape in which the "Rawlsian turn" arrived was characterized by the ivory towers of philosophy, and the point of Rawls and early bioethicists, along with so many others obviously was to drag philosophy from these towers to back among the people.

Nevertheless, philosophy, especially analytic philosophy, has had considerable sway in bioethics. A good example of this can be seen in principlism, which is still

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[329] For example, see Donna Dickenson, *Body Shopping: The Economy Fuelled by Flesh and Blood* (London: Oneworld Publications, 2008); Donna Dickenson, *Bioethics: All that Matters* (London: Hodder Education, 2012); Donna Dickenson, *Me Medicine vs. We Medicine: Reclaiming Biotechnology for the Common Good* (New York: Columbia University Press, 2013); Eric Topol, *The Patient Will See You Now: The Future of Medicine is in Your Hands* (New York: Basic Books, 2015); Joanna Zylinska, *Bioethics in the Age of New Media* (Cambridge, MA: MIT Press, 2009).

[330] Jonsen, *The Birth of Bioethics*, 71–77.

[331] Daniel Callahan, *In Search of the Good: A Life in Bioethics* (Cambridge, MA: MIT Press, 2012), 21–22.

very much characterized by the analytic mode of thinking, in which ethics and morals are essentially divided into neat blocks and then confronted piece by piece, in a very logical and structured, almost mathematical, way. This can at times lead to something that is enriching and compatible with real life, such as in the very case of principlism, but at times it leads scholars to adopt views and positions that seem utterly alien to the surrounding world. Thus, one might—at least—reasonably question the whole point of the exercise. An illustrative example of this is the analytical debate about abortion: it tends to lead to a stark polarization in which one side adopts a very *laissez-faire* attitude, in which even infanticide might be permitted up to a certain age, and the other side adopts a completely prohibitive stance, even though public opinion strongly endorses something in between these two opposites.

There is, then, a clear group of bioethics scholars as well as classical philosophers who do not usually want to associate much with the field but are nevertheless engaged with it, a group that applies the classical philosophical perspective to bioethics, especially in the analytical mode.[332] Every now and then, such thinkers also offer their thoughts on the whole field, or some kind of general approach to bioethical questions, such as principlism. As Jonsen and others have noted, these philosophers have not been always too keen to embrace the viewpoints of others in the field, for they have despised the lack of philosophical or academic rigor, or logic, that they have pinpointed.[333] A kind of philosophical elitism has persisted in some circles, which seems simply unnecessary and a remnant of a time long past. On the other hand, and rightly so, some of these philosophers have argued that by abstracting from the particularities of bioethical discussions they are able to offer more robust, and innovative, frameworks for thought—indeed they have often also successfully done this.

Then, as interesting and potentially enriching as the classical philosophical perspective on bioethics is or can be, it also seems a somewhat secondary point of view

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[332] For example, see Matti Häyry, *Rationality and the Genetic Challenge: Making People Better?* (Cambridge: Cambridge University Press, 2010); Ruth Macklin, *Against Relativism: Cultural Diversity and the Search for Ethical Universals in Medicine* (Oxford: Oxford University Press, 1999); although both Häyry and Macklin, I suspect, would resist this rather rough classification. Nevertheless, I think that their background training in analytic philosophy still shows quite clearly in their style of writing and thinking. For principlism, see the relevant chapter before. For a quite different approach, however also from a very classical basis, see Albert R. Jonsen and Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley: University of California Press, 1988), especially 338–341; also Stephen Toulmin, "How Medicine Saved the Life of Ethics," Perspectives in Biology and Medicine 25 (1982).

[333] Jonsen, *The Birth of Bioethics*, 83–84.

on *bioethics*—to some extent similarly to technology earlier. To be sure, bioethics is ethics, and thus part of the philosophical realm; however, the murky waters of bioethics certainly contain much more than mere philosophy, as I have emphasized throughout this study. Bioethics is also very much about the social and political context. Ultimately, it is a broadly cultural phenomenon and not simply a new branch of philosophy, and could not have been motivated to emerge solely by philosophy in the first place. Put differently, philosophy in this context for the sake of other ends than bioethics might be perfectly all right, but for the benefit of bioethics, the contributions of the classical philosophical perspective easily seem rather out of place, to say the least.

Political philosophy

Despite the shortcomings of relying solely on the philosophical perspective on bioethics, there is one category of philosophical works that seems especially promising to me: that of political philosophy, no surprise. Tellingly, this was the category in which Rawls, as well as Shklar, operated. Earlier in this work, I extolled the virtues of political philosophy in helping us to grasp bioethics:

> Let me first explain why political philosophy could help us. To my eye, central to the field of Western political philosophy is that it aims to conceptualize and articulate, first and foremost, the *ideals* of political life; especially those of freedom and justice. Put differently, political philosophy, at its best, crystallizes—and challenges—what people hold dear in this respect. I want to underline this focus on clear-cut ideals, in contrast to all the usual ambiguities of everything "political." What I have in mind is that we seem to have an excellent way of accessing the larger realms of political life through these clearly formulated ideals. This political life is a life that almost mysteriously lies at the heart of Western society, appearing to be connected with all of its vital aspects. Therefore, one could say that political philosophy is a field that has a very socially informative, or reflective, quality to it—which obviously makes it very valuable to us.
>
> Furthermore, for me these traits reveal the key strength of political philosophy that should not go unnoticed: its flexible ability to work as a natural bridge-builder between different fields of thought, from deep philosophical rigor to shared sentiments of everyday life. Moreover, the current state of Western political philosophy is simply fascinating; it is a field that practically has undergone a death and rebirth since the Second World War. Based on all these observations, it seems that political philosophy is a wonderful source of

cultural knowledge and wisdom—and something that could shed important light on bioethics.

In other words, it appears to me that political philosophy is an effective way to approach bioethics because it serves as a very illuminating entry point into bioethics and its surrounding social and political climate. Put differently, the strength of political philosophy does not lie in political philosophy itself as much as it lies in its quality to *reflect* its environment. Then, there are several studies that have clearly adopted the perspective of political philosophy on bioethics, more or less serving as testaments to this reflective quality.[334]

Before, when I discussed the works that highlight the role of technology in understanding bioethics, I relied on Ezekiel Emanuel's views on the matter, quoting his book *The Ends of Human Life: Medical Ethics in Liberal Polity*. I also promised to return to Emanuel's work and comment on my disagreements with him. Now, I think that Emanuel, at least with this particular book, fits into the category of studies that place bioethics into the framework of political philosophy. As it has become clear, I think this is laudable and welcome in many ways. This is also something that I, too, aim to do in this study among other things. But it has to be noted that there are weaknesses in this approach, too, and here we come to my disagreements with Emanuel.

The main disagreement I have with Emanuel's argument in the book, in fact the only but a very foundational one, is that I think he is too committed to his own particular branch of political philosophy—one that begins by criticizing Rawls by characterizing him as someone who seeks a utopia of broad political neutrality, or correctness, and then wants to replace this thinking with an ideal of "liberal communitarianism," which builds on the deliberations of real-life communities. Basically, this is the standard communitarian criticism that has been levelled at Rawls for decades now.[335] In the case of classical tug-of-war of political philosophy, I would see nothing wrong with such a position, but in the case of bioethics choosing sides in

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[334] For example, see Adam Briggle, *A Rich Bioethics: Public Policy, Biotechnology, and the Kass Council* (Notre Dame: The University of Notre Dame Press, 2010); Norman Daniels, *Just Health: Meeting Health Needs Fairly* (Cambridge: Cambridge University Press, 2008); Ezekiel J. Emanuel, *The Ends of Human Life: Medical Ethics in a Liberal Polity* (Cambridge, MA: Harvard University Press, 1991); Glenn McGee, ed., *Pragmatic Bioethics*, 2nd ed. (1999; Cambridge, MA: MIT Press, 2003).

[335] For example, see Michael J. Sandel, *Liberalism and the Limits of Justice*, 2nd ed. (1982; Cambridge: Cambridge University Press, 1998); however, note that Sandel resists the communitarian label, which is clear in the preface to the second edition.

such a lasting dispute in political philosophy hardly helps us to move forward. Instead, I think Rawls, in this context, should be viewed as someone who, broadly speaking, captured the political and social moods of the times and aimed to offer a language to put it all into words, in order to address it in the best way. Put differently, Rawls' contribution here should be primarily viewed as the work of political philosophy that is being *reflective* of its surroundings, and based on this, the true challenge then would be to make it even more reflective and encompassing; to add more to it, more words to its vocabulary, rather than take anything away. This is the way I have interpreted and defended Rawls in this study a number of times already.

My disagreement with Emanuel thus stems from my interpretation of the nature and the role of political philosophy in this context, when the task is to make sense of bioethics and to sketch new ways for the field to move forward. Surely, people might disagree over my understanding of political philosophy. However, I challenge them to ask themselves, in terms of the contributions of political philosophy, if there has been anything more lasting than the field's ability to help us to grasp our political and social surroundings and to broaden our imagination in this respect, in other words, its ability to be so reflective.

Then, I think that this brief discussion of Emanuel's work brings out the best and the worst that I associate with the point of view of political philosophy on bioethics; this more or less applies to all the works in this group. And, to be fair, even though I have extolled the virtue of political philosophy as being so reflective, it has to be noted that naturally political philosophy is not all there is; rather, it merely seems to be among our best guides for understanding the field of bioethics.

Concluding remarks on the perspective of the present

To my mind, including the previous categories, I have now covered in this part of the study, sometimes even twice, most and all the significant contemporary views on the nature and history of bioethics, and prevalent intellectual approaches to the field. Besides these works, other works are understandably difficult to categorize, for example essay collections that span a very broad range of issues and approaches.[336]

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[336] For example, see Franklin G. Miller, John C. Fletcher, and James M. Humber, eds., *The Nature and Prospect of Bioethics: Interdisciplinary Perspectives* (Totowa: Humana Press, 2003); Gregory E. Pence, *Brave New Bioethics* (Lanham: Rowman & Littlefield Publishers, 2002).

In practice, when aspiring to sketch out what I term "the perspective of the present on bioethics," I have tried to illustrate the prevailing understandings of bioethics in various ways and typologies as it is primarily observed in literature—and how my own views differ from them. To be sure, at least most of these understandings clearly have their merits; I do not want to claim that they are all wrong. However, I also think there is room for improvement as well as for new explanations, such as my own.

Furthermore, I have tried to relate this perspective of the present to that of the past, which I introduced earlier, for I think that understanding this relationship is vital in making sense of many of the current discussions surrounding bioethics, especially in understanding their pessimistic tones, even though this relationship is only rarely explicitly addressed at length. In other words, there seems to be a clear subtext that relates to this theme that is present in many contemporary works.

In summary, I have aspired to utilize and combine all the previous elements of my study during this part in order to put my own preliminary understanding, or hypothesis, to the test and to see what will come out, and to see if it will hold. To do this, I have strived to follow in the footsteps of others who have recently offered their views on the matter and see how their ideas relate to mine. Then, I hope that I have proved my point that there is a significant need for more imaginative and nuanced—deeper—social, political and eventually cultural perspectives on bioethics. In effect, for me this has meant identifying, highlighting and defending two core aspirations of bioethics: the aspirations to be intellectually open-ended as well as socially inclusive. These features are tangible, for example, in what I call the "deliberate shallowness of bioethics." This has been an important task for two reasons: firstly, it appears that these aspirations have not been fully acknowledged, and secondly, grasping this history carries major implications for the *future* development of the field.

As it now indeed seems that these two aspirations are, to a great extent, the original, and still lasting, forces behind the field and its *raison d'être*, it makes it all the more vital to ask whether bioethics has lived up to this calling, and if not—as it often evidently has not—how it could better do this. Put differently, where this leads us is that it becomes ever more pressing to acknowledge that it is not sustainable to avoid or abandon these aspirations at least within the field. Neglecting them means that bioethics as something intellectually genuinely independent will eventually cease to exist. The same acknowledgement and worry should be shared, besides by those working in the field, by everyone else who values the central endeavors of bioethics, who values its being. By this, the quest for bioethics and its supporters becomes even

more that of better reaching these goals. My message is simple: eventually, bioethics has to do what it was set out to do and for which it is essentially suited, or face academic and social extinction.

