

INTRODUCTION

Global Bioethics: The Collapse of Consensus

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I. Passionately Seeking an Ever-Elusive Consensus

Although the title of this volume is *Global Bioethics*, this is not a book just about bioethics. It is a disturbing study of the contemporary moral predicament. More than that, it is an analysis of the human moral condition. The volume brings us to confront the circumstance that the culture wars that fragment bioethical reflections into contending partisan camps are grounded in intractable moral diversity. It is not just that there is a failure of consensus on all the major issues of human life, ranging from the significance of human sexuality, human reproduction, early human life, the allocation of scarce resources, and the nature of governmental authority, to the significance of suffering, dying, and death, but that no resolution of our controversies appears in sight. This state of affairs brings into question the ways in which Western Europeans have regarded morality for more than a millennium. In so doing, the essays in this collection, drawn from contributors from the United States, Canada, Western Europe, and the Pacific Rim, invite us to revise settled understandings of moral reflection, especially of moral philosophy. The cultural diagnosis offered requires us to determine how we can understand free and responsible action when there is disagreement about the nature of the good, the right, the virtuous, and the nature of human flourishing.

This volume acknowledges four striking features of contemporary morality. First, moral reflection is marked by prominent, indeed passionate disagreement. Moral philosophers support different moralities framed within incompatible settled moral judgments. One might think of the contrast between a typically Singaporean and Texan understanding of a rightly-ordered polis, proper governance, and true human flourishing. There are competing moralities. There are competing

bioethics. There are those who support and those who condemn homosexual activities and marriages. There are those who support and those who condemn abortion. There are those who support and those who condemn social democratic approaches to the allocation of resources. There are those who support and those who condemn physician-assisted suicide, euthanasia, and capital punishment. There is public debate and sustained disagreement about the significance of human sexuality, reproduction, property rights, the limits of governmental authority, the allocation of scarce resources, suffering, dying, and death, as well as about the nature of the good and human flourishing. The disagreements do not simply concern particular issues, but involve divergent worldviews. These disagreements are expressed in incompatible moral life-styles embedded in disparate moral life-worlds. The moral controversies involved give issue to cultural wars within societies, and indeed are manifested in clashes between societies shaped by different dominant moral perspectives. The disagreements are deep and at times they even issue in bloody conflict. Moral controversy defines the human condition.

Second, moral dispute is not just salient but persistent. The disagreements regarding the morality of abortion, homosexual liaisons, physician-assisted suicide, and euthanasia have histories that reach back over at least two and a half millennia. The disagreements are perennial; they characterize both ancient and contemporary moral reflections, though they may become muted in the face of a forcefully established orthodoxy.

Third, there are good grounds for holding that moral controversy is not just contingently persistent. Rather, it is impossible through sound, rational, secular argument to resolve the controversies dividing moralities along with their bioethics. This is the case because those in dispute frequently disagree regarding basic premises, as well as rules of moral and metaphysical evidence. This is to say that people are not just in disagreement regarding particular moral matters, but often about the foundational character of morality itself. It may be the case that all moralities have concerns regarding sexual relations, reproduction, the distribution of property, the significance of suffering, and the death of humans. These concerns, after all, reflect the character of human embodiment.

Nevertheless, moralities differ in terms of the circumstances under which it is licit, forbidden, or obligatory to have sexual intercourse, to reproduce, to distribute property, or to kill humans. Different orderings of basic human goods and of cardinal right- and wrong-making conditions lie at the root of the differences separating disparate moralities and the settled judgments they sustain. Even if it were the case (as these essays show to be counter-factual) that all moralities were assembled from the same building blocks (in fact, moralities appear to use different building blocks; Christian concerns with the holy and Confucian concerns with ritual are not reducible to concerns of secular liberal morality), these basic moral building blocks are put together in quite different fashions. Moralities are also distinguished as to whether they acknowledge right-making conditions that cannot be reduced to interests in the good (i.e., as claimed by Kantian moralities), as well as to whether and how preferences should be corrected. As a consequence of the disparity of foundational moral premises and rules of evidence, attempts through sound, rational argument to secure a particular moral vision inevitably beg the question, argue in a circle, or engage in infinite regress. Most moral debates are as a result intractable.

