

# BASICS OF BIOETHICS EDUCATION

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## **Abstrak**

Perkembangan teknologi yang cepat dewasa ini sering membuat bingung mengenai penilaian moral, terutama teknologi yang langsung berhubungan dengan hidup manusia. Pendidikan bioetika merupakan langkah besar untuk merefleksikan masalah-masalah etis itu yang sayangnya di Indonesia belum banyak berkembang padahal di dunia barat bioetika ini sudah sangat maju dan menjadi referensi dalam pengambilan keputusan strategis. Pendidikan bioetika yang merupakan studi interdisipliner ini perlu digalakkan dengan berpatokan pada penghormatan terhadap hidup dan martabat manusia serta hak asasi manusia agar terbentuklah manusia-manusia yang berbudi luhur yang hidup berdasarkan keutamaan-keutamaan kemanusiaan.

**Keywords:** Bioetika, hak asasi manusia, harkat dan martabat manusia, hak hidup, pendidikan.

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We live in an era which is marked by rapid development of technologies in all sectors of life, from simple technology such as calculator until complicated technology such as stem cell and cloning. Almost every day we hear the new inventions or discoveries of many technologies which touch our life. As the consequences of this mass rapid technological development, many people experience 'jumping technology' for example, there are many people who never had cable phone (PSTN) and suddenly they have cellular-phone. In some cases, these rapid developments create serious problem, not only technologically but also ethically. The more serious ethical problems emerge especially regarding technologies which have close relationship to life of human beings, such as biology, molecular biology, genetics, human embryology and so on.

In the middle of these rapid developments, many people become confused on how to understand and evaluate them ethically. It seems that the criteria and principles that they are holding up to now do not work anymore. It needs new sets of principle and understanding. Unfortunately, the ethical reflection is always left behind the technology.

The bioethical education is a big effort of ethical reflection to catch up with the new rapid development of technologies in order to help people to have rational judgments and wise consideration on life issues. There are so many interesting problems in bioethics. No wonder that bioethics itself undergo rapid development in last decades. Unfortunately, bioethics is less developed in Indonesia. We need great efforts to develop it according to the Indonesian real situation. In this paper, we will discuss only the basis of bioethical education that we have to bear in mind when we talk about bioethics.

## 1. Interdisciplinary Studies

When the word bioethics was coined by Van Rensselaer Potter in 1971, he wanted to promote a new subject (discipline) whose bases were biological knowledge and human values. He insisted that between the two parts – which usually have no direct relation – should be built a bridge so that they could communicate with each other in order to achieve wisdom. This wisdom is very important for the survival of the universe because in the age of specialization, there is a dangerous tendency to lose contact with each other so that one thinks and acts only for oneself. This bridge should unite human values (ethical values) and biological knowledge (biological facts) because wisdom demands that the ethical values can not be separated from biological facts<sup>1</sup>.

I think that this interdisciplinary approach should be one of the bases in our bioethical education today. The bioethical reflection has to be based on real facts which are biological data. In fact, the literal meaning of bioethics is a composite term derived from the Greek words *bios* (life) and *tâ ?thiká*, (ethics): the ethics of life. It is a systematic study of the moral dimensions – including moral vision, decisions, conduct, and policies – of the life sciences. That is the reason why biological facts have to be the basis for ethical reflection. Thanks to a massive and rapid development of biology and genetics, many biological facts which were unknown for centuries, now we know much better.

Now more than ever, there is strong demand to do interdisciplinary studies rather than only monolithic study on almost any kind of life sciences. Most of people come to realize that human life is so complicated that it is inadequate to have only a single approach. We need multiple and interdisciplinary approaches. It means that the two sciences (biology and ethics) have to sit together to achieve a final wise conclusion. In broad range,

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1 Van Rensselaer Potter, *Bioethics: Bridge to the Future*, Prentice-Hall, Englewood Cliffs, 1971, 1- 3

all of human sciences need each other in such a way that all of them can enrich each other to achieve that final destination: the good of human beings.

It is true that for the time being, the most developed bioethics are in the medical area, but it doesn't mean that only medical humanities need bioethics. In fact all the subjects or sciences which relate to human life - such as engineering, agriculture, environment, economy and so on - need bioethics. So the newly established bioethics has a wide area of involvement and interest.