In this particular chapter, in which I have summarized not only the part at hand but practically my whole study thus far, I have aimed to be as direct and concise as possible. I hope that the reader is convinced of the conclusions that I have drawn. I feel that my original hunch, or belief at this point, in the value of bioethics' existence has become clearer and more robust. Therefore, following my previous reasoning, my intentions for the concluding part of this study, to which I will now proceed, should not come as a surprise to the reader. In the part termed the "future," I will build on all my previous observations, aiming to enrich bioethical imagination and to sketch possible future directions for the field, keeping in mind the imperative for bioethics to strive toward its core aspirations to be intellectually open-ended and socially inclusive. As we will see, in doing this, there is no need to reinvent the wheel as there is a lot of good work that has already been done; rather, the challenge will be that of better acknowledging and focusing these efforts. Moreover, I need to stress, once more, that this "future" that I will be outlining is not my prediction of what will actually happen in the coming years, rather my aim is to look for what might be possible in order to engage in productive dialogue with some of the current realities.

PART FOUR: THE FUTURE

5.1 The Perspective of Norman Daniels: At the Frontiers of Theoretical Development

A few times now, I have briefly discussed the framework developed and put forward by eminent bioethics scholar and political philosopher Norman Daniels. First I contended that Daniels' work serves as proof of the viability of essentially Rawlsian thinking in bioethics. Later I also explored Daniels' theoretical realm when I investigated whether Koch's criticism of his ideas holds true, which it clearly did not. Amid these discussions, I promised to return to Daniels' thought and its significance, but I have not done this yet. It has come time to fulfil my promise.

However, at this point, I do not want to merely repeat what Daniels has written, or offer some basic interpretation of his work—which I can summarize quite concisely: generally, Daniels is known as an advocate of a broader view in bioethics, leaning heavily on an extensive theoretical construction that is centrally informed by Rawlsian political philosophy. Put differently, Daniels, whose specialty is in fair priority setting in health care—or perhaps simply in "health"—wants to redirect the focus in bioethics increasingly into public health, or population health and other such broader societal topics, instead of the currently prevailing emphasis on traditional clinical care and research. Then, rather, I want to consider Daniels' thinking against the backdrop of my work's theme and what I have claimed about bioethics earlier—hoping that this will eventually lead to something well beyond Daniels, and help me to arrive at a more general viewpoint on bioethics and its possible future directions.

To begin, I want to bring back to mind how I initially wondered whether bioethics could be seen as a "kind of forerunner of a new wave of political institutions that began to emerge during the post-war era," and also, how I later began to lean quite firmly in this direction. Originally, I introduced this thought when I discussed bioethics and "political decay." Referring to the possibility that Western institutions might be, or might have been, facing political decay and all its concomitant disastrous outcomes, I asked if "the appearance of bioethics [could] be seen as one of such crossroads moments, a case for either an institutional renewal or revolution." Afterward, I found tentative answers to this question by combining Robert Putnam's thoughts and observations about social capital into the earlier framework that I drew especially from the work of Francis Fukuyama. I argued that some of the ways in which bioethics was, indeed, such a forerunner was embodied in the evident pursuit of the field to replace "bonding" social capital with "bridging" social capital in the realm of life sciences, especially when they were applied in health care. But how does this relate to Norman Daniels' work?

It appears to me that Daniels has offered, perhaps partly unintentionally, a very concrete, interesting and functional shape for this very bioethical endeavor. The key word here for me is *interesting*, for it is the most ambiguous of the attributes. In other words, without question, it is evident that Daniels' framework is, despite some criticism, rather concrete and functional, although there is naturally room for improvement in this regard, too, as there also is for better appreciation of his ideas. The practicality of the work can be observed for example in Daniels' influential book *Just Health*[337], in which he offers and recounts various real-life applications of the theory. So, this much is clear. But when we come to the "interesting," the picture becomes more fascinating and more complicated. What do I mean by this?

My interest lies primarily in the following question: if we assume that Daniels' work is an embodiment of my claim that bioethics is a forerunner of a new wave of political institutions that has been emerging, especially something that represents radical change in terms of social capital, how does this present itself in the theory? Or is the theory fully equipped to accommodate this context; does it lack something? I am especially looking for something that I identified earlier when I discussed social capital, namely, the challenge that was left unanswered then—that of developing a "genuinely new kind of body of thought" to accompany this deep social transformation; to help bioethics "to move beyond its early schemes" in order for it to not only allow but to *embrace* this new social setting, throughout society. Or, more modestly, I am interested to see if this challenge is even acknowledged, in some way, in Daniels' theory.

Then, if we look at for instance Daniels' *Just Health*, a somewhat recent and comprehensive milestone in his thinking[338], it appears that these topics are quite hidden from plain sight. There are a lot of interesting themes in the book but none *directly* about radical changes in political institutions or in other societal forces. Instead, Daniels advocates quite convincingly for more eager adoption of a broader view in bioethics, one that sees health and the just distribution of it as products of the *whole* society and its policies rather than outcomes of mere health care or medicine. He also argues that at the end of the day the difficult choices in this respect, particularly in priority setting in this case, should and need to be made through a fair process,

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[337] Norman Daniels, *Just Health: Meeting Health Needs Fairly* (Cambridge: Cambridge University Press, 2008).

[338] For example, cf. Norman Daniels and James E. Sabin, *Setting Limits Fairly: Learning to Share Resources for Health*, 2nd ed. (2002; Oxford: Oxford University Press, 2008); Norman Daniels, *Justice and Justification: Reflective Equilibrium in Theory and Practice* (Cambridge: Cambridge University Press, 1996).

which centrally relies on utilizing the means of deliberative democracy. There must be an open forum in which every relevant voice can be raised and which deliberates to produce decisions that everyone can be *reasonably* expected to accept even though not everyone might particularly welcome them. In other words, Daniels calls this "accountability for reasonableness" and by this he means in practice that there are reasonable disagreements over choices in this context in the clearly diverse societies of our time, and that a sustainable and fair balance between such disagreements can often be found only through diligent and sufficiently impartial mutual deliberation.[339] Put simply, in the book Daniels first and foremost sketches a *process* to address, in a well-informed and coherent way, the *diversity* that lays at the deep roots of many bioethical questions and disputes, in this case priority setting that affects population health. In doing this, he especially relies on the concept of "reasonable." Not accidentally—arguably—this concept was also central to Rawls in his later work when he drew a line between "rational" and "reasonable," by this signaling something similar to what Daniels is doing in this more restricted setting.[340]

All in all, it is obvious that *Just Health* is a very important and enriching work in bioethics as well as in political philosophy and public health. However, it is also evident that any comprehensive discussion of radical revolution in political institutions or in terms of other societal forces such as social capital is not to be found on the pages of the book, at least not visibly. Nevertheless, Daniels' contribution is still quite interesting from the particular perspective that I outlined earlier. I would, after all, argue that for example changes in social capital, indeed, clearly influence Daniels' thinking, in the book as well as elsewhere, even though he does not openly acknowledge this. The first piece of evidence that points in this direction is to my mind Daniels' very apparent and broad *openness* to various intellectual approaches as well as to various worldviews. In this pursuit, he plainly strives to be more comprehensive than many thinkers, who often merely stick to a somewhat limited range of bioethical topics and approaches and rather aim to narrow down the scope of their work. In his own way—to Daniels—everything relates to everything. The second sign of strong intellectual undercurrents that are not openly acknowledged but that still play their vital part is Daniels' aspiration to find *inclusive* ways to bring together different voices in a socially sustainable way.

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[339] Daniels, *Just Health*, 117–139; see also Daniels and Sabin, *Setting Limits Fairly*.

[340] John Rawls, *Political Liberalism*, exp. ed. (1993 & 1996; New York: Columbia University Press, 2005), 48–54.

If the reader is thinking at this point that I seem to be echoing the two central aspirations and features of bioethics as I have identified them, namely, those to be *intellectually open-ended* as well as *socially inclusive*, I can affirm that this exactly what I am doing. It appears evident to me that this account of Daniels' thought also resonates with my earlier depiction of political philosophy and its considerable strength to be *reflective* of its surrounding society, as well as to maneuver between different levels of thinking *flexibly*. All in all, all these qualities of bioethics and political philosophy—and *similarly* their origins in, and interaction with, profound political and social changes in society, seem to be well present in and illustrated by Daniels writings similarly to what I suggested before. This is the reason his work is such a good case in point, and moreover, *interesting* to consider in detail from my particular perspective.

Then, what makes Daniels' thought so fascinating is that it seems to be very much a product of the same political and social forces and dynamics that I identified on a larger scale earlier, *but*, on the other hand, they are largely not explicitly present. For example, Daniels goes to great lengths to find ways for various people with their various viewpoints and worldviews to come together to deliberate on bioethical issues. However, what he takes for granted is that these different parties indeed want to come together in the first place, despite their so obvious and deep differences. To translate this into the language of social capital, Daniels' starting point is a situation that is characterized by the presence of a considerable amount of bridging social capital, after the manifest erosion of the bonding type—otherwise such mutual dialogue would never be possible, or would not make much sense. Furthermore, Fukuyama's warnings of potential political decay happening if all the parties are not sufficiently incorporated into decision-making in society do not seem so far-fetched when one considers Daniels' inclusive aims and the backdrop against which he worries that they are not satisfied. For instance, Daniels writes:

> People in many societies consider it outrageous if the social and economic inequalities they generally accept interfere with people's ability to get what they need to prevent or cure illness. They convert belief into action by designing and financing health-care institutions that deliver public health and medical services more equitably than many other goods.[341]

As I already suggested, the solution Daniels offers here is almost exactly the same kind to that I proposed earlier when I argued that bioethics, which has aspired to be

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[341] Daniels, *Just Health*, 29.

intellectually open-ended and socially inclusive, was, in fact, born from such modern ambiguities and perils, and is *also* tailored to address them; political philosophy, for example, being its natural ally in this effort. To summarize, as it has become clear, Daniels seems to be strongly influenced by all of the central background conditions that I have strived to uncover in this study, and he also responds to the challenges that arise from this setting along the same lines as those I have proposed—but—he remains manifestly silent about the overall picture, the broad context, that binds together these two different ends of the equation, the challenges and their solutions. For instance, he does not discuss the deep political and social, eventually cultural, *origins and characteristics* of the situation he faces.

Hence, I think, there is the noticeably heavy reliance on the *process*, as I observed. In other words, there is something particularly technically-minded in Daniels' thinking. This is something that downplays the fact that his thinking is, after all, part of bioethics and part of political philosophy, two clearly humanistic and culturally-oriented fields that are decidedly non-technical and which could have a lot more to contribute to the discussion, in the previous vein. It is especially this incongruity that makes the work so interesting to me.

To be sure, one could argue in Daniels' defense that what he is doing is simply relying on procedural justice, just as Rawls originally did when he sought to rescue normative philosophy and some degree of its neutral authority from the pessimism of the day.[342] However, it seems to me that in this respect there is a subtle, but important, difference between the two thinkers. As I have emphasized, in Rawls' case, it is clear that his political philosophy was influenced by the political and social moods of the post-war era, a theme that I have aspired to illustrate especially with the help of Judith Shklar, his rather close colleague. Put differently, despite Rawls' characteristically detached way of doing political philosophy, *in itself*, the cultural source and aspect of his ideas, too—broadly speaking—still have been fairly obvious always. In contrast, it seems to me that Daniels wants to avoid being caught in any deep *cultural* discussions and disputes; he merely offers a philosopher's refined way to navigate through the maze of society's puzzling bioethical questions. This is a very laudable effort, indeed, but at the same time it feels a little too constrained. Put simply, it is undoubtedly good to rely on various processes for the sake of the neutrality of justice, for example, but not too much, for what is at stake at the end of the day is something cultural, or human. The danger that needs to be kept in mind is

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[342] Daniels, *Just Health*, 109–110.

that bioethics, and especially bioethical imagination, can end up being colonized by technocratic managerialism, or something equivalent to this.[343]

Then, to pull the strings together, what is so fascinating to me about Daniels' thought is that at the same time it is a marvelous and inspiring illustration of what bioethics and political philosophy is and can achieve, while it is also a reminder that there is definitely room to go even further, to *embrace* the good qualities of these fields as well as their aspirations more openly and radically than before. Moreover, Daniels' thinking does not only serve as a good reminder of this situation but it also offers a concrete case that helps us identify where *exactly* the line between past successes and *future* potential lies, and to then move forward based on this knowledge. Let me then offer some of my own suggestions in this respect on the following pages.