Fourth, in the face of perennial disagreements, indeed despite such disagreement and its intractability, there are proclamations, at times passionately, of moral consensus. Confronted by bitter and persistent disputes, there is the studied pretense that the disputes do not exist or that they at least have no intellectual significance. Instead, there is the affirmation of the existence of a moral consensus supporting a common morality that is held to sustain a common understanding of a canonical bioethics and the health care policy it supports. One might think, for example, of the June 24, 2005, Declaration on Bioethics and Human Rights issued by the United Nations Educational, Scientific, and Cultural Organization. The Declaration is marked by a general vacuity of its principles, as well as a failure to take seriously the moral difference characterizing the contemporary age. There is, as it were, a desire to deny moral diversity's challenge to governance and political stability: there can be no substantive moral consensus. For instance, Article 10 states, "The fundamental equality of all human beings in

dignity and rights is to be respected so that they are treated justly and equitably.” However, the Declaration is silent as to the status of human embryos and fetuses, who are in a very important sense human beings, not to mention the nature of justice and equality. The Declaration thus ignores the major bioethical debates regarding the morality of abortion.

Indeed, no defense is offered of claims of human equality in the face of manifest human inequality. Such equality is advanced as a metaphysical truth despite empirical evidence to the contrary. Moral diversity for its part is recognized in a backhanded way. Though the Declaration acknowledges cultural diversity, it fails to appreciate the depth of moral diversity, for this would bring the very possibility of the Declaration into question. For example, Article 12 states that

The importance of cultural diversity and pluralism should be given due regard. However, such considerations are not to be invoked to infringe upon human dignity, human rights and fundamental freedoms, nor upon the principles set out in this Declaration, nor to limit their scope.

In short, Article 12 announces without sufficient supporting considerations a vaguely articulated moral view of human equality, not to mention of human dignity, in terms of which all other views must be brought into conformity. Other articles, such as Article 13, are remarkably vacuous. “Solidarity among human beings and international cooperation towards that end are to be encouraged.” The Declaration leaves undefined the nature and proper scope of claims on behalf of solidarity. In short, the claims are either platitudinous, ambiguous, or ungrounded.

At the beginning of the 21st century, moral reflection has a somewhat paradoxical character. Serious reflection regarding morality, moral controversies, bioethics, public policy, and health care policy in particular is characterized by the circumstance that moral debate is constant, perennial, often passionate, and frequently intractable, while at the same time many moralists deny the depth and significance of their manifest disagreements. It is not difficult to understand why in the face of persistent disagreement it is attractive nevertheless to assert the presence of moral consensus despite its

absence. Those who would like to establish at law a particular health care policy will in general be advantaged if they can convince others that the policy they embrace reflects a consensus regarding basic human rights, claims grounded in human dignity, or the requirements of justice. This rhetorical move can disadvantage opposing positions by characterizing those who do not agree as obstinate, if not immoral, opponents of basic human rights, human dignity, and the claims of justice. Once the discourse is so structured, opponents of particular health care policies grounded in bioethical arguments that deny the regnant consensus will appear to be supporting an anti-moral vision. The rhetorical move to claims of basic human rights, human dignity, and the requirements of justice can in this fashion circumvent a democratic political discussion through which different parties with opposing moral visions hammer out compromise solutions for law and public policy. About such issues as human rights and dignity, it can almost seem indecent to be critical. In short, the invocation of a global ethics, a global bioethics, human rights, human dignity, and the claims of a universal understanding of justice plays an important part in a *Realpolitik* in the service of establishing particular laws and policies.

The attractiveness of invoking the presence of a consensus in the face of real, persistent, and intractable moral controversy and disagreement is augmented by the apparent ability of ethics commissions and ethics committees to create a consensus. This achievement of agreement is grounded in the dynamics guiding the appointment of ethics committees and ethics commissions. Those who appoint members would do a political disservice to their political and moral agendas if they impaneled individuals who fully reflected contemporary moral diversity. An ethics committee or commission that mirrors a society's actual range of moral views will reproduce within that committee or commission the passionate and intractable debates of the society at large, so that among other things no conclusions or recommendation will be reached. One might imagine, for instance, a bioethics commission composed of communists, socialists, free-market advocates, and libertarians examining the issue of the public allocation of resources. The result will be that debates will continue, but no resolution will be

reached. Worse yet, from the political perspective of those supporting a particular program, they may have brought into jeopardy the possibility of having their agenda appear to be grounded in common, fundamental, moral commitments. In short, a false consciousness or dominant ideology can advance a particular bioethics and its health care policy by supporting the appointment of like-minded persons, thus marginalizing opposing views as lying outside the so-called ideological mainstream. Through such strategies, competing moral views and their adherents can be discounted if not effectively removed from public discourse. In this light, one can understand why appeal is made to a moral or bioethical consensus, even though no such consensus exists.