Human beings as free and rational beings are pilgrim beings who are capable of asking and evaluating everything, even the essence of their existence. Their longing for the truth leads them to make so many technological inventions. Technology, in fact, is the expression of freedom and mind which is the gift of the Creator so that there is no need to impede it; yet at the same time it doesn't mean that there is no limit on which one is not allowed to trespass. The story of Frankenstein is a perfect example of the relation between technology and ethics. Dr. Frankenstein's tragedy was not due to his scientific triumph over nature but his failure to care for what he had created: the creature revolts against the creator and even destroys the creator. So the most important thing is not to block or impede technology but to manage it in such a way that it promotes the well being of the entire human race. We do not oppose technological development but we are against unethical technology. Thus, the development of technology has to be guided by ethics; otherwise it will destroy the deepest core of human beings: human dignity.

## 2. Respect for human dignity

The next basic principle of bioethical education is respect for human dignity. The word dignity comes from the Latin word *dignitas* which means worth, worthiness, merit<sup>2</sup>. The original usages of the word *dignitas* referred especially to that aspect of virtue or excellence that made one worthy of honor. Dignity, then, referred both to a kind of deserving and to something deserved. In the Middle Ages, the word dignity was closely related to an undemocratic idea because it was closely related to noble or aristocratic persons in a society. So it was not applied to all people because only a limited number of persons - nobles and aristocrats - had this dignity<sup>3</sup>.

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2 D. P. Simpson, *Cassell's New Latin - English, English - Latin Dictionary*, Cassell, London, 1959

3 Susan M. Shell, "Kant on Human Dignity", in Robert P. Kraynak and Glenn Tinder (eds.), *In Defense of Human Dignity: Essays for Our Times*, University of Notre Dame Press, Notre Dame, 2003, p. 53; Leon R. Kass, *Life, Liberty and the Defense of Dignity: The Challenge for Bioethics*, Encounter Book, San Francisco, 2002, 246

Nowadays, most people agree that the dignity of human life means the inherent nobility and worth of the life or inherent value-property of the life of human beings<sup>4</sup>. It is the sublime value of human life that does not depend on likes or dislikes or subjectivity, but it exists universally in all human beings as long as a human being is a human being.

In the western philosophical tradition, the most high-minded attempt to explore the universality of human dignity was made by Immanuel Kant (1724 – 1804)<sup>5</sup>. Kant's approach on human dignity was new because before Kant, dignity of human beings was not applied to all human beings<sup>6</sup>. Kant's view on human dignity is widely accepted as the foundation of human dignity. He made extensive discourses about human dignity whose central doctrine is the respect of a human being as a person who is the subject of morally practical reason<sup>7</sup>. The human being is exalted neither by nature nor by God but by autonomy, or subjection to self-made law, as announced and certified by conscience. So all persons are deserving of respect not because of the achievements they have made (as in the Middle Ages), but because of a universally shared participation in morality and the ability to live under the moral law<sup>8</sup>. Kant insisted that the dignity of a human person is not an external or additional element in human life but it is the absolute inner worth of a human being, because a human being is regarded as a person and is exalted above any price<sup>9</sup>. A human being has value in himself (intrinsic value) and an end in himself. All living beings have worth but only human beings have dignity<sup>10</sup>. That is the reason why the one who

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- 4 J. Seifert, "The right to Life and the Fourfold root of human dignity", in Pontificia Academia Pro Vita, *The Nature and the Dignity of the Human Person as the Foundation of the Right to Life: The Challenger of the Contemporary Cultural Context*, Libreria Editrice Vaticana, Città del Vaticano, 2003, 194. 197
  - 5 Leon R. Kass (Chairman), *Human cloning and human dignity: The Report of the President's council on Bioethics*, Public Affairs, New York, 2002, p. 16; Martin Haeler and Dietrich Ritschl, "The General Notion of Human Dignity and the Specific Arguments in Medical Ethics", in Kurt Bayertz (ed.), *Sanctity of Life and Human Dignity*, Kluwer Academic Publisher, Dordrecht, 1996, 98
  - 6 Susan M. Shell, "Kant on Human Dignity", in Robert P. Kraynak and Glenn Tinder (eds.), *In Defense of Human Dignity: Essays for Our Times*, University of Notre Dame Press, Notre Dame, 2003, 54
  - 7 Immanuel Kant, *The Metaphysics of Morals*, Cambridge University Press, Cambridge, 2003, 186
  - 8 Immanuel Kant, *Fondazione della Metafisica dei Costumi*, Edizione Bompiani, Milano, 2003, 161.173
  - 9 Immanuel Kant, *The Metaphysics of Morals*, p. 186; Immanuel Kant, *Groundwork for the Metaphysics of Morals*, Yale University Press, New Haven, 2002, p. 52; Immanuel Kant, *Fondazione della Metafisica dei Costumi*, 173.159
  - 10 Immanuel Kant, *Groundwork for the Metaphysics of Morals*, 52; Immanuel Kant, *Fondazione della Metafisica dei Costumi*, Edizione Bompiani, Milano, 2003, pp. 173, 157 – 159; Immanuel Kant, *The Metaphysics of Morals*, 186

possesses dignity (human being) “is not to be valued merely as a means to the ends of others or even to his own ends, but as an end in himself.”<sup>11</sup>