How we can move further

At this point, I must emphasize that I have only tentative answers regarding how Daniels' framework might best be developed based on the challenge that I have now set; this study is, after all, an *investigation*, or rather, *exploration*. Nevertheless, at least a few coordinates seem clear to me. The first one of my observations is, as I have argued, that there is a pressing need in bioethics to develop a "genuinely new kind of body of thought" to accompany the broad political, social, and eventually cultural, changes that lie at the foundations of the field, to help bioethics to embrace them and to "move beyond its early schemes." Arguably, this is the task for thinkers such as Daniels, if we adopt a bird's-eye view of the matter. A second coordinate is that despite Daniels' laudably open-minded approach to bioethics and many innovative ways to socially address the contemporary challenges that the field is facing—in tune what I am suggesting—it appears to me that Daniels' thought could fit this role even better if it let bioethics and political philosophy enrich its vocabulary, or imagination, more freely than now. In other words, there needs to be less process and more culture. However, it has to be noted that this dichotomy is also somewhat false at the same time, for—as I argued in the case of principlism when I discussed the "deliberate shallowness of bioethics"—such "processes" can equally well conceal and carry

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[343] For example, see Stuart J. Murray and Adrian Guta, "Credentialization or Critique? Neoliberal Ideology and the Fate of the Ethical Voice," *The American Journal of Bioethics* 14 (2014).

deep cultural meanings with them. It is even probable that this can be concluded to be the case here eventually, too, to at least some degree.

In any case, at this point I need to be more precise. In order to do this, I would like to place the concept of "reasonable" at the center of my investigation. As I noted before, this has been central to Daniels, and to Rawls, even though not *exactly* in the same way. "Reasonable," especially in contrast to "rational," was an important concept in Rawls' later works. Many have proposed that this represents a fundamental shift in Rawls' thinking, although one could argue, as I do, that he more or less merely rephrased and contextualized his earlier ideas rather than radically altered them with the concept.[344] For instance, Rawls described the concept in the following words:

> What is it that distinguishes the reasonable from the rational? In everyday speech we are aware of a difference and common examples readily bring it out. We say: "Their proposal was perfectly rational given their strong bargaining position, but it was nevertheless highly unreasonable, even outrageous." . . .
>
> Persons are reasonable in one basic aspect when, among equals say, they are ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likewise do so. Those norms they view as reasonable for everyone to accept and therefore as justifiable to them; and they are ready to discuss the fair terms that others propose. . . .
>
> Reasonable persons, we say, are not moved by the general good as such but desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept. They insist that reciprocity should hold within that world so that each benefits along with others.
>
> By contrast, people are unreasonable in the same basic aspect when they plan to engage in cooperative schemes but are unwilling to honor, or even to propose, except as a necessary public pretense, any general principles or standards for specifying fair terms of cooperation. They are ready to violate such terms as suits their interests when circumstances allow. . . .
>
> As complementary ideas, neither the reasonable nor the rational can stand without the other. Merely reasonable agents would have no ends of their own they wanted to advance by fair cooperation; merely rational agents lack a sense of justice and fail to recognize the independent validity of the claims of others. . . .

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[344] On this theme, see my earlier basic description of Rawls' thought.

Finally, as we have seen, the reasonable (with its idea of reciprocity) is not altruistic (the impartial acting solely for the interests of others) nor is it the concern for self (and moved by its end and affections alone). In a reasonable society, most simply illustrated in a society of equals in basic matters, all have their own rational ends they hope to advance, and all stand ready to propose fair terms that others may reasonably be expected to accept, so that all may benefit and improve on what every one can do on their own. This reasonable society is neither a society of saints nor a society of the self-centered. It is very much a part of our ordinary human world, not a world we think of much virtue, until we find ourselves without it.[345]

It must be noted that besides this basic characterization, Rawls includes some other aspects into his definition of the concept of reasonable; moreover, for him the concept is deeply embedded at the heart of his whole theoretical apparatus and thus needs to be primarily understood in this context. Nevertheless, the essential contours of the idea become clear. To put it simply, all in all, for Rawls the reasonable can be described as the virtue of persons, or rather citizens, who engage, and want to engage, in common and somewhat impartial deliberation about mutually binding principles and standards, but who at the same time recognize that even with the best of intentions some reasonable disagreements will still persist and therefore a sufficient—liberal—room for these disagreements has to be maintained in the process as well as in the outcome. Interestingly, Rawls notes at one point, though mostly in passing, that a certain kind of *moral psychology* of the citizens centrally surrounds and motivates the whole effort, which naturally immediately brings back to mind Judith Shklar's work in this respect—an observation that, as I have argued, Rawls would presumably mostly welcome.[346]

What about Daniels, then? As I observed before, Daniels, who is clearly influenced by Rawls, does something similar with his concept of "accountability for reasonableness," but he does this in a more restricted context, that of priority setting in health care and related matters. For example, Daniels writes:

The fair process I propose aims for a robust form of public accountability. Specifically, "accountability for reasonableness" is the idea that the reasons or rationales for important limit-setting decisions should be publicly available. In

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[345] Rawls, *Political Liberalism*, 48–54.

[346] On how Rawls generally views moral psychology and its relation to his theory, see Rawls, *Political Liberalism*, 47–88, especially 86–88. Shklar's moral psychology, in turn, I have discussed on several occasions already.

addition, these reasons must be ones that fair-minded people can agree are relevant for appropriate patient care under resource constraints. . . .

By "fair-minded" people, I do not simply mean my friends or people who happen to agree with me. I mean people who seek to cooperate with others on terms they can justify to each other. Indeed, fair-minded people accept rules of the game—or sometimes seek rule changes—that promote the game's essential skills and the excitement their use produces. For example, they want rules that permit blocking in football, but not clipping or grapping face masks, because they want to encourage teamwork and skill, not the mere advantage that comes from imposing injuries. Of course, having rules of a game that fair-minded people accept does not eliminate all controversy about their application. It does, however, narrow the scope of controversy and the methods for adjudicating it.

In the "game" of delivering health care or meeting a broader set of health needs, fair-minded people will seek reasons ("rules") they can accept as relevant to meeting health needs fairly under resource constraints. As in football, the rules shape a conception of the common good that is the goal of cooperation within plans, even when plans compete. In the allocation of health resources, as in football, some will seek "mere advantage" by ignoring the rules, or by seeking rules that advantage only them, and there will be disagreement about how to apply the rules. Still, the fair-minded search for mutually acceptable rules narrows the scope of disagreement and provides the grounds on which disputes can be adjudicated.

Accountability for reasonableness obviously goes beyond what is required by market accountability alone. Market accountability requires only that we be informed about the options insurers give us and about their record of performance. Accountability for reasonableness requires that we also know the reasons for the insurer's (or government agency's) policies and decisions, and that these policies and decisions be based on the kinds of reasons fair-minded people consider relevant in providing high-quality care to all with limited resources. Market accountability leaves it to the consumer to infer from the choices available what commitments a health plan has to responsible patient-centered care. Accountability for reasonableness requires that there be a way to reconsider decisions when their application in specific cases is problematic. It also requires a mechanism to revise and improve decisions over time as we learn from experience. In these ways, accountability for reasonableness requires the health plan or public agency to be explicit about its value commitments. Such accountability also allows all of us to learn what those commitments imply and to challenge them in a thoughtful way.[347]

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[347] Daniels, *Just Health*, 117–118.

The excerpt obviously emanates from a very particular setting; nevertheless, it is also easy to see the *more general approach* that Daniels employs here, especially its Rawlsian undertones. It is the "fair-minded people" who abide by the standards and demands set by "accountability for reasonableness" in Daniels' ideal world; it is this very dynamic, or process, that lies at the heart of Daniels' thinking. Clearly, there is something very *elegant* in the way Daniels ultimately approaches the vast subject matter he is confronting. At its core, Daniels' framework is simple and accessible, yet it is intellectually versatile and also practical, as Daniels himself illustrates when he builds on this foundation while collaborating with various health care systems and professionals across the world.

Now, one might argue here that such "rules of the game" approach offers, in fact, nothing new; it is simply a carbon copy of the classical Western notion of how politics, philosophy, and eventually the whole democratic society functions. And indeed, on some level, this is true. Then again, this approach seems rather radical when we fully take into account its context: health care, medicine, and the like, eventually everything that falls under the umbrella of "health" in society. It is clear that there has been a *perennial* difficulty in simply being so thoroughly democratic about such matters—one might ask: since when have societal decisions about health been only a matter of "fair-minded people" coming together to deliberate on the "relevant [reasons] in providing high-quality care to all with limited resources," among other health-related issues? Rather, it seems that it has usually been almost the opposite case, as various experts and exclusive intellectual approaches have dominated the debate and decision-making. Thus, it is evident that Daniels' approach, as simple as it ultimately is, is also a radical re-evaluation of the meaning and place of health in society, and of how decisions are made in this respect. This becomes evident, as I noted, when one observes how he builds on the theoretical core of his thought, broadening the way these issues are understood and confronted in bioethics as well as in society at large.

Then, the question arises as to how we could utilize Rawls', and especially Daniels', concept of reasonable and move further with it; how we could enrich—for our purposes—what the two thinkers have proposed. To put it simply, I think that Daniels' deliberative pragmatism, the way he is able to make an intellectually open-ended as well as socially inclusive process work, is what needs to remain at the heart of the venture, for it has such great potential. However, as I have argued, this core is in itself insufficient for two reasons: it does not capture the cultural essence of the situation, and, as a natural consequence of this, it does not seem appealing enough to many—which is the reason this core obviously needs to be made more *tangible*.

To be sure, Daniels himself is aware of this possible avenue of development, but he has clearly chosen to avoid it. For example, his 1996 book *Justice and Justification*[348], is arguably a philosophical tour de force that besides its philosophical merits manages to apply the theory to various real-life issues of justice, catering for practical interest as well; however, it is also a careful attempt to avoid getting caught, at least much, in the crossfire of differing political and moral worldviews. The outcome, then, is both inspiring and carries great potential for implementation, and somewhat lukewarm at the same time.

As I previously suggested in passing, it seems to me that Daniels aspires to achieve something similar to what I described when I identified the "deliberate shallowness" of bioethics, which I earlier observed especially in principlism. In a similar vein, he strives to offer a kind of *language* to confront bioethical questions from a somewhat shared perspective. Nevertheless, the deliberate shallowness strategy can only go so far by itself. Ultimately, such attempts have to be evaluated from the outside, to be evaluated by their outcomes. In this case, the yardstick is obviously how well these languages help people to communicate with one another. The answer is that despite its profound intellectual and social merits, Daniels' language falls short of being as accessible and usable in the everyday context of bioethics as, say, principlism has been. However, it offers a good base on which to build and develop in this direction. Thus, my next attempt will be to do just this with the help of some other thinkers, whose ideas I will connect to the concept of reasonable.

Michael Sandel's invigorating thought

I start with Harvard scholar Michael J. Sandel, one of the most eminent figures in the current world of philosophy and public debate. A natural place to begin would be Sandel's influential critique of Rawls' thought, his *Liberalism and the Limits of Justice*[349], which was originally published in 1982; however, I want to start elsewhere, for the simple reason that the original publication of Sandel's book predates Rawls' "political liberalism turn," which took place around the late 1980s and early 1990s, and which set the tone for his remaining career. However, it has to be noted that Sandel

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[348] Norman Daniels, *Justice and Justification: Reflective Equilibrium in Theory and Practice* (Cambridge: Cambridge University Press, 1996).

[349] Michael J. Sandel, *Liberalism and the Limits of Justice*, 2nd ed. (1982; Cambridge: Cambridge University Press, 1998).

has dedicated a chapter to discussing Rawls' later thought in the second edition of the book.[350] Nevertheless, one could argue that the scope of the work is somewhat different to that I have in mind, as Sandel dissects and challenges Rawls' philosophical positions and foundations in the book. Then, what I have in mind with regard to Sandel is rather something more specific and suited for my own purposes: this is, indeed, to see how the Rawlsian-Danielsian conception of reasonable could be enriched and especially made more tangible in the context of bioethics.