II. Reflections on Moral Controversy: The Implications for a Global Bioethics

This volume speaks to the salience of moral diversity and its denial. Each essay and commentary from its own perspective explores the possibility or for that matter the impossibility of a global morality, using bioethics as its heuristic. The essays were framed in a conversation that recurringly responded to the tension between a consensus sought and its illusiveness. The goal was to appreciate better the geography of our contemporary moral context and of the human moral condition, so as then better to appreciate the character of free and responsible choice. The failure to achieve, much less justify, a substantive consensus or common background morality may explain the success by default of market mechanisms of collaboration, as well as why moral strangers can collaborate peaceably together through contracts and within limited democracies.

The essays forming this volume grew out of meetings held in Houston, Texas (October 4-7, 2001), Palermo, Italy (January 9-12, 2003), and Rathnew, Ireland (June 3-6, 2004), supported by Liberty Fund, Inc., Indianapolis, Indiana. Eight individuals were commissioned to author major papers and four persons were charged with the role of commentator. Each commentator was given primary responsibility for critically responding to two of the major essays. One person, Stephen Erickson, served as the discussion moderator. His position proved analogous to that of a very talented conductor overseeing the flow and the development of the conversation. The result was a sustained, critical,

frank, and not only civil but congenial dialogue. After each meeting, the papers were rewritten in light of the commentary essays and the discussions during the meetings, as well as the suggestions of the editor. In addition, both before and after meetings relevant literature, including ethics declarations, were sent to the group of twelve essayists. Each of the essays in the volume, including the commentary essays, passed through at least four substantive revisions (with the exception of one commentary, where a new participant joined the working group after the initial Houston meeting). The result is that a rich and complex discussion is reflected in the essays in this volume. Again, despite sustained interchange, no substantive moral consensus was reached. Discussions were amiable and sustained, but marked by foundational disagreement.

The discussions even compassed a movement within Chinese thought to step away from European and North American moral assumptions, so as to frame a moral vision and bioethics undirected by the dominant, American/Western European standard account of morality and bioethics. This issue raised implicitly by Ruiping Fan is perhaps the most challenging. It brings into question Western European affirmations of justice, fairness, human dignity, and human rights that fail to attend to the difficulty of justifying one among the numerous competing accounts. Fan's examination recognizes the moral and cultural colonization of Asia, South America, and Africa by dominant European and North America secular moral traditions. His approach invites the reader to cease taking for granted the moral premises and rules of moral evidence that support social-democratic viewpoints, especially those that nest an individualistic, anti-familist culture. Even when one might disagree with his views, one must acknowledge the importance of the foundational questions he advances as China again asserts its cultural and political strength.

Though the robust moral diversity of the reflections was expressed in a moral pluralism of bioethical accounts and norms, a moral relativism was not endorsed. It was recognized that, even though our moral-epistemological condition warrants substantive skepticism regarding the project of identifying through sound rational argument a particular moral or bioethical account as canonical, this

state of affairs does not justify a metaphysical-moral skepticism, a denial of the existence of moral truth. Instead, in different degrees in some of the papers there is a recognition of the possibility of special moral insight, albeit insufficient for the achievement of a secular moral consensus or the identification through sound rational argument of a particular morality as canonical. This collection of essays thus compasses a rich, multifaceted presentation and assessment of the character of moral controversy and the roots of its intractability. It offers as well a view of the foundations of the disputatious character of bioethics. It provides a frank, critical appraisal of our contemporary moral condition.

These essays bear in particular against the plausibility of justifying a universal declaration on bioethics and human rights, such as that recently (June 24, 2005) advanced by UNESCO. There is no basis in sound, rational argument for a substantive consensus regarding material human rights, human dignity, justice, or fairness. The very invocation of consensus raises the crucial question as to what should count as a consensus and with what normative force and why. After all, one can envisage at least four different senses of consensus.

1. Consensus as an authorizing agreement – when there is actual agreement among parties to a contract.
2. Consensus as a hypothetical agreement – when there is no actual agreement, partisans of a particular account of moral rationality may nevertheless contend that persons, insofar as they are rational (i.e., rational according to the partisan's view of rationality), implicitly agree to the account that the partisans affirm.
3. Consensus as the produce of a procedural mechanism – a process can commit the participants so that a procedural consensus can be said to have been achieved, though the outcome is justified in nothing beyond the procedure itself (e.g., the UNESCO Declaration is the result of a consensus [i.e., agreement] produced by the procedure that enabled its drafting).

4. Consensus as the outcome of a deliberation – the outcome is held to have a claim to truth, even in the face of disagreement, as when in the sciences a preponderance of investigators agree with regard to a particular interpretation of data, this may establish a bias in favor of that interpretation (however, in moral controversies, where the disputants do not share basic moral premises and rules of evidence, such is not the case).