Kant affirmed that the human being is a rational being who exists as an end in himself<sup>12</sup>. As a rational being, a human being has the ability to examine the various beliefs, goals, intentions, acts, etc. that a human being holds, and to see whether it is worth holding or there is a need to change them. In order to exercise this ability, a human being has to have standards by which to evaluate them. What Kant meant about rationality, went beyond mere intelligence. Intelligence is the ability to produce beliefs and actions that are appropriate under given circumstances. In this case, animals have these capacities because if animals are hungry, they have the capacity to produce the acts that move them to look for something to eat. But a human being as a rational being, goes further than this. A human being has the ability to evaluate, to compare, to re-examine his beliefs and acts so that he can accept or reject in order to be suitable to the new considerations. This capacity even goes further than that because a human being as a rational being has the capacity to evaluate and re-examine the basis itself so that it can be changed or re-accepted according to the new considerations<sup>13</sup>. For Kant, rationality is a fundamental element of human dignity because without rationality a being is unable to be an end in itself, cannot be conscious of its existence, and cannot self-reflect.

Kant held that freedom is the independence from being constrained by another's choice and is the only original right belonging to every human by virtue of his/her humanity<sup>14</sup>. For Kant, freedom is the ground or reason without which there would not be a moral law, while the awareness of moral law (conscience) is the ground or reason to recognize that a human being is free<sup>15</sup>. So “by default” a human being is a free being who can use his rationality to refuse or to accept the incoming impulses. Only those acts which are done with free will can be classified as moral acts. Precisely this is the singular element of the dignity of human beings because only human beings are moral agents. It is human freedom which indicates and guarantees the prominent and elevated status of human beings. This freedom ought to be used in the best way possible by following the moral law.

Kant discussed extensively human autonomy in relation to the autonomy of the will. The autonomy of the will is the property of the will

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11 Immanuel Kant, *The Metaphysics of Morals*, 186

12 Immanuel Kant, *Groundwork for the Metaphysics of Morals*, 46

13 Immanuel Kant, *Groundwork for the Metaphysics of Morals*, 44 – 45

14 Immanuel Kant, *The Metaphysics of Morals*, 30

15 Immanuel Kant, *Groundwork for the Metaphysics of Morals*, 64

which is not solely subject to the law, but subject in such a way that it must be regarded as legislating to itself<sup>16</sup>. According to Kant, autonomy of the will is the property of the will itself so that it becomes the law for itself<sup>17</sup> and the unique (sole) and supreme principle of morality<sup>18</sup>. Only by virtue of autonomy can the practical necessity – that characterizes the moral law’s categorical command – be reconciled with freedom to obey to which the moral law also immediately testifies. The principle of autonomy is to make those choices whose maxims conform to the universal law<sup>19</sup>. Certainly, in order to choose correctly, one needs rationality and freedom without which one cannot act autonomously. Kant said that autonomy is the ground of the dignity of human nature and of every rational nature<sup>20</sup>.

Strictly speaking, the dignity of human life is closely related to the intrinsic value of a human being and it is attributable to all human beings because all human beings have equal intrinsic values. Every human being has his own end so that he/she can not be regarded as merely a tool to achieve other ends.

In the last century, the notion of human dignity played an important role in many international and national declarations, especially after the Second World War. There are some international institutions which have declared that human beings have an inherent dignity which becomes the basis of freedom, justice and peace. See for example: The Preamble of the Universal Declaration of Human Rights which was approved by the General Meeting of the United Nations on 10<sup>th</sup> December 1948; The United Nations Covenant on Civil and Political Rights which was approved in 1966; The European Convention on Human Rights which was adopted by the Council of Europe on 1950<sup>21</sup>.