Thus, perhaps a little surprisingly, I shall especially concentrate on Sandel's more recent book, *What Money Can't Buy: The Moral Limits of Markets*[351], in which the philosopher investigates a rather different topic area, namely, the moral boundaries of a market economy. First of all, with regard to the book, it needs to be noted that the way Sandel makes the everyday occurrences of market society and their moral implications tangible is simply the gold standard of popularization of thought. The book's pages are full of vivid and troubling—thought-provoking—cases, real and imagined, accompanied by insightful discussion, such as the following:

> What is the difference between a fine and a fee? It's worth pondering the distinction. Fines register moral disapproval, whereas fees are simply prices that imply no moral judgment. When we impose a fine for littering, we're saying that littering is wrong. Tossing a beer can into the Grand Canyon not only imposes cleanup costs. It reflects a bad attitude that we as a society want to discourage. Suppose the fine is $100, and a wealthy hiker decides it's worth the convenience of not having to carry his empties out of the park. He treats the fine as a fee and tosses his beer cans into the Grand Canyon. Even though he pays up, we consider that he's done something wrong. By treating the Grand Canyon as an expensive Dumpster, he has failed to appreciate it in an appropriate way.
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> Or consider parking spaces reserved for use by the physically disabled. Suppose a busy able-bodied contractor wants to park near his building site. For the convenience of parking his car in a place reserved for the disabled, he is willing to pay the rather large fine; he considers it a cost of doing business. Although he pays the fine, don't we consider that he's doing something wrong? He treats the fine as if it were simply an expensive parking lot fee. But this misses its moral significance. In treating the fine as a fee, he fails to respect the needs of the physically disabled and the desire of the community to accommodate them by setting aside certain parking spaces. . . .

[350] Ibid., 184–218.

[351] Michael J. Sandel, *What Money Can't Buy: The Moral Limits of Markets* (New York: Farrar, Straus and Giroux, 2012).

When people treat fines as fees, they flout the norms that fines express. Often, society strikes back.[352]

In other words, it is obvious how Sandel really has the talent for building bridges between everyday life and the world of philosophy. But what about the concept of reasonable? The answer seems to be that even though Sandel does not rely on the term as Rawls or Daniels do, he clearly still has something similar in mind when he calls for common deliberation, urging people to bear the differences in their "moral and spiritual convictions":

> Such deliberations touch, unavoidably, on competing conceptions of the good life. This is terrain on which we sometimes fear to tread. For fear of disagreement, we hesitate to bring our moral and spiritual convictions into the public square. But shrinking from these questions does not leave them undecided. It simply means that markets will decide them for us. This is the lesson of the last three decades. The era of market triumphalism has coincided with a time when public discourse has been largely empty of moral and spiritual substance. Our only hope of keeping markets in their place is to deliberate openly and publicly about the meaning of the goods and social practices we prize.
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> In addition to debating the meaning of this or that good, we also need to ask a bigger question, about the kind of society in which we wish to live. As naming rights and municipal marketing appropriate the common world, they diminish its public character. Beyond the damage is does to particular goods, commercialism erodes commonality. The more things money can buy, the fewer the occasions when people from different walks of life encounter one another. We see this when we go to a baseball game and gaze up at the skyboxes, or down from them, as the case may be. The disappearance of the class-mixing experience once found at the ballpark represents a loss not only for those looking up but also for those looking down.
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> Something similar has been happening throughout our society. At a time of rising inequality, the marketization of everything means that people of affluence and people of modest means lead increasingly separate lives. We live and work and shop and play in different places. Our children go to different schools. You might call it the skyboxification of American life. It's not good for democracy, nor is it a satisfying way to live.
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> Democracy does not require perfect equality, but it does require that citizens share in a common life. What matters is that people of different backgrounds and social positions encounter one another, and bump up against one

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[352] Ibid., 65–66.

another, in the course of everyday life. For this is how we learn to negotiate and abide our differences, and how we come to care for the common good.

And so, in the end, the question of markets is really a question about how we want to live together. Do we want a society where everything is up for sale? Or are there certain moral and civic goods that markets do not honor and money cannot buy?[353]

Although Sandel operates in a fairly different topic area from bioethics, one can easily see here his aspirations for what I have also argued to be the two core characteristics of bioethics, namely, that of open-ended knowledge and that of social inclusion. Moreover, this thinking is obviously more or less compatible with the concept of reasonable that Daniels and Rawls have proposed, which I have argued to be an excellent embodiment of such broader ambitions. But how could this help us move forward in practice?

At least one particularly fertile distinction that Sandel makes in the book readily comes to mind: the one between inequality—or the question of fairness, more broadly—and moral corruption. Sandel argues that both of these categories of thought offer us important, and radically differing, perspectives on moral and political discussions. In practice, they point in the direction of different kinds of reasons, or answers, which can be seen as morally and politically relevant. Sandel highlights that when values are debated we are, or should be, essentially asking two kinds of questions: what is fair, and on the other hand, what might *corrupt* the moral meaning of the matter at hand. The first category does not need to be explicated, for it is the bread and butter of ethics and political philosophy; but the second one is more interesting, although the basic idea is simple.[354] As Sandel explains, again in the context of markets:

> The second reason we should hesitate to put everything up for sale is more difficult to describe. It is not about inequality and fairness but about the corrosive tendency of markets. Putting a price on the good things in life can corrupt them. That's because markets don't only allocate goods; they also express and promote certain attitudes toward the goods being exchanged. Paying kids to read books might get them to read more, but also teach them to regard reading as a chore rather than a source of intrinsic satisfaction. Auctioning seats in the freshman class to the highest bidders might raise revenue but also erode the integrity of the college and the value of its diploma. Hiring foreign

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[353] Ibid., 202–203.
[354] Ibid., 8–10.

mercenaries to fight our wars might spare the lives of our citizens but corrupt the meaning of citizenship.[355]

Thus, by these examples it becomes clear that thinking about mere fairness, as important as it is, simply is not enough even though discussing the intrinsic moral values and how they can be potentially corrupted obviously poses a huge challenge for common deliberation at the same time. Still, we need such deliberation, and according to Sandel, we need this not only to understand the world better and make informed decisions, but also to have a number of moral values *at all*. Unlike some others, to Sandel, the public life resembles muscles:

> The economist Lawrence Summers, then the president of Harvard University, was invited to offer the morning prayer in Harvard's Memorial Church. He chose as his theme what "economics can contribute to thinking about moral questions." Economics, he stated, "is too rarely appreciated for its moral as well as practical significance." . . .
> [Summers] concluded with a reply to those who criticize markets for relying on selfishness and greed: "We all have only so much altruism in us. Economists like me think of altruism as a valuable and rare good that needs conserving. Far better to conserve it by designing a system in which people's wants will be satisfied by individuals being selfish, and saving that altruism for our families, our friends, and the many social problems in this world that markets cannot solve."[356]

Sandel disagrees with Summers:

> This economistic view of virtue fuels the faith in markets and propels their reach into places they don't belong. But the metaphor is misleading. Altruism, generosity, solidarity, and civic spirit are not like commodities that are depleted with use. They are more like muscles that develop and grow stronger with exercise. One of the defects of a market-driven society is that it lets these virtues languish. To renew our public life we need to exercise them more strenuously.[357]

Then, to return to the concept of reasonable and its potential use in bioethics, it seems to me that especially what Sandel is after here energizes the theme. Here is an

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[355] Ibid., 9.

[356] Ibid., 129.

[357] Ibid., 130.

example of how such reasonableness can be framed in tangible terms and even be-yond, how a possible road map and a justification in order to also *embrace* it can be conceived, as I have hoped. Put differently, if we can clearly see that such delibera-tion not only sustains viable society but also *creates it* to a significant degree in the first place, this certainly bolsters the effort.

At this point, the reader might suspect that I am contradicting myself as I have extolled the virtues of the deliberate shallowness of bioethics, or, for example, the Shklarian undertones of the field—something that seems to go against the morally infused position that Sandel advocates. For instance, I quoted Shklar earlier, ex-pounding on her roots that centrally lie in Montesquieu's moral psychology, as well as political philosophy:

> Montesquieu's moral psychology was thoroughly misanthropic. A govern-ment was to be designed so as to avoid its own worst vices, cruelty and injus-tice; and it was set up by and for people who could do no better than to indulge in lesser vices in order to avoid worse ones. The whole point of limited and representative government was that it would not matter much who performed its offices. A small bureaucracy and the separation of powers would create a division of political labor so minute that no particular agent could be signifi-cant. No great talents were required. Procedure replaced personality.

And, after a while, I summarized my own views on the matter:

> If we think that Shklar's argument is somewhat plausible, as it seems at least to me, we can see how the liberal pursuit of avoiding fear and cruelty—through the "système," at all levels of society—has been, as its critics often point out, obviously fraught with difficulties and dangers from the outset. On the other hand, it appears equally reasonable to me to follow Shklar in assum-ing that despite its flaws, this pursuit has also been quite understandable, even deeply justified, for it arguably succeeded—and still does—in establishing "the least cruel and the least oppressive of known regimes," which I presume to be, broadly speaking, a fairly undisputed way to describe contemporary West-ern societies, which are evidently in question here.

Now, it is a fair question to ask whether I am, in fact, contradicting myself. How can the vigorous Sandelian exercise of democratic public life be compatible with a moral psychology that is "thoroughly misanthropic," or with political philosophy that is based on such sentiments? What about Rawls and Daniels, whose point has exactly seemed to be to "avoid getting caught, at least much, in the crossfire of dif-fering political and moral worldviews"?

Then, my answer is that all this can, indeed, work together—for it is important to note that all these thinkers are, despite appearances, building their ideas on a deeply moral, and shared, *democratic* foundation—and as a consequence of this, they also share a common goal of bringing together different parties in comprehensive public life that inevitably revolves around all kinds of mutual processes and deliberations, beyond mere voting or commerce, and the like. To be more precise and to put this in already familiar terms, they all want public life that is thoroughly "reasonable," a place where different people acknowledge and respect one another at the basic level and collaborate to create common society, for this is, almost by definition, what society requires in order to exist—at least if we are keeping with the democratic tradition as they all clearly are. As Rawls put this when he discussed his fundamental starting point and idea of "society as a fair system of cooperation over time":

> The fundamental organizing idea of justice as fairness, within which the other basic ideas are systematically connected, is that of society as a fair system of cooperation over time, from one generation to the next. We start the exposition with this idea, which we take to be implicit in the public culture of a democratic society. In their political thought, and in the discussion of political questions, citizens do not view the social order as a fixed natural order, or as an institutional hierarchy justified by religious or aristocratic values.[358]

In other words, broadly speaking, all these thinkers share a common background and aims. What differs between them, then, is how exactly they want to implement the processes and deliberations that their thought calls for in practice. Rawls, Shklar, and, to my mind, even Daniels, are clearly guided by the liberal conscience of the post-war era that more or less builds on a kind of misanthropy as well as political and moral cautiousness—but by no means evasion—that are motivated by the past and present cruelties of various societies. Sandel, on the other hand, is more optimistic in this regard. However, these differences seem to me rather irrelevant if we consider the broader picture.

To push the envelope, I would argue that all these thinkers could be labeled as "political liberals," following in Rawls' footsteps—a claim that I suspect not everyone would accept. What I mean by this is that all these thinkers essentially aim to do the same as what Rawls was doing throughout his career, especially openly since his

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[358] Rawls, *Political Liberalism*, 15.

"political liberalism" turn: to save the belief in moral—and related to this, in political—reasoning about human affairs against the backdrop of *deep cynicism and skepticism* that this belief began to face especially since the Second World War. As I wrote very early on in this study:

> Most of all, Rawls reinforced a belief in moral reasoning about human affairs. According to him, these affairs were not, after all, just matters of incommensurable personal opinions or blind customs, as many then thought. They could be addressed through reasoning; there was still common ground from which to judge right and wrong, albeit this ground had narrowed down considerably. Rawls also claimed that these considerations could be put to work at a societal level. In effect, political philosophy, and eventually the political process, could benefit from this line of thought.
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> To be precise, Rawls had been doing political philosophy already from the very beginning since he linked the two traditions, political and moral philosophy, so closely together. His moral thinking sprang from a democratic political mindset—that of a decidedly modern type, shaped by modern horrors as well as aspirations. In a modern vein, this was also a markedly Western mindset, characterized by a healthy sense of self-limitation only to Western experiences and the rendition of these experiences for self-improvement. Put differently, to avoid the perils of Western universalism, Rawls did not aim to address the whole world. It was enough if Western wisdom could be employed in the West.