The UNESCO Declaration likely trades on the false supposition that a consensus of experts regarding a moral issue should have a standing analogous to that of a consensus of scientists. The difficulty is that, when it comes to moral matters, one cannot compare the predictive success of different accounts, because in each case the outcome is described differently. As a consequence, one cannot choose among alternatives without begging the question, arguing in a circle, or engaging an infinite regress.

The failure through sound rational argument to establish a particular canonical moral vision, brings into question the moral authority of legal systems, such as the material-rights constitutional frameworks born of the French Revolution's focus on human rights, given their reliance on particular thick moral views. On the other hand, this state of affairs weighs in favor of Anglo-American constitutional frameworks that support formal-right constitutional understandings that eschew claims regarding positive human rights, human dignity, justice, and fairness and instead (1) focus on protecting against tyrannies of the majority motivated by particular views of the good and (2) allow cooperation through procedural means in the face of intractable moral diversity. The result is an account of and defense of limited political authority. Even if one may not agree regarding the nature of the good, one may agree regarding the evil of unconsented-to force against peaceable minorities and the peaceable collaboration of individuals (as in the market).

Claims of substantive human rights and human dignity turn out not to be universal, but very particular. They are partisan to a particular account of the human good and human flourishing. When such claims on behalf of positive human rights and human dignity are accepted as a foundation for governance and political structures, they involve a majoritarian imposition of a particular view of

proper governance. As such, they deny space for the peaceable interaction of individuals and communities committed to diverse moral visions. It is for this reason that the American and the Texian republican constitutions (among many others) never mentioned justice, fairness, or human dignity in their body or their list of basic rights. Instead, out of a recognition of moral diversity, they set limits to majoritarian legislation and offer procedural defenses of the individual over against the power of government. They take moral pluralism seriously. These essays provide not only an exploration of particular moral issues, but of the moral authority that can plausibly undergird governance and political authority in the face of intractable moral diversity. As these essays show, there is no universal, rationally justifiable, moral perspective, or even common notion of the reasonable, that could provide the basis for deliberative democratic polities or their governance. Instead, there are at best procedural modes of collaboration that allow negotiation and limited agreement, as in the markets. The paradigm for political discussion becomes not that of the Socratic seminar, but that of a limited market in which there are peaceable exchanges of political agreement.

III. Twelve Accounts of Moral Diversity

The volume opens with Engelhardt's assessment of the human moral condition: moral reflection is characterized by persistent and intractable moral disagreement. He identifies both the substantive character of this moral disagreement, as well as why sound rational argument fails to set such disagreement aside: we are separated by incompatible basic moral and metaphysical premises, as well as by disparate rules of moral and metaphysical evidence. Though sound rational argument cannot establish the authority to set moral pluralism aside, the conceit of the day is to fashion extensive lists of human rights, which often serve to set limits to peaceable individual choice. They are often meant to impose constraints on how peaceable persons can live within thick consensual moral communities as, for example, within traditional Christian, Islamic, and Confucian communities.

Corinna Delkeskamp-Hayes addresses a similar cluster of issues by critically exploring the ties between Immanuel Kant and the proclivity, especially in Europe, to develop statements on human

rights and endorsements of human dignity. As she shows, such affirmations of human rights and human dignity generally do not admit of a grounding in Kant's views, though a Kantian grounding is often invoked. She explores as well how human rights are enlisted to set limits to tolerable bioethical diversity. In so doing, she draws out a contrast between claim rights and forbearance rights, finding the latter to be more easily secured by Kant's arguments. Claim rights, as she shows, are often incompatible with forbearance rights, such as the right to act peaceably with consenting others in the pursuit of one's own understanding of the human good and human flourishing. In particular, the contemporary penchant to assert claim rights is often connected, as she points out, to the disestablishment of traditional Christian norms in favor of a new secularity. An example of this state of affairs is the concern on the one hand to prohibit profit from the sale of organs, while on the other hand generally to accept abortion: the emergence of new secular moral taboos.

In commentary on the papers of Engelhardt and Delkeskamp-Hayes, Mark J. Cherry introduces a distinction among three senses of liberty often conflated in accounts of human rights and human dignity: (1) liberty as the entitlement to realize one's abilities and choices, (2) liberty as ingredient in an ideal, rather than actual, free choice, (3) liberty as lived human flourishing, and (4) liberty through forbearance rights that protect the freedom to venture and to fail. The first sense of liberty corrects actual choices in favor of a putatively rational understanding of the good. Accounts such as this can frequently focus on the importance of fair equality of opportunity. The difficulty lies in the circumstance that the good is plural, and therefore this account of secular moral rationality is plural. The second sense of liberty is grounded in a hypothetical account of rational choice. However, again, despite claims of the existence of a moral consensus on particular issues, moral rationality fragments into a plurality of accounts of rational decision-making. The third sense of liberty is grounded in particular thick understandings of human flourishing, as exist in traditional Christian, Islamic, and Confucian communities. Liberty is not seen as reflecting an ahistorical, rational account of the good or of proper choice, but rather a thick communal experience of human flourishing. The last account of

liberty focuses on eliminating constraints to actual, peaceable choice. Often, this elimination is justified on the basis of the limits of the authority of those who would interfere. As Cherry shows, these various accounts of liberty mirror the moral controversies of contemporary society in general and of bioethics in particular.