In the post war constitutions of some countries such as Germany, France, Italy, Sweden and others, the theme of human dignity was invoked

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16 Immanuel Kant, *Groundwork for the Metaphysics of Morals*, 49; Immanuel Kant, *Fondazione della Metafisica dei Costumi*, 171

17 Immanuel Kant, *Fondazione della Metafisica dei Costumi*, 171; Immanuel Kant, *Groundwork for the Metaphysics of Morals*, 49

18 Immanuel Kant, *Groundwork for the Metaphysics of Morals*, p. 58; Immanuel Kant, *Fondazione della Metafisica dei Costumi*, 173

19 Immanuel Kant, *Fondazione della Metafisica dei Costumi*, 171

20 Immanuel Kant, *Fondazione della Metafisica dei Costumi*, 161; Immanuel Kant, *Groundwork of the Metaphysic of Morals*, 103

21 Noëlle Lenoir, “Respect for Life and the Law of the Living”, in Denis Noble, Jean-Didier Vincent, *The Ethics of Life*, Unesco Publishing, Paris, 1997, p. 174; Martin Hailer and Dietrich Ritschl, “The General Notion of Human Dignity and The Specific Arguments in Medical Ethics”, in Kurt Bayertz (ed.), *Sanctity of Life and Human Dignity*, Kluwer Academic Publisher, Dordrecht, 1996, 99 – 102



firstly to limit the intervention of the state toward individuals and to guarantee that human beings would be treated as subjects and not objects, so that the violation of human dignity would never be repeated in the future<sup>22</sup>.

The dignity of human life is a very important theme in many discussions of humanities especially in relation to the protection of human life. In bioethical discussions, the theme of the dignity of human life is even more important because it is related to the core of bioethics itself as the ethic of life in which is discussed the life and death of human beings. The reason why some important international communities such as the United Nations and the Council of Europe have banned human cloning is because it is contrary to human dignity<sup>23</sup>.

In these modern times of a pluralistic society in which there are so many value systems, religions and moral criteria, there is a growing awareness that human dignity could be the framework or platform on which could be built the common ground of ethical and juridical views, because human dignity as a concept belongs to a pre-ethical or pre-juridical or pre-political realm. The dignity of a human being – as we have seen before – is the value from which emanate some others human values<sup>24</sup>.

### 3. Human Right in Bioethics

#### 3.1 Human rights

Human rights are a favorite theme in discussing any human sciences. Like the dignity of human beings, which got new meaning and importance

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22 Kurt Bayertz, "Human Dignity: Philosophical Origin and Scientific Erosion of an Idea" in Kurt Bayertz (ed.), *Sanctity of Life and Human Dignity*, Kluwer Academic Publisher, Dordrecht, 1996, 79 – 80; Martin Hailer and Dietrich Ritschl, "The General Notion of Human Dignity and The Specific Arguments in Medical Ethics", in Kurt Bayertz (ed.), *Sanctity of Life and Human Dignity*, Kluwer Academic Publisher, Dordrecht, 1996, 91 – 92; Patrick Verspieren, "La Dignità nei Dibattiti Politici e Bioetica" in *Concilium Rivista Internazionale di Teologia*, 2(2003) 219 – 220; Eugene B. Brody, *Biomedical Technology and Human Rights*, Unesco Publishing, Paris, 1993, 23

23 See for examples: The Universal Declaration on the Human Genome and Human Rights (1997) by the UN; The Council of Europe Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine (1998) by the Council of Europe. Steven Malby, "Human Dignity and Human Reproductive Cloning", in *Health and Human Rights*, 6(2002) 103

24 Martin Hailer and Dietrich Ritschl, "The General Notion of Human Dignity and the Specific Arguments in Medical Ethics", in Kurt Bayertz (ed.), *Sanctity of Life and Human Dignity*, Kluwer Academic Publisher, Dordrecht, 1996, 93 – 94; Patrick Verspieren, "La Dignità nei Dibattiti Politici e Bioetica" in *Concilium Rivista Internazionale di Teologia*, 2(2003) 217 – 218; Dietmar Mieth, *La Dittatura dei Geni: La Biotecnica tra Fattibilità e Dignità umana*, Queriniana, Brescia, 2003, 153

in the last century, so do human rights. Although these rights are the rights of human beings who exist since the beginning of time, yet the recognition of human rights is not that long. The international official recognition only emerged on December 10, 1948 when the United Nations (UN) proclaimed the Universal Declaration of Human Rights. Certainly, this proclamation was not created out of nothing (*creatio ex nihilo*); we can trace back its origin from the history of humankind, especially in the French Revolution, 1789, when there was proclaimed *liberté, égalité* and *fraternité*. From that time on, the issues regarding human rights have always become hot topics not only in social sciences but also in bioethics.