Thus, to summarize, despite what many might suggest, I do not see a problem in combining these various thinkers' thought, at least for the purposes of the study at hand. And, indeed, to return to our study and our original theme, I feel that we can now safely continue to explore the benefits of combining Sandel's perspective with the concept of reasonable and with other ideas that I have put forward earlier.

Then, I noted before how Sandel's democratic enthusiasm and novel practicality *energizes* our efforts, but I have not yet investigated what this means in practice—I will do this now. A good way to start illustrating and exploring the theme is by considering another book by Sandel, one that is, in fact, part of bioethics literature. In *The Case Against Perfection: Ethics in the Age of Genetic Engineering*[359], Sandel, at one point, engages in an interesting discussion with what he terms "liberal eugenics." After criticizing thinkers whom he places under the umbrella of the term—such as Norman

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[359] Michael J. Sandel, *The Case against Perfection: Ethics in the Age of Genetic Engineering* (Cambridge, MA: The Belknap Press of Harvard University Press, 2007).

Daniels, Ronald Dworkin, and John Rawls—for being too permissive regarding the use of genetic engineering, even encouraging in this respect,[360] he concentrates on Jürgen Habermas, who appears to stand in the middle between the liberal endorsement, at least as Sandel portrays it, and Sandel's own objections to this position. This middle ground seems especially tempting:

> Habermas argues against the use of embryo screening and genetic manipulation for nonmedical enhancement. His case against liberal eugenics is especially intriguing because he believes it rests wholly on liberal premises and need not invoke spiritual or theological notions. His critique of genetic engineering "does not relinquish the premises of postmetaphysical thinking," by which he means it does not depend on any particular conception of the good life. Habermas agrees with John Rawls that, since people in modern pluralist societies disagree about morality and religion, a just society should not take sides in such disputes but should instead accord each person the freedom to choose and pursue his or her own conception of the good life.
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> Genetic intervention to select or improve children is objectionable, Habermas argues, because it violates the liberal principles of autonomy and equality. It violates autonomy because genetically programmed persons cannot regard themselves as "the sole authors of their own life history." And it undermines equality by destroying "the essentially symmetrical relations between free and equal human beings" across generations. One measure of this asymmetry is that, once parents become the designers of their children, they inevitably incur a responsibility for their children's lives that cannot possibly be reciprocal.
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> Habermas is right to oppose eugenic parenting, but wrong to think that the case against it can rest on liberal terms alone. . . .
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> An ethic of autonomy and equality cannot explain what is wrong with eugenics. But Habermas has a further argument that cuts deeper, even as it points beyond the limits of liberal, or "postmetaphysical" considerations. This is the idea that "we experience our own freedom with reference to something which, by its very nature, is not at our disposal." To think ourselves as free, we must be able to ascribe our origins "to a beginning which eludes human disposal," a beginning that arises from "something—like God or nature—that is not at the disposal of some *other* person." Habermas goes on to suggest that birth, "being a natural fact, meets the conceptual requirement of constituting a beginning we cannot control. Philosophy has but rarely addressed this matter." . . .

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[360] Ibid., 75–79; however, I think Sandel is not completely fair, or accurate, in his criticism that heavily simplifies the position taken by these thinkers; for example, cf. Allen Buchanan et al., *From Chance to Choice: Genetics and Justice* (Cambridge: Cambridge University Press, 2000), 203.

Habermas is onto something important, I think, when he asserts a "connection between the contingency of a life's beginning that is not at our disposal and the freedom to give one's life an ethical shape." For him, this connection matters because it explains why a genetically designed child is beholden and subordinate to another person (the designing parent) in a way that a child born of a contingent, impersonal beginning is not. But the notion that our freedom is bound up with "a beginning we cannot control" also carries a broader significance: Whatever its effect on the autonomy of the child, the drive to banish contingency and to master the mystery of birth diminishes the designing parent and corrupts parenting as a social practice governed by norms of unconditional love.

This takes us back to the notion of giftedness. Even if it does not harm the child or impair its autonomy, eugenic parenting is objectionable because it expresses and entrenches a certain stance toward the world—a stance of mastery and domination that fails to appreciate the gifted character of human powers and achievements, and misses the part of freedom that consists in a persisting negotiation with the given.[361]

Now, I want to emphasize that I do not necessarily want to endorse Sandel's views *in themselves*, nor do I want to concentrate on this particular theme that he addresses in the excerpt. Rather, I want to highlight the *way* he supplements—with the help of Habermas in this case—liberal thinking with new aspects that still leave room for reasonable discussion in which people can disagree over moral and social matters. In this sense, I see that Sandel makes a real contribution, for arguably it is true, as he claims, that what is at play here is the very moral and social meaning of certain concepts, not only how they can be framed or utilized in practice.

To put his point a little bluntly, Sandel argues that to design a baby makes one a designer, not a parent, and that this understandably changes everything—but also, on the other hand, that this does *not* necessarily, in itself, prohibit or restrict genetic engineering. The verdict on the matter depends on where the reasonable balance is eventually set in terms of the *deep meaning* as well as *practical application* of moral and social concepts—a discussion to which Sandel, to be sure, offers his own substantive views at the same time; however, he restrains from claiming that he would know best for everyone. And so the search—the open and inclusive discussion about designer babies, among other issues of bioethics—continues, but now in a more enriched format.

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[361] Sandel, *The Case against Perfection,* 79–83.

I hope that by now it has become somewhat clear, broadly speaking, what I am after with Sandel's more enriched and vigorous public discussion on bioethical topics. I could very well delve deeper into Sandel's thought at this point, but I think the best way to elaborate on his ideas in the context of this study is to include them in my tour of thinkers around the concept of reasonable, a tour that I plan to continue by considering some other names next.

Nevertheless, I briefly want to rehearse what has become my main argument with regard to Sandel and what broader implications this has. My point has been that "reasonable" discussion of bioethical topics needs to take seriously enough the deep moral character of the concepts involved, it cannot empty these concepts out of their moral content too much in the name of liberal neutrality—or, if it does, it will not only become untenably intangible from the point of view of everyday life but it will also "corrupt" these concepts. However, this does not mean that there would be many fixed points in the moral universe; virtually every concept can be redefined, one merely needs to acknowledge that the concepts can change their deep meaning in various deliberations. If designer babies become the new normal, this changes the meaning of parenthood; it is not only an extension or modification of it. Thus, to me at least, Sandel's moral "corruption" is, despite its negative connotations, a neutral term that simply suggests that the original meaning has more or less been lost and perhaps a new term would be better suited for accurate moral discussion.

Ultimately, then, it seems to me that Sandel's approach can not only supplement in significant ways but also *energize* bioethics discussion, which is desperately needed. This is a step in the vital direction of developing the "genuinely new kind of body of thought," to accompany the deep social transformation that is behind bioethics, according to my interpretation; a step that can eventually "help bioethics to move beyond its early schemes."

In practice, for example, this can help to embrace the bridging social capital that bioethics embodies, a replacement of the bonding type that has been in a steady decline. Sandel's ideal of vibrant democratic discussion does not only allow but cherishes the moral diversity: it clearly places moral diversity as the starting point of the whole existence of society, as Sandel argues that moral meaning can be found and given only through common deliberation, not in any fixed and unchangeable truths beyond human interaction. For instance, this banishes the *supremacy of medical science* that has for so long made common deliberation so difficult in the matters of health. Medicine has to be forcefully acknowledged as something that different kinds of people do and define together, otherwise it loses not only its democratic legitimacy but much of its meaning, as the aspect of human interaction is impoverished.

Pettit, Shklar, and the nuances of everyday life

Perhaps to no surprise to the reader, I will continue my tour around the concept of reasonable by once again—briefly—returning to Judith Shklar and Philip Pettit, two thinkers that have now become somewhat familiar. Thus far, I have illustrated the thought of these figures mostly by sketching the broad contours of their thinking; I have not utilized their ideas with the same practical vigor than what I found with Sandel. It is time to do just this.

In this respect, I am especially interested in Pettit's political philosophy that revolves around the concept of freedom as non-domination, which "highlights . . . the day-to-day condition under which many people—in the case of bioethics, patients, research participants and scholars from various fields—were practically living at the time when bioethics was introduced during the post-war era, and under which many still arguably continue to live all too often." Or, as I also depicted earlier:

> This has to do with initiative, or rather, lack of it. Obviously the deeply motivating reason for early bioethicists' efforts was that they wanted to open up the debate about the ethical, moral and social aspects of life sciences so that many, besides physicians and other traditional medical authorities, would also *feel* they could participate in the discussion and decision-making. To be precise, most of the time no one had prevented patients, research participants and others from contributing or speaking their minds, so to speak; rather, they did not feel *empowered* to do so. Part of this lack of empowerment was naturally that there were equally no reasonable channels to raise such voices, but this was only one part of the social setting that was wrought with subtle disincentives to participate, eventually, disincentives to prize one's individual value, one's autonomy in this context. The claim here closely resembles the worries that for example the feminist movement has often raised, not to mention various minority groups.

Then, to *boldly* push the envelope here, I want to argue that the condition of being dominated, being "at the mercy of another," is something that very much *still* characterizes our day-to-day life within the scope of bioethics—the realm life sciences—although usually in much more subtle ways than before. In other words, it still holds true all too often, as I noted earlier, that "the feeling is that when one, say, enters a hospital as a patient, this comes with a concomitant loss of basic civil rights and liberties; and this has nothing to do with the biological limits imposed by illnesses or impairments"—for "there is no true incorporation of various voices into decision-

making, nor are there reliable channels of redress, besides a rough minimum." Rather, then, I feel that the proper question to ask is: when *is* the time when we are *not*, to some degree, under the undue dominance of others?

The varieties of dominance and their connection with deep psychological states of mind are well illustrated, at least tentatively, in Pettit's book *A Theory of Freedom: From the Psychology to the Politics of Agency*[362]. Appreciating the breadth of this topic would help us to see how ubiquitous domination is in our everyday life. However, I do not want to delve deeper into this book and subject now, for what matters to me here is mostly the basic and very intuitive idea, or rather ideal, of freedom as non-domination, which holds that domination is a great evil of our social life and that much more should be done to eradicate it in order to live by the demoractic ideals of freedom and equality—to treat one another in a "reasonable" way in our familiar terms.

Then, my proposition is simple. Let us not assume that we live in a world in which domination is only occasional, but rather in a world in which it is prevalent, for example in the domain life sciences; for instance—and especially—when they are applied in health care. I would argue that the mere act of thinking this way reduces domination, for it significantly lowers the bar to raise issues in this respect, if and when needed. If such a change of thought was implemented, I predict that a lot more than what has been seen now would surface and enter bioethics discussion, for the bar to raise voices has arguably still been relative high despite all the good efforts. Naturally, whether this is true or not remains to be seen in practice. Nevertheless, I challenge the reader to ponder whether she feels that the bar to raise voices against the condition of being dominated in this context has been high or low, and if it feels that this bar is currently set relatively high, what implications this has for practical action.

Now, one potential counterargument to this. A critic might say that inviting discussion about domination creates perceived domination that is rather imagined than real. And, indeed, this is presumably the case to some extent. But, I would like to challenge the critic by asking her if it is better to err on the side of sustaining domination by hiding it or on the side of provoking experiences of domination by overemphasizing it. I think one simply needs to run the risk of provoking such experiences, for what is at stake is much more important. An analogy could be drawn with a generally held principle of defending everyone, even the obviously guilty, in

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[362] Philip Pettit, *A Theory of Freedom: From the Psychology to the Politics of Agency* (Oxford: Oxford University Press, 2001).

the court of law, despite the risk of occasionally acquitting the guilty on false grounds—for upholding the process signals that the rule of law, not of men, is what is honored, which naturally carries a great weight in society. Then, in a similar vein, a truly democratic society of essentially equals must resist domination and lower whatever significant bars exist to raising voices against it, even if doing this runs the risk of causing some collaterial damage.