As Nicholas Capaldi argues, moral-epistemological (not moral-metaphysical) relativism is inevitable because of the disparities of basic moral premises and rules of evidence. Moral diversity defines the human condition. The rationalist hope to justify through sound rational argument a single, canonical account of moral rationality collapses, leaving in its wake at most procedural modes for collaboration. As he puts it, giving a gloss to one of Agrippa's *tropoi*, the persistent philosophical failure to establish a substantive, universal moral view as canonical leaves humans with the challenge of finding modes for collaboration in the face of substantive and persistent disagreement. The result is that political order and governance must make do with procedural norms, which are driven by instrumentalist concerns rather than substantive understandings of the good and human flourishing. It is for this reason, among others, as Capaldi notes, that market mechanisms possess an unavoidable centrality.

In her exploration of Confucian approaches to family-centered health care decision-making, Julia Tao ably displays the tensions between traditional Confucian commitments and the conceits of social-democratic aspirations. On the one hand, traditional Confucian moral and ontological understandings give priority to the family as an entity over the individual. The family is recognized as having a reality and moral status independent of its constituent members: the good of the family cannot simply be reduced to the good of its members. On the other hand, the liberal secular account of the family reduces the good of the family to the good of its constituent members. Indeed, the family is recognized as having only that reality and moral status which its members convey to it: the good of the family is understood in terms of the good of its members. Tao is well aware that the Confucian view is at odds with much of liberal, social-democratic sentiments. Confronted with this tension, she ventures

creatively in the pursuit of a moderating integration of Western liberal commitments with a foundationally Confucian perspective. What she accomplishes is provocative and ingenious. From an analysis of physician-centered, patient-centered, and family-centered decision-making, as well as from a consideration of two different understandings of autonomy in health care decisions (i.e., autonomy as the right to self-determination, and autonomy as the capacity for critical self-reflection), Tao proposes a family-centered model of shared decision-making, which proceeds from the perspective of the patient-in-the-family. Through this model, she brings into interaction the patient, the physician, and the family. Her proposal offers an insight into as well as a response to the contemporary challenge to Chinese culture, namely, critically to decolonize itself from the intellectual occupation of secular European moral and metaphysical assumptions.

In response to Capaldi and Tao, Schmidt gives an analysis grounded in a social-democratic perspective. For example, he criticizes Capaldi's endorsement of the role of markets in health care, raising the question whether such will degrade humans to the level of a *homo oeconomicus* (presuming that that is bad), as well as whether health should be considered a marketable good. In particular, he reviews the prohibition by the European *Convention on Human Rights and Biomedical* of 1997 of financial gains from the human body and its parts. All of this is set within an analysis of the free market and libertarian medical decision-making that critically questions the claims of individuals to collaborate peaceably as they wish (especially in the market). He places these reflections in a general analysis of what he characterizes as the contrast between the I-identity and the we-identity, showing how this difference bears on Tao's account of the Confucian role of the family in medical decision-making. This leads Schmidt to note the unclear boundaries of families in Germany, as well as to raise concerns about truth-telling medicine. He observes as well that there are differences in approaches to truth-telling between northern versus southern Europe, with the latter showing similarities with China. In southern Europe there is more of a disposition to inform the family and to deceive the patient. Schmidt concludes by noting that, in the clinical context, patients are often less autonomous than many

moral-theoretical approaches acknowledge, so that engaging family communication can appropriately assist in medical decision-making.

Kurt Bayertz, Angelo Petroni, and Ruiping Fan bring different perspectives to assessing the moral diversity defining contemporary bioethics. Bayertz offers a detailed picture of the multi-form European pursuit of a common European moral and bioethical identity. As Bayertz and Petroni show, there is a European moral and bioethical passion to affirm a consensus. His sketch can at best be described as disclosing a powerful but unsatisfied hunger for a common moral vision. As he shows, such a consensus, such a unity, has proven illusive. Europe is defined by diversity. This diversity becomes quite pronounced, once one places the United Kingdom within the ambit of European culture. The utilitarian dispositions of the British collide with the Kantian deontological dispositions of the Germans and the French. Continental Europeans, especially Germans, have a fondness for affirming human dignity, though this term is traditionally absent from British philosophy and British constitutional theory. When one attempts to identify European culture as focused on freedom, the individual, and rationality, one discovers the tension between more libertarian British approaches versus social-democratic Continental approaches to each of these key concepts. All of this is complicated by the influence of Roman Catholic social and natural-law reflection on laws bearing on cloning and embryo research, as well as on social policy through appeals to solidarity. Yet, over and against these to various extent secularized residua of Roman Catholicism, one finds aggressive laicist viewpoints. From the European search for moral and bioethical consensus, a European version of the culture wars emerges.