Human rights are the rights that are attributed or connected with a human being as human being. In other words, all human beings have these rights because they are human beings. The ownership of this right is caused by being human. So human rights come from the nature (natural law) of being human (man's natural essence) and are inherent to human dignity and are the expression of human dignity<sup>25</sup>.

Human rights are previous to all positive laws because positive laws are crystallizations of those rights in specific norms and assimilate them as a foundation for juridical ordinances<sup>26</sup>. Because they precede positive laws, human rights become the foundation and the criteria for judging the validity of all juridical orders (laws). In other words, positive laws cannot contradict human rights<sup>27</sup>. More and more people in modern times are becoming aware of their human rights and are demanding that they be respected. The violation of these human rights has become a hot issue in diplomatic relations among countries and societies.

In the bioethical area, there are many international organizations which place the dignity of human being and the right to life in the first line. Some ethical guidelines have been successfully established by the international community through the Universal Declaration on the Human Genome and Human Rights, adopted by UNESCO's General Conference in 1997 and endorsed by the United Nations General Assembly the following year. All of those documents assert that human life has an intrinsic value and inviolable dignity. That is the reason why practices which are contrary to hu-

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25 Giuseppe Gervasio, "La Cultura dei Diritti Umani e il Cammino per il Loro Progressivo Sviluppo", in Santi Corsi (ed.), *Individui Senza Volto: Diritti Universali e Ricerca dell'Identità in una Società Multiculturale*, Cantà Galli, Siena, 2003, 21

26 M. D. Vila Coro, "The Rights of Man and the Right to Life", in Pontificia Academia Pro Vita, *The Nature and Dignity of the Human Person as the Foundation of the Right to Life: The Challenges of the Contemporary Cultural Context*, Libreria Editrice Vaticana, Città del Vaticano, 2003, 216 – 217

27 Giuseppe Gervasio, "La Cultura dei Diritti Umani e il Cammino per il Loro Progressivo Sviluppo", 21



man dignity shall not be permitted. For example UNESCO, "International Declaration on Human Genetic Data (2004) article 1 says, "*The aims of this declaration are: to ensure the respect of human dignity and protection of human rights...*" Council of Europe's "Convention for the Protection of Human Rights and the Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine" was adopted in 1996 and in force since 1997. The main purpose of the Convention (Art. 1) is to "*protect the dignity and identity of all human beings and guarantee everyone, without discrimination, respect for their integrity and other rights and fundamental freedom with regard to the applications of biology and medicine*"

### 3.2 Right to life as a basic human rights

Unfortunately, sometimes human rights are used to legitimize the violation of other human rights. Among the many kinds of human rights, the right to life is the most vulnerable right subject to being violated, especially in bioethics. In fact, the right to life is guaranteed by the UN. The newly erected United Nations (UN) proclaimed solemnly the Universal Declaration of Human Rights on December 10, 1948<sup>28</sup>. This was a brilliant effort to safeguard human rights which had been violated in the previous decades. In Article No. 3 of this Declaration, it was stated that, "*Everyone has the right to life, liberty and security of person.*"<sup>29</sup>

From this declaration, it is rightly stated that everyone has the right to life. What is not appropriate in the declaration is that it is placed in the same sequence with the right of liberty and security. It gives the impression that those rights are all on the same level and equal in value. In fact, that is not the case. Among all human rights, the right to life is the most basic of human rights. The right to life must be placed as the basis or the foundation of all other rights. All human rights have a basic and constitutive assumption based on the life of human beings because all human rights are for those who are living and because there is life. People who have died no longer have human rights. All human rights and their applications are for those who are living. Even the right to die<sup>30</sup> – if somebody believes to

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28 Eugene B. Brody, *Biomedical Technology and Human Right*, Unesco Publishing, Paris, 1993, 261 – 267

29 Eugene B. Brody, *Biomedical Technology and Human Right*, 262

30 Historically, the right to die emerged whenever the process of dying became more complicated because of excessive medical efforts to forestall the death. As the reaction of this medical effort, people asserted and won a right to refuse life-prolonging treatment which was burdensome. The right to refuse the burdensome life-prolonging treatment *per sé* is not the same with the right to die but soon it turned into the right to die because in the further development, people not only refuse treatment but also refuse life itself.

have it – is for those who are living. Without life, there are no human rights whatsoever. Everything which is related to human experiences, human achievements, human responses, even self realizations, needs human life as a basis. So the right to life is prerequisite (*sine qua non*) for other human rights. Richard A. McCormick summarized this condition as “*Life as a condition for other values and achievement.*”<sup>31</sup>

People plan on having many achievements during their lifetime. They have many dreams which they want to come true. The realization of all of these achievements and dreams needs life as a basis, because without life they will never come true. This condition is valid not only for superficial actions such as eating and drinking but also for the deepest moral actions such as freedom and self-realization.