Furthermore, as a critic could point out, this collaterial damage can be sometimes fairly severe: the experiences of domination can especially invite resentment and erode trust, which is one of the bedrocks of society. The whole society might collapse even, or it might become highly dysfuntional when too many begin to feel that they are being dominated by others. My answer to this is that perhaps so—but perhaps such exercise can enhance trust equally well, for inviting open and uncensored discussion also signals that society is genuinely concerned about the well-being of its members. I would argue, then, that the score in this respect is at least a tie between two competing predictions on the outcome, and we simply cannot know the outcome at this point. All the more, what is certain is that there is ample evidence of societies that have, indeed, collapsed—not due to too much openness, but too little of it, as for example Fukuyama's and Huntington's theory of political decay, which is based on such experiences, well illustrates.

So, I stand firm in my belief that domination should be a more significant part of bioethics parlance. In other words, as reasonable discussion is conducted, one should always have a natural worry of whether domination is present, be this in the context of health care or research. Moreover, by this I mean primarily asking questions of how the subjects *themselves* feel matters are, not whether outside observers can detect domination—as the outsider perspective is already better established in bioethics as such worries more or less provoked the birth of the field in the first place. As I have argued, relying on Pettit, true perspectives on domination can only emanate from the subjects themselves, or, this has to be at least our guiding presupposition in order to safely guard against potential instances of domination.

This brings us back to Sandel and to our aim of making the concept of reasonable and the deliberations that it calls for more tangible; in practice, to enrich the moral ways and imagination in this regard. Put simply, my argument is that in order to conduct moral discussion in the reasonable way and for this to be accessible and meaningful for all its potential participants, we need to better incorporate domination into the discussion, as it is undeniably part of our everyday life. However, indeed, we need to deliberate in a reasonable way about domination, too, and as before with Sandel's "moral corruption," a neutral ground needs to be sought with

regard to the theme of domination. One simply cannot declare that she is dominated without consulting others about how to view the matter, even if she is, in a way, the ultimate judge on the matter. As a further—in fact, perhaps as an ultimate—motivation for doing this, it is important to acknowledge, now from our viewpoint, that in deliberating over concepts such as domination, as negatively laden as this is, society also creates itself in the first place; for example, a great deal of bridging social capital is fostered when people discuss and reasonably argue over such issues.

Moreover, obivously, the theme of domination is only one example of enriching and finetuning common deliberation. Thinking about Judih Shklar's ordinary vices is another good place to start. These vices, which are quite unlike their more famous Christian cousins, are mundane but pervasive sins of everyday life and too often go unnoticed; vices, such as many forms of hypocrisy, snobbery, betrayal and misanthropy. As I have noted, Shklar's central argument from her liberal standpoint is that as grave as all such sins are, they still need to be tolerated more readily in order to avoid even worse ones: especially cruelty and fear. In other words, by observing "ordinary vices" and thinking systematically about them, one can detect a moral psychology in society; a system of habits and thought that needs to be better understood and addressed—but in its own terms, especially by engaging in trades between lesser and weightier vices.[363] Again, to connect this with the reasonable, a clear suggestion that arises is that "ordinary vices" should be incorporated into the discussion. There are a number of questions that could be addressed, such as: How to understand *betrayal* when physicians have loyalties to their employers, profession and patients, and at times, these loyalties conflict with one another? Or, is there, or should there be, some kind expectation of *misanthropy* built into the healthcare system or the way research is conducted? How about *cruelty* and *fear* in this context? And so forth. I predict that *common* deliberation, in the reasonable manner, would be more than welcome on such topics in the eyes of many.

Nevertheless, I do not want to delve deeper into Shkar's thinking in itself at this point. Rather, I have wanted to use the ideas of the philosopher in this study to paint a broader picture of the prevailing post-war moods that provoked the birth of bioethics, and for instance Rawls' work. I also used Shklar's thought to illustrate the "deliberate shallowness of bioethics" when I discussed principlism. So, I have connected Shklar with all the different topics that I have addressed in this study; topics that, in fact, come together in the theme that I have now been elaborating on, that

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[363] Judith N. Shklar, *Ordinary Vices* (Cambridge, MA: The Belknap Press of Harvard University Press, 1984).

of the concept of the reasonable and its place and use in bioethics. Having acknowledged this, I feel that it is time to briefly summarize what we have learned by thinking about the perspective of Norman Daniels that led us to this subject in the first place.

Then, my main argument is that with the concept of reasonable—in practice, through the deliberative process that it calls for and animates—Rawls and Daniels have offered bioethics a good way to move forward; this is what bioethics is all about at its best, to my mind: intellectually open-ended and socially inclusive. Moreover, from my point of view, it could be said that the underlying basic assumption of Rawls and Daniels has greatly resembled what I earlier identified as motivating and characterizing principlism, too: the deliberate shallowness of bioethics; the attempt of bioethics to offer a neutral but accessible way for everyone to participate in bioethical discussion and decision-making throughout society, a common *language*. But the merit of Rawls and Daniels in comparison with principlism—a major, and in itself very functional, branch of thought in bioethics—is that it shows us more clearly where the line lies between past successes and future potential in developing bioethical thought further; whereas, put simply, principlism has perhaps, to some degree, become a victim of its own success and is harder to reform genuinely.

In other words, Rawls, more generally, and then Daniels, closer to bioethics, have clearly built a good foundation, and justification, for thinking more broadly about bioethics in intellectually open-ended and socially inclusive ways—but they seem to fall short of offering enough practical guidance on how to do this. Here thinkers such as Sandel and Pettit come into the picture. Obviously, there is still ample room for more work in this respect; but I think that the broad coordinates of my suggestion have now become clear, which I feel to be enough for the scope of this work.

I hope that by combining all these different thinkers and their ideas I have been able to offer at least a preliminary glimpse to how a new kind of bioethics would look, one that would truly embody the social background of the field and what this calls for. Put differently, my hope is that I have managed to develop some novel *ways* to move forward. But what I have not addressed yet is what such philosophical moves might ultimately *mean* for society, what could be the final result if this vision became true, if this new thinking did eventually help bioethics "to move beyond its early schemes" altogether, and perhaps aided bioethics to more evidently manifest itself as a "kind of forerunner of a new wave of political institutions." This I will address next.

5.2   Toward New Ways

As a bridge to my broader perspective, I still want to consider one more thinker that I earlier promised to discuss in detail: bioethicist Robert Veatch and especially his 2009 book *Patient, Heal Thyself: How the New Medicine Puts the Patient in Charge*[364].

For the purposes of this study, Veatch himself does not need to be introduced at length, in addition, I already gave the key coordinates on his career when I noted that he was "the first employee Daniel Callahan hired to the Hastings Center and a prominent bioethicist from the early days; according to Jonsen 'the original bioethicist.'"[365] Rather, his book that has provoked a lot of discussion is more interesting to me at this point. In *Patient, Heal Thyself*, Veatch draws a number of far-reaching and provoking conclusions. Based on these, he offers his recommendations, such as the following:

1. The language of modern medicine is corrupting and must be abandoned.
    a. Doctors don't give orders. They provide their assessment of the medical facts and give evaluative advice if asked for it.
    b. Hospitals are not prisons. Patients are not discharged from them; they decide to leave, preferably upon the advice of various assistants acting as consultants. (Patients may be required to leave on the basis of institutional policy, but cannot be forced to stay and must not be required to "sign out against advice" if they decide to leave when the doctor's value judgment does not concur.)
    c. There is no such thing as a "medically indicated treatment." Medicines do not "indicate," and they can't be demonstrated to be good for someone except by means of a set of evaluative judgments that cannot be made adequately by physicians or by medical experts.
    d. No such thing as a "treatment of choice" exists except by the choice of the patient or the agent for the patient. The choice of a treatment by anyone else who does not have authority to make value judgments for the patient is a paternalistic imposition of someone else's values. Hence, no writer of a medical textbook and no panel of medical experts can determine that

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364 Robert M. Veatch, *Patient, Heal Thyself: How the New Medicine Puts the Patient in Charge* (Oxford: Oxford University Press, 2009).

365 For Jonsen's portrait of Veatch, see Jonsen, *The Birth of Bioethics*, 56–57.

any particular treatment is the best. Treatments cannot legitimately be labeled as "treatments of choice."

e. No treatment is ever "medically necessary." Any attempt to justify a treatment for insurance or legal purposes by claiming it is medically necessary is a confusion that merely hides the value judgments of the insurance company gatekeeper or the medical expert. No treatment is ever necessary (if one is willing to pay the consequences of omitting it). No treatment is ever a luxury or unnecessary unless one has imposed a set of value judgments to reach this conclusion.

2. It is time to abandon informed consent. Consent was a welcome alternative to the more traditional unilateral imposition by a paternalistic physician onto a patient of his value judgments, but it is merely a halfway reform, a baby step toward the liberation of patients. Patients need choice, not consent to the physician's recommendations.

3. No longer can physicians justifiably prescribe medications for their patients. If they cannot know what is best, they cannot "prescribe" treatments. They should explain plausible options. They can educate patients about what the likely effects of the options are. They can even be called upon to certify that the patient understands adequately what the likely effects are. They cannot be gatekeepers who draw on their personal value judgments to decide which patients get access to chemicals and other treatments and which do not. If society needs to be protected, it is the values of the community through its representatives that must block public access to medications, not physicians whose values may match neither the patient's nor the public's. Patients should be given choices, not merely an opportunity to consent to the physician's options.

4. Patients can no longer be stigmatized by labels created by health professionals that classify them as acting immorally or irrationally if they make lifestyle choices that do not maximize their health. Longevity-maximizing lifestyles can be boring, painful, and irrational when they require sacrificing other nonmedical goods. Similarly, morbidity-minimizing lifestyles are not always the most reasonable in either the long or short run. It is not rational to maximize one's health when doing so comes at the expense of failing to maximize one's well-being. Thus, not all fat people are overweight. Not all skinny people are underweight. Physicians are not in a position to know whether people are at the weight that maximizes their well-being. They should not impose their private or biased health-maximizing value judgments on their patients. Many people are fat because they are rational.

5. Every person is entitled to a decent amount of health care funded through health insurance or government health services. Any single list of covered medical services will be a biased list conforming to the value judgments of those who make up the list, that is, the most powerful in the society. Those who are most marginal, those at the fringes, are likely to be in the least agreement with those value judgments and are thus the victims of discrimination if they must have imposed upon them a single package of insured medical services. A decent amount of health care requires only that the cost of the insurance (adjusted for age) be the same for each person and that no one be excluded based on preexisting conditions that are beyond his or her control.[366]

And the list goes on. When Veatch later calls for declaring the "end of the tyranny of the experts" and urges patients to "take responsibility for . . . [their] own healing," noting that they "have nothing to lose but . . . [their] passivity," his thesis and position become exceedingly clear. Then, it is not that important to me whether or not the reader agrees with Veatch; rather, by presenting some of his thoughts I want to highlight how far-reaching implications profoundly new ways to reason in bioethics, such as his, can potentially have. In other words, most of all, Veatch is a good symbol for a new kind of bioethics—and in more than one way.

For instance, Veatch makes it obvious that much more attention needs to be paid to everyday language: it would be naive to assume that even the concepts that seem most neutral would, in fact, be that; free of values that might be reasonably disputed. All in all, there is a great need to discuss and re-evaluate everything in the domain of bioethics, and to maintain enough space for varying viewpoints on these topics. Most of all, Veatch symbolizes that whatever outcomes this intellectually open-ended and socially inclusive process may yield, it is vital to be reasonably ready to follow them. There are two kinds of *daring* that this suggests: intellectual, to take the leap into the unknown in terms of new ideas, as well as social, to be willing to restructure society in necessary ways. Put differently, more openness is needed. This means for example resisting the isolation of medicine and medical ethics from the rest of society, which has been a dangerous possibility and a very real state of affairs for at least as long as there has been modern medicine.[367] Veatch is also a manifestation of cultivating

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[366] Veatch, *Patient, Heal Thyself*, 254–256.

[367] Robert M. Veatch, *Disrupted Dialogue: Medical Ethics and the Collapse of Physician-Humanist Communication (1770–1980)* (Oxford: Oxford University Press, 2005).

more *ambitious* perspectives on these issues, which is evident not only in *Patient, Heal Thyself* but also, for example, already in his *A Theory of Medical Ethics*[368] that draws heavily on Rawlsian spirit. Put simply, whether the reader agrees or does not with Veatch is irrelevant here, the main point is that Veatch *encourages* us to think more broadly.