Petroni critically assesses the European community's attempt to regulate markets so as to abolish national and regional diversity, as well as to limit individual choices, in favor of a thick legal and policy framework. As he shows, a political framework is emerging that, although it is only deficiently democratically endorsed, is nevertheless forwarded as the basis of a European democratic vision for the future. It is engaged as well as the basis for a European policy identity with a wide range

of implications for health care and bioethics. Among the issues examined by Petroni is the commitment of certain European political factions to imposing their own special moral understandings through appeals to the “precautionary principle”, human dignity, solidarity, and respect for the human embryo. Such impositions are occurring through centralization of governance and through a growing list of human rights. As Petroni notes, the result is a tension if not a collision between the often-vaunted European principle of subsidiarity and the European ideology of centralization, with the latter triumphing. Indeed, the European Union provides a prime example of a post-modern centralization achieved neither by military force nor through the centralization of taxing power, but rather through a harmonization of laws, regulations, and national policies. In all of this, there are central conflicts between socialist affirmations of basic human claim rights and liberal (in the libertarian sense) affirmations of negative rights or forbearance rights. The search for a consensus in bioethics thus emerges as a weapon in the culture wars wedded by the centralist cause of achieving greater harmonization and by proponents of variously secularized remnants of Europe’s Christian past against libertarian solutions. It pits the centralist cause of achieving greater harmonization and secularized remnants of Europe’s Christian past, as against libertarian sentiments supporting individual freedom and responsibility.

Fan assesses Bayertz and Petroni through introducing a Confucian appreciation of the rite-bearing nature of humans in order to diagnose the culturally impoverished circumstance of the emerging new Europe. As he puts it, humans are ritualizing beings, so that Kantian and Rawlsian philosophies (and here he would include Jürgen Habermas) proceed from a mistaken anthropology that ignores the ritual-requiring, familist character of humans. From his account of properly ritualized relationships, Fan addresses moral diversity, the European hunger for consensus, and the various processes of globalization. These issues are assessed in terms of three competing frameworks, what he terms the liberal view of bioethical globalization, the libertarian view of bioethical communitization, and the Confucian insight into bioethical localization. In the process, Fan responds to the anomie that

threatens individuals, families, and communities through showing how persons should be located in ritual behaviors that disclose the relation of persons to each other and to the transcendent. The reality of human decision-making must be properly ritually shaped. In particular, as Fan underscores, humans are familist in their nature. Only when rightly ritually situated in a family will one have, according to Fan's gloss on Confucius, a morality and bioethics that can meet the challenges we face. As he argues, both the liberal and libertarian strategies sketched by Bayertz and Petroni are each in its own way one-sided and incomplete.

The last trio of papers explores with particular attention the problem of bioethical globalization: the attempt to create a global moral understanding for health care and the biomedical sciences. Joseph Boyle explores the increasingly globalized character of modern medicine, and therefore the prospect of an increasingly globalized understanding of bioethics and health care policy, drawing on the resources of natural law. The latter he defines in very broad terms as "the set of basic principles of moral life", but nevertheless embeds his account in the tradition of natural-law theory that took form through the labor of Roman Catholic canonists, theologians, and philosophers in the press of the Western philosophical/theological synthesis of the 12th and 13th centuries. He shoulders his project so as (1) to outline the normative implications of a globalized medicine for those who live in this natural-law tradition, and (2) to evaluate the capacity of his understanding of natural-law theory to meet the challenges raised by globalization. He develops an engaging overview of the growing nexus of bioethical conventions and international understandings under the rubric of an emerging bioethical *ius gentium*. With this term, he identifies the interplay of the more universalist elements of natural law with the particular contributions of specific cultures and contexts. He then critically assesses particular contemporary secular bioethical norms of patient autonomy. Boyle not only shows the heuristic strengths of natural-law reflection, but also offers an insight into one of the important intellectual traditions defining the bioethical culture wars in Europe, as well as in the United States.