I distill from Veatch's passionate call especially a tentative mental road map to migrate to a genuine *no man's land* in bioethics; to "move beyond early schemes." What I mean by this is that it seems to me that as bioethics was born, a lot of its intellectual domain was ruled by the "natives of the medical land," so to speak, which very much set the tone for what followed. The early situation was challenged by the "natives of the bioethics land," which then led to a series of confrontations and collaborations. Despite many positive steps, the underlying basic tension, and *suspicion*, between the habitants of the two worlds has remained ever since the beginning, and now it seems ever more pressing to be *brave* enough to abandon these old habitats and to seek to occupy a genuine no man's land—in order to truly embrace the world as it currently stands, or rather, how it can be argued to be, seen from a truly reasonable and neutral standpoint. This is, ultimately, what Veatch symbolizes to me. In practice, then, this leads us to a theme of a more *organic* way to do bioethics, in particular.

Organic bioethics

With "organic" I mean my own suggestion for a new way of thinking about the field of bioethics and how it operates as a whole; a way to occupy the no man's land to which I referred—to daringly move beyond the early schemes of the field and to see why, or how, bioethics could truly be considered to be a "kind of forerunner of a new wave of political institutions that began to emerge during the post-war era," as I have suggested. Put simply, what I now want to coin as "organic bioethics,"[369] which Veatch in his own way illustrates, tries to answer the call and abandon the early schemes, even the current ones, and to help us to genuinely adapt ourselves in

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

[369] As to the term, cf. Tod Chambers, "Theory and the Organic Bioethicist," *Theoretical Medicine and Bioethics* 22 (2001). Note that Chambers speaks about organic *bioethicists*, moreover, with the term he implies something fairly different from what I have in mind.

bioethics to the surrounding intellectual and social situation at hand, on an ongoing basis.

The first outcome of adopting this point of view is that it highlights that we need to appreciate bioethics in itself—not as part of the practice of medicine—"in the belly of the medical whale"[370]—neither as the challenger of medicine, or as a means to an end in any other way. At the end of the day, bioethics is a *cultural* force that is an inevitable part of our new social lives and intellectual vocabulary, thus bioethics is for *everyone* as it was meant to be, even though it had its origins in a certain time and a place, among certain people. Bioethics is like democracy: it would be absurd to claim that democracy is reserved only for the Greeks, or view it primarily through the lens of the Greek culture, or restrict ourselves to what it originally meant in this context, because of the Greek origins of the concept. "Bioethics transcends peculiarities of place and policy, yet inevitably reflects and incorporates those peculiarities."[371]

For better or worse, bioethics now exists in Western culture and the question is rather how it interacts with its surrounding social and intellectual reality, not if it serves some desired purpose, or to be more precise, a purpose defined by some particular group of people. To be sure, bioethics has intellectual and social aims that it symbolizes and tries to fulfil, in the same way as democracy, but the point is that it now has, or should have if properly understood, a cultural life of its own; it cannot be owned and thus it has to be freed to function independently, cherishing it as it is.

Once we do this and let bioethics do what it does without trying to steer it too much, we can also clearly see other—positive—things that have stayed more or less unrecognized. No surprise, this brings us to the interaction the field has with its surroundings in particular. Most of all, it becomes easier to see that there is a great possibility and need of turning around the usual setting in which we have discussed, *within* the field, how bioethics mirrors its surroundings, and rather use bioethics *as* a mirror to learn more about its surrounding context. In practice, if we let our thought and discussions roam free in bioethics, without having too many presuppositions and preconditions, we could learn a great deal more from, say, medicine, or themes such as the political decay, as I have tentatively tried to argue. Eventually, the new thought should also translate into action. In turn, all this could enrich and influence

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[370] Charles E. Rosenberg, "Meanings, Policies, and Medicine: On the Bioethical Enterprise and History," *Daedalus* 128 (1999): 38.

[371] Charles E. Rosenberg, *Our Present Complaint: American Medicine, Then and Now* (Baltimore: The Johns Hopkins University Press, 2007), 167.

bioethics once again. To put it simply, there could, and should, be considerably more organic *interaction* between bioethics and its context; in fact, this is what bioethics clearly does best and what it was set out to do.

Let us imagine, for example, how much more we could simply *learn* about medicine if we truly adopted Veatch's thinking from *Patient, Heal Thyself*—if we empowered patients to share significantly more of their knowledge and beliefs. Or, conversely, we can only deplore all the insights that have been lost due to, say, unwarranted paternalism that has restrained deliberation. The same goes for Daniels' deliberative processes, for instance. Arguably, in the complex modern world—within life sciences and beyond—one simply cannot afford any longer to let the knowledge and decisions to rest only in a few hands and to ignore the input of the whole society.

Put differently, I want to acknowledge how I have, throughout this work, aspired to save bioethics from much of the prevalent criticism and many misunderstandings that I have deemed to be inaccurate and unfair. This could be considered to be a legitimate goal in its own right. However, what has truly motivated me and what has indirectly but heavily influenced my pursuit is something beyond this: it is that my intuition says there could be so much more in bioethics—that not only is it necessary to "set the record straight," but it is also necessary to help bioethics to realize its potential, for the benefit of the field as well as for the benefit of society at large. Eventually what is at stake is not so much bioethics in itself but something more: to my mind, thinking about "organic bioethics" helps us to see more clearly that bioethics has only served as a test laboratory and an excellent chance for having more intellectually open-ended and socially inclusive culture. In other words, much of what has constrained bioethics thus far has also stood in the way of looking at the whole society from fresh and more democratic perspectives and reforming it accordingly. This kind of thinking is what I want to call for with ideas such as organic bioethics, and this is the deeper—cultural—motivation of my work.

So, it has become clear that organic bioethics emphasizes that bioethics is, or should be, a cultural given and also that letting it flourish, or conversely hindering it, has great implications for other parts of our intellectual and social life too, beyond bioethics itself. To put it simply, I think it is high time to acknowledge that bioethics is an integral and organic part of our culture.

Then, the practical, and also perhaps intellectually the most interesting, question arises: how should we operate differently in bioethics and when we are situating the field within our broader social and intellectual landscape in order to genuinely appreciate the organic nature of bioethics, which seems to encapsulate a lot of what

the field stands for so well. Put differently, what have we failed to do to live up to this potential? For instance, what are our institutions lacking in this respect?

Not so surprisingly, we arrive at John Dewey, the renowned philosopher. To quote a good characterization of his thought:

> On this view, inquiry should not be understood as consisting of a mind passively observing the world and drawing from this ideas that if true correspond to reality, but rather as a process which initiates with a check or obstacle to successful human action, proceeds to active manipulation of the environment to test hypotheses, and issues in a re-adaptation of organism to environment that allows once again for human action to proceed. . . .
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> . . . Dewey, throughout his ethical and social writings, stressed the need for an open-ended, flexible, and experimental approach to problems of practice aimed at the determination of the conditions for the attainment of human goods and a critical examination of the consequences of means adopted to promote them, an approach that he called the "method of intelligence."
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> The central focus of Dewey's criticism of the tradition of ethical thought is its tendency to seek solutions to moral and social problems in dogmatic principles and simplistic criteria which in his view were incapable of dealing effectively with the changing requirements of human events. In *Reconstruction of Philosophy* and *The Quest for Certainty*, Dewey located the motivation of traditional dogmatic approaches in philosophy in the forlorn hope for security in an uncertain world, forlorn because the conservatism of these approaches has the effect of inhibiting the intelligent adaptation of human practice to the ineluctable changes in the physical and social environment. Ideals and values must be evaluated with respect to their social consequences, either as inhibitors or as valuable instruments for social progress, and Dewey argues that philosophy, because of the breadth of its concern and its critical approach, can play a crucial role in this evaluation. . . .
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> The social condition for the flexible adaptation that Dewey believed was crucial for human advancement is a democratic form of life, not instituted merely by democratic forms of governance, but by the inculcation of democratic habits of cooperation and public spiritedness, productive of an organized, self-conscious community of individuals responding to society's needs by experimental and inventive, rather than dogmatic, means.[372]

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[372] Richard Field, "John Dewey (1859–1952)," in the Internet Encyclopedia of Philosophy, accessed May 30, 2016, http://www.iep.utm.edu/dewey. For Dewey's thought in this context, see also Gregory Fernando Pappas, *John Dewey's Ethics: Democracy as Experience* (Bloomington: Indiana University Press, 2008); Steven Fesmire, *John Dewey and Moral Imagination: Pragmatism in Ethics* (Bloomington: Indiana University Press, 2003).

It is not difficult to see how Dewey's thought embodies much of what I have discussed earlier in this study. I presume he would have been quite susceptible to Rawlsian reflective equilibrium or Shklarian moral psychology, for instance.[373] On the other hand, this comes as no surprise as Dewey so profoundly influenced the culture of the early twentieth century, setting the tone for much of what followed; naturally, Rawls and Shklar were no strangers to Dewey's ideas—although this is not to say that they followed directly in his footsteps. Moreover, I suppose that the "deliberative shallowness" of principlism, or that of bioethics more broadly, would have won Dewey's approval, too. Furthermore, he would have resisted the old dogmatism that reigned in medicine and its ethics, alongside early bioethicists. All in all, it is not difficult to notice how the Deweyan spirit lingers in the air.[374]

But Dewey was famously, and intentionally, vague about the fine details of how his pragmatism, or liberalism, might be implemented in society, in the same vein as Rawls to some degree, for example.[375] Thus Dewey can, yet again, only help us to grasp some of the broad contours of what bioethics could look like and be, understood from a more "organic" perspective; in other words, Dewey can help us move further toward seeing the practical meaning and implications of organic bioethics, but he does not offer all the answers. Moreover, it must be noted that Dewey heavily

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[373] However, note that there are reasons to argue that Dewey would have resisted some, perhaps many, tendencies of modern debates in political and moral philosophy, such as those manifest in Rawls' views; for example, see Pappas, *John Dewey's Ethics*, 255–259; or, Fesmire, *John Dewey and Moral Imagination*, 27–28. Nevertheless, it seems to me that this argument presupposes that modern thinkers, Shklar and Rawls among them, are arguing from very fixed positions, which, I think, many of them are not, after all—as Rawls' reflective equilibrium, especially as he applied it in his later thought, well illustrates. It appears that, at least in a closer examination, many modern thinkers are very Deweyan, particularly as they tend to be very reflective.

[374] See also Jonsen, *The Birth of Bioethics*, 71 & 83. Furthermore, I need to note that as we again return to thinkers such as Rawls and Shklar in this explicit Deweyan spirit, it also appears that figures such as Foucault, known for his concept of biopolitics, and other such clearly potentially relevant thinkers for this study, who nevertheless obviously have lesser inclinations toward pragmatism, correspondingly move even further beyond my scope. This observation offers at least good clues as to why I have not found, after all, concepts such as Foucault's biopolitics very central to this work. On this I might be echoing some of Richard Rorty's thoughts; for example, see Richard Rorty, *Achieving Our Country: Leftist Thought in Twentieth-Century America* (Cambridge, MA: Harvard University Press, 1998).

[375] Some ways to move forward in this context can be found in Glenn McGee, ed., *Pragmatic Bioethics*, 2nd ed. (1999; Cambridge, MA: MIT Press, 2003); however, as it is clear, there are many possible avenues open and I will rather concentrate on building on my own theoretical foundations.

criticized the "organic theory" in social thought, by which he meant, however, something different to what I have in mind here, at least in my view.[376] But most importantly, one central question still remains unanswered, which is now ever more pressing: is more organic bioethics even practically *possible*? Is there any evidence that it could work? Or is organic bioethics only an ideal that can never truly materialize?