Confronting the plurality of bioethical perspectives, as well as the imperialist ambitions of certain genre of bioethics, David Solomon evaluates the bioethics that arose in America, that is still largely produced in the West, and that is now zealously exported to the world. The issue of bioethical imperialism or, to put matters less tendentiously, the cultural export of Western bioethics, is placed by Solomon under the ingenious rubric, the export problem. He distinguishes the issue of exporting moral and bioethical issues from one culture to another from three other versions of the export problem: the temporal export problem, the local export problem, and the personal export problem. The first involves exporting ethical insights from one historical period to another, a problem one encounters when one questions whether Aristotle's understandings of morality are in fact at all like ours (so that one might question whether Aristotle's moral reflections were successfully exported across history). The second involves the exporting of ethical insights among persons in the same culture. The personal export problem involves the challenge of translating ethical insights within all dimensions of a single person's viewpoint. Solomon's exploration of the issue of the temporal export problem raises questions about the origins of bioethics itself and the extent to which bioethics represents a break from traditional Western moral reflections. Bioethics took shape as Western culture was developing a cult of authenticity, a focus on individualism and autonomy, and a privatization of religious views. The ethics revolution of the 1960s that spawned the bioethics of the 1970s carried with it a very particular set of assumptions and commitments that, among other things, ran counter to both traditional Christian and Confucian understandings. Bioethics may also in important ways differ from previous secular Western views of morality and moral reflection.

In any event, the ethics revolution, as the other papers in this volume concede, failed to overcome salient and intractable moral controversy (1) at the meta-ethical level, at the level of reflection about the cognitive status of moral claims, (2) at the normative level, at the level of determining the content of moral norms themselves, and (3) at the level of applied ethics, at the level of solving particular problems. As Solomon notes, the responses to moral pluralism and the

controversies it engenders have been diverse, including: (1) strategies of assimilation, which deny the depth of the disagreements; (2) minimalist strategies, which deny that the differences are significant at the practical level; (3) casuistic approaches, which attempt to ignore the problems of pluralism by proceeding to the analysis of cases, drawing on whatever viewpoints appear useful; (4) triumphalist approaches, which affirm faith in the ultimate vindication of one particular account; and (5) what Solomon terms “rising above the ruins” as through embracing a political account as a substitute for the failure to establish a particular moral account (as, for example, with the later Rawls). The only hope that Solomon offers, following Alasdair MacIntyre, is to consider moral philosophy as a tradition-constituted inquiry. But yet again, multiplicity plagues us with the question of which tradition, guided by whose rationality, should prevail and why and under what circumstances. We are left with a plurality of foundations and a plurality of bioethics.

In closing, Kevin Wildes provides an overview of the geography of disagreement. He lays out the texture of controversy in morality, moral theory, and bioethics in terms of eight levels of disagreement.

1. Object level agreement with agreement on justification and foundations
2. Object level agreement with agreement about justification and disagreement about foundations
3. Object level agreement with disagreement about justification
4. Object level agreement with agreement/disagreement in part on the levels of justification
5. Object level agreement with disagreement about both justification and foundations
6. Object level disagreement with agreement on justification and foundations
7. Object level disagreement with justificatory agreement/disagreement in part
8. Object level disagreement with disagreement about justification and foundations

Rather than a substantive conclusion regarding the content of a normative morality and a global bioethics, we are left with reflections on and accounts of our disagreements. As Wildes ably shows, we

can appreciate why we do not agree about issues in bioethics, ranging from the killing of human embryos to the allocation of scarce resources to the use of physician-assisted suicide. At best, we can erect procedural approaches to create areas of collaboration (as through contracts, the market, and limited democracies), though we are unable together to discover a common moral truth.

IV. Life in the Ruins: What Does the Failure of Moral Consensus Have to Teach us?

Moral diversity has been with us as far back as history records. Now, however, the failure of moralists to provide a coherent account of how one ought to act with regard to human reproduction, sexuality, the allocation of scarce resources, suffering, dying, and death is underscored by the dramatic character of medicine. Life and death decisions need to be made, and the standards to guide are contested. Dramatic new technologies give us unparalleled power, and we cannot in principle agree about how to use that power. We stand on the threshold of possessing capacities that will allow humans to redesign human nature and direct human evolution. Yet, we cannot agree on the constraints to be placed on those powers, or the goals to be pursued through those powers. In the face of conflicting accounts of the good, the right, the virtuous, and human flourishing, the challenges of how to shape the human future brings not common collaboration and a common vision, but impassioned disagreement and controversy.