To answer the question: I think the evidence of the practicability is there indeed. First of all, we could think of the evident success of principlism: how it has been able to evolve to offer a new language to let, and empower, new perspectives and voices to enter bioethics discussion and decision-making, even if it undoubtedly has its shortcomings, too. Another encouraging piece of evidence and example could be Norman Daniels' work, which has helped to foster rich deliberations on fair priority setting in health care around the world, even if this has often also fallen short of becoming *full* reality. However, it appears to me that the most encouraging example of the viability of bioethical, and all kinds of ethical, thought, is the way Michael Sandel has engaged with his audience. In other words, to me, Sandel's work offers an energizing and practical case of how ethics can integrally and organically connect with the surrounding world, constantly learning from and challenging it. Again, I think Dewey would have appreciated Sandel's lucid and sensible approach when he yearned for confronting reality little by little, reflectively adapting in thought as well as in action to every particular situation at hand.[377]

Then again, even if these positive examples proved that there is some reasonable amount of practicality in the idea of organic bioethics, it does not mean that all this is a central part of current social reality. Rather, what is certain, I think, is that *bioethics* is, and is increasingly becoming, part of intellectual, social and cultural landscape in the West—but this does not necessarily mean *organic* bioethics in particular, or something of its kind. As it has now become clear, bioethics and its function in larger society can be understood in many ways.

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[376] John Dewey, "Reconstruction as Affecting Social Philosophy," in *The Collected Works of John Dewey, 1882–1953*, eds. Jo Ann Boydston and Larry A. Hickman, electronic ed., *The Middle Works of John Dewey, 1899–1924*, vol. 12, *Essays, Reconstruction in Philosophy* (Carbondale: Southern Illinois University Press, 1996).

[377] For example, see ibid. However, I want to emphasize that I do not want to declare that I am a "Deweyan." I merely think that Dewey enriches our perspective and helps us to move further. To some degree, my effort resembles that of Daniel M. Savage, *John Dewey's Liberalism: Individual, Community, and Self-Development* (Carbondale: Southern Illinois University Press, 2002), but I see that I have more modest aims in reconciling Dewey with various modern thinkers.

In any case, it seems convincing to argue that the core of bioethics is built around intellectually open-ended and socially inclusive aspirations and this tends to lead to something along the lines of organic bioethics. I also think that in order to let bioethics flourish, and eventually exist, one needs to acknowledge this—otherwise the existence of bioethics loses its point. Thus, to follow this reasoning, for the benefit of bioethics and for the benefit of society at large, it is, and should be, of paramount importance to find ways for bioethics to live up to its full potential, more or less in the organic fashion discussed earlier. Challenges to this must be overcome in any way possible; however, as I have emphasized, at first they must be generally recognized.

Eventually, in practice, it appears to me that the true test will be whether society's *institutions* can better accommodate the organic, or reflective and flexible, nature of bioethics—and if bioethics can, in fact, influence the whole institutional structure as an institutional forerunner. This is a very Deweyan approach as it places so much emphasis on institutions as the centerpiece of society and culture. Can the new situation of declining bonding capital and potentially emerging bridging social capital be accommodated throughout the institutional setting, for example? Is political decay the only path ahead of us, or are there other potential scenarios? These are perhaps the most vital questions society needs to face. As it has become clear, bioethics operates at the heart of this setting.

As to this theme, I remain optimistic. I think bioethics deliberations can—when they are truly set free, unconstrained by prevalent intellectual or social limits of times past—be part of institutional reality: as I suggested, there are promising examples of this. And indeed, this might also set a good example for other attempts of institutional change, beyond bioethics.

To summarize, at least there are good reasons to head in this direction. First of all, this is what bioethics is and does best; second, this can be of great benefit to life sciences and society at large as new intellectual and social possibilities are opened; third, institutional renewal—rather than revolution—is understandably the primary goal of this aspiration as, arguably, institutions centrally construct society.

Thus, a clear argument emerges: bioethics as a field should more clearly concentrate its efforts and aspire to become "organic bioethics," or something of this sort[378], especially aiming to permeate the institutional structure. The field needs to

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[378] An interesting development in the field in this regard is the so-called "empirical turn." However, I want to emphasize that to me "organic bioethics" means something broader than merely better incorporating empirical input into normative thought. Nevertheless, this seems a laudable

abandon its early schemes, such as merely opposing physician paternalism, and carry on from where, say, Daniels with his open-ended and socially inclusive deliberations has left the field. Most of all, the past efforts have to be continued in order to make bioethics even more flexible—in line with the "deliberative shallowness" of the field—as well as more tangible, more easily accessible, more energizing and empowering, more in tune with the social trends and nuances of everyday life, following thinkers such as Sandel and Pettit in this, or along the lines of Shklarian moral psychology. At the same time, organic bioethics needs to be *bolder* bioethics, and demand, or create, institutions that better accommodate its aims as there are good reasons for doing this; although, obviously, this does not mean that bioethics should be dogmatic; rather bioethics should be "reasonable." The new thought must advance hand in hand with the political and social context in keeping with the Deweyan spirit, and not shy away from this. I see good opportunities for doing all this.

The bottom line

Despite all the excitement, I need to acknowledge that "organic bioethics" may go too far and bundle too many things together. It also tends to resemble dangerously a catchphrase. By using it, my primary aim has been to paint a *vision* of what different kinds of things could follow if bioethical imagination and social reality were utilized and addressed more freely. Nevertheless, my main point in this regard is still something more modest: that there are good reasons to think that intellectual open-endedness and social inclusion are at the core of bioethics, and fostering these features is the great challenge and the opportunity for future bioethics.

As I have been sailing in relatively uncharted waters in this study, it has not always been possible, or even desirable, to offer precise coordinates for the topics I have addressed, to pinpoint the exact core of my ideas and claims. Rather, I have aspired to carve out, from the intellectual terrain, a certain spirit that embodies my understanding of bioethics; in other words, I have settled for striving to offer the reader tentative understandings and answers rather than definitive ones. I hope I have succeeded in doing this during our journey.

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direction overall. For example, see Pascal Borry, Paul Schotsmans, and Kris Dierickx, "The Birth of the Empirical Turn in Bioethics," *Bioethics* 19 (2005); Samia Hurst, "What 'Empirical Turn in Bioethics'?," *Bioethics* 24 (2010). Another interesting new direction to mention here is the "relational turn" in bioethics; on this, see Bruce Jennings, "Reconceptualizing Autonomy: A Relational Turn in Bioethics," *Hastings Center Report* 46 (2016).

As to the part at hand, the future of bioethics, I have highlighted and developed only a handful of ideas and ways that could help us in the years to come. In doing this, I have drawn on my earlier observations in this study, but I have not utilized everything from earlier as it would have made the text too crowded—I hope the reader has been keen to go beyond what I have explicitly written in this part, and at the same time has spontaneously let her imagination to benefit from my previous observations.

I have also emphasized that my study aspires to function on many levels. It definitely has a practical aim of helping bioethics move forward, and to this end I have offered a few of my own suggestions. However, it should have become clear that I intend for this study to be freestanding even as an inquiry, without the practical aspect. In fact, I would like the central thesis of my work to be the appreciation of the richness and depth of bioethics—that bioethics could legitimately be seen as a "cultural giant," an important and serious part of Western culture.

At the end of the day, I hope that I have achieved at least one end: I hope that I have been able to offer a somewhat robust perspective from which to reflect—and carry on reflecting—in a nuanced and multifaceted way, on many new central questions regarding bioethics as well as its surrounding society. These are, for example, questions of political decay, or, of different types of social capital and the relation of these types to various, and potentially novel, bodies of thought. In other words, I urge for the discussion to continue on the political and social dynamics I have observed. Moreover, I want to emphasize the need to connect such analyses with everyday life so that they would be informative and helpful in practice, and on the other hand, genuinely attuned to this surrounding reality—that there would be truly "organic" interaction between thought and action.

Conclusion

We have reached the end of our *exploration*—at least temporarily. It has been a long journey and I hope, to quote the poet, that we "know the place for the first time" now. In other words, I wish that a somewhat unified picture of how I see the essence and meaning of bioethics, as well as its central future challenges—the very basic coordinates of the field, intellectually and culturally speaking, has become clear. I will not rehearse all my arguments here, especially as I have written so much about them earlier; rather, I will concentrate on providing a concise overview of this work.

I began by pondering whether the theory of political order and political decay could assist us in situating bioethics within broader coordinates of social and political developments since the Second World War. With regard to this, I eventually concluded that the theory certainly appeared to offer plausible answers—or reasoning—but, on the other hand, that it would be premature, and fall outside the scope of this study, to claim that this was definitely so. Rather, I see promising avenues for further research here. The essential question in this regard is whether there is some considerable political decay, a serious deficit in political representation, lurking behind the seemingly calm surface of the existing institutional structure throughout the West. Moreover, could bioethics be seen as a manifestation of this precarious situation, or even as a possible part of its solution?

After painting this broader picture, I moved to political philosophy, which then came to constitute a large part of my work. With the help of John Rawls, Judith Shklar, Philip Pettit—and later Norman Daniels, Michael Sandel—among others, I utilized political philosophy to reflect the mental landscape that has surrounded and influenced bioethics. At the same time, I identified political philosophy as an excellent way of supplying one of the most essential building blocks that I saw bioethics lacking, namely, a genuinely new body of thought, a broad mental framework, to accompany bioethics as it endeavors to embrace its essence and move forward.

This brings us to the two core features of bioethics that I identified: the aspirations of the field to be intellectually open-ended as well as socially inclusive. I argued that these features have been at the heart of bioethics since its birth, but they have often been overlooked or forgotten. Thus, what the new body of thought should

especially achieve is creating awareness and channels—new concepts, languages, and so forth—for these traits to be recognized and for them to thrive.

A good example of where and how this could be meaningful and useful was the theme of social capital that I connected with bioethics, especially borrowing theory from political scientist Robert D. Putnam. I proposed that the two types of social capital—bridging and bonding—that Putnam outlines offer good tools for understanding bioethics. However, I also disagreed with the rather bleak picture that Putnam paints of a declining trend in social capital during the post-war era. To me, it seemed that the loss of bonding social capital that has evidently taken place has been in line with what bioethics has been aiming for as it has aspired to lessen intellectual and social exclusion, particularly by the medical profession. On the other hand, I saw—at least—good signals of the creation of bridging social capital, in tune with the endeavor of bioethics to foster intellectual open-endedness and social inclusivity. The role of the new thinking, then, was to help us here in two ways. First, it should make it easier to appreciate the nature of the situation. Second, and most important, I argued that embracing the important shift in social capital would be unlikely without its assistance.

The rest of my study, then, was largely devoted to illustrating and discussing the past and current understandings of bioethics, leaning on my theoretical apparatus while doing this. I especially tried to address the feeling of disillusionment that now often surrounds the field. For example, I coined the phrase "deliberate shallowness of bioethics," by which I tried to illustrate how bioethics has been, after all, very much in keeping with its original aspirations to be intellectually open-ended as well as socially inclusive, even though even bioethicists themselves do not always recognize this. "Principlism," an influential school of thought in bioethics, as my main example, I dissected my claim in order to show how this has been happening and what challenges this faces. Again, I argued that better awareness—ultimately, a genuinely new intellectual framework—is needed to appreciate the situation.

In the final part of the work, I concentrated solely on the future directions and potential of the field, drawing on all my earlier observations and claims. With the help of various thinkers, such as Norman Daniels, Michael Sandel, and Robert Veatch, I tried to sketch, indeed, the new body of thought that I had been longing for throughout the study, calling my particular effort "organic bioethics." In the Deweyan spirit, I emphasized the need to address, first and foremost, the basic institutional structure of society as a means for change. In this insistence, I echoed a central theme that had been present since the early pages: my claim that bioethics is a re-

flection, and probably a part of the solution, of the institutional—democratic—challenge that Western societies have been facing since the Second World War. In fact, I have argued that bioethics could be seen as a kind of forerunner of a new wave of political institutions that began to emerge during the post-war era.

I hope that with "organic bioethics" and other suggestions that I made especially in the concluding part, I might provoke lively discussion about what bioethics is and could be, and by doing this, assist the field in moving forward from the quagmire of the identity crisis it currently seems to face. However, as I intended at the beginning of this work, I wish that my exploration could serve other purposes, too: to correct some inaccurate and unfair views of bioethics and offer new intellectual tools for understanding bioethics *and* its surroundings better. As I also noted at the outset, these themes are becoming increasingly pressing as middle-aged bioethics searches for its identity. It seems to me that even the survival of the field hangs in the balance. To be sure, there will be a variety of ethical discussions and ruminations in the future, too. Moreover, ethics will keep playing its part in life sciences and in their application in society in any case. However, it is not at all given that this will happen in an intellectually open-ended and socially inclusive manner—the essence of bioethics. Should we lose this democratic struggle, it would definitely be a great loss for us all.

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