A faith in reason born of the 12th- and 13th-century Western European synthesis of philosophy and theology has largely been lost. The modern and Enlightenment attempts to reground the Western medieval rational project have now been radically and foundationally brought into question. How should we proceed? We urgently need moral guidance, but we find ourselves confronted by an intractable moral pluralism with its cacophony of competing answers. Seemingly in desperation, Solomon remarks, “There may perfectly well be a non-relativistic truth about ethics, and perhaps this truth is even known and savored by, say, an Orthodox monk living in a cave on the Holy Mountain [Mount Athos, Agios Oros]” (ms p. 19). One may wonder whether Solomon’s remark is quite as flippant as it at first blush might appear. Perhaps the observation serves as an implicit surrender to St.

Gregory Palamas (A.D. 1296-1359), who along with what was equivalent to the Ninth Ecumenical Council (Constantinople V, A.D. 1341, 1347, 1351) knew that the Western synthesis is intellectually flawed and that the project would in time collapse. The Council knew that the only way to the Truth is through an asceticism integral to Christian mysticism.

We are returned to a moral and intellectual position that existed in the West before its Middle Ages. These reflections on the failure to justify a global bioethics disclose a fundamental challenge. A major rupture has occurred at the heart of the Western, now-global, moral-philosophical project of providing a justification for a particular moral vision that can direct human powers, as well as provide a warrant for political authority and governance. This rupture under the rubric of post-modernity discloses not just the failure of the modern or Enlightenment moral and intellectual project of creating a universal moral community grounded in reason, but the collapse as well of those universalist moral understandings that took shape at the beginning of the second millennium. There is now a growing recognition of not just the salience and persistence, but the irresolvability of moral pluralism. It is not simply that post-modernity takes moral diversity seriously, but that it involves as well an abandonment of moral truth. It is the fruit of the recognition articulated by David Hume (1711-1776) and Immanuel Kant (1724-1804) that, unless humans possess a noetic capacity (here we must again recall David Solomon's monk on Mount Athos), we are irretrievably locked not just within the sphere of immanence and finitude, but within subjectivity, and therefore at best within intersubjectivity. We are left with our sense impressions, guided by the structure and coherence we impose on them. The result is that there is no longer truth in the sense of an independent reality to be known, or at least in independent moral reality, but instead all truths become interpretations within the hermeneutic of a particular moral narrative.

In these circumstances, the character of the human condition brings into question traditional secular morality and bioethics. We are left with first a diagnosis and then the possibility of at least two forms of response.

1. The diagnosis lies in the recognition that post-modernity is the final outcome of the Western medieval philosophical and theological synthesis, which turned to look for traces of God in nature (e.g., through natural-law reflections) and ceased to look noetically through nature as through an icon to the Truth, to God. This creative, intellectual venture of the Western Christian Middle Ages in the end culminated in the secularization of the West, focusing with increasing zeal on studying nature and the recognition that one cannot find traces of the infinite in the finite. In the end, it came to regard humans as confined in the circles of their own intersubjective moral construction. This approach affirms as the heuristic and exemplar model for moral investigation the image of a Socratic critical reflection and dialogue, which, following the Euthyphro, seeks to domesticate the divine within the secular commitments of the West.
2. The first treatment for this circumstance, the first strategy for collaboration when truth becomes intersubjectivity and therefore multiple, is to recognize procedural means for working together in the face of moral and metaphysical disagreement. This strategy binds those separated by different moral and metaphysical visions, who draw their authority from neither God nor Reason, but from common agreement. This immanent approach affirms as the heuristic and exemplar model for moral investigation and collaboration the image of the market, a moral space where free and responsible individuals can through agreement venture together in limited enterprises.
3. The second treatment, only alluded to by David Solomon, is the one that prevailed in Europe before the philosophical-theological synthesis of the Western High Middle Ages, but that nevertheless remains at the roots of Western thought, and is independently appreciated by Ruiping Fan in his reflections on the place of ritual. This approach affirms as the heuristic and exemplar model for moral investigation an ascetic struggle to mystical insight, to noetic union of the knower with the known.

A secular bioethics that is to transcend the battles of the culture wars and offer a means for morally authoritative collaboration in the face of intractable moral diversity will need to take seriously the role of agreements, contracts, the market, and limited constitutional polities.

The conclusion is that there is no conclusion, or at least no conclusion regarding which moral claims are normative, the content of moral claims, or how to resolve particular cases of moral controversy. One is left only with a description of our state of affairs, of the tensions and conflicts that mark our fallen human condition. To put the matter in different terms, there is only a meta-conclusion, namely, that we do not and cannot in general secular terms come to substantive conclusions regarding matters moral and bioethical through sound rational argument. Moreover, it is clear as to why we lack this capacity. We disagree about basic moral premises and rules of evidence (i.e., one must remember the monk on Mount Athos). Nevertheless, other strategies still invite their consideration. At the very least, we can by default find procedures, strategies to live together as moral strangers in the face of irresolvable moral diversity.