Vila Coro summarized that the right to life “*is an anthropological prius. It is more than a fundamental right; it is the condition which makes any subsequent right possible: life is empirical not theoretical. The fact of life is an entitlement to the right to life.*”<sup>32</sup>

J. Seifert – Rector of the International Academy of Philosophy, Principality of Liechtenstein – defined the right to life as a “*certain objective claim, grounded in the nature of life and its value, to this life; or better said, the right to life is a certain objective entitlement to life... This rightful claim results from the dignity of human life but is distinct from it.*”<sup>33</sup> The difference between the right to life and the dignity of life is that the dignity belongs to the human being and God, whereas the right to life is a claim among human beings. The right to life presupposes the contingencies of life and the dangers against life such as killing and torture. The life of God is never exposed to such danger; therefore, God does not need the right to life.

The right to life is more than a fundamental right. It is an intrinsic and fundamental condition (basis) which makes possible any other rights, including the right of self-determination. The life of a human being is empirical and it is not a theory. Therefore the fact of life entitles the right to life<sup>34</sup>.

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To day, there are changes in the bases to demand the right to die. To day, the demands to the right to die are more and more based in the supremacy of choice, autonomy, and self-determination. Leon R. Kass, “Death with Dignity and the Sanctity of Life”, in Michael M. (ed.) Uhlmann, *Last Rights?: Assisted Suicide and Euthanasia*, William B. Eerdmans Publishing Company, Grand Rapids, 1998, 201

31 Richard A. McCormick, *How Brave A New World: Dilemmas in Bioethics*, Georgetown University Press, Washington D.C, 1981, 405

32 M. D. Vila Coro, “The Rights of Man and the Right to Life”, 222

33 J. Seifert, “The Right to Life and the Fourfold Root of Human Dignity”, in Pontificia Academia Pro Vita, *The Nature and the Dignity of the Human Person as the Foundation of the Right to Life: The Challenger of the Contemporary Cultural Context*, Libreria Editrice Vaticana, Vatican, 2003, 194

34 M. D. Vila-Coro, “The Rights of Man and the Right to Life”, 222

Since the right to life is the basic right of humanity, respect for this human life needs to be placed as the basis for all things and it has to be respected firmly. Human life is to be preserved precisely as a condition for other values and therefore insofar as these other values remain attainable. This is the important thing that we have to give special attention to in our bioethical education.

People may doubt many things among the unseen and the seen, but people cannot doubt the existence of their own life. Life is auto-proof, aware of itself, transparent to itself, and exists for itself. This means that life is indubitable. Precisely because life is the only indubitable thing, it is the most radical reality whose existence is the basis for anything else which relates to human life. It is from the most radical reality (the fact of life) that emanate the other rights, including the right of self-determination.

Most of the rights are double-sided: one may use (exercise) it or one may decide not to use (renounce) it without any legal consequences (punishment). One can use his right to vote or not to vote in the elections without any legal consequences (punishment). Unlike many other rights, the right to life is different. The difference lies in the fact that people can not renounce the use of it because the renouncement of the right to life means that there is no more life to possibly enjoy the fruit of renouncement. People decide to use or to renounce their rights in the hope of enjoying the benefit of their acts. If people decide to renounce the right to life – for example in the case of suicide or euthanasia – they do not enjoy the fruit of their actions because there is no more life, no more human being.

Actually, people do not have to procure the right to life in order to have life because they have already been given their life. So the right to life is not a right to procure life but the right against offenses or eliminations of life. Human beings are born with the indissoluble right to life which is connected to their nature as human beings<sup>35</sup>. What people have to make sure of is that the right to life is recognized legally and socially so that both preservation and protection of life are guaranteed legally and socially. So the right to life has a double meaning, a negative one and a positive one. Negatively it means that every single human life must be protected against killing, torture or inhuman degrading punishment or exposed to dangerous threats against life. Positively it means that human life has to preserve its physical and moral integrity. The integrity of physical and moral life must be preserved and the continuity of their life needs to be guaranteed. Briefly, the right to life is

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35 Velasio de Paolis, "La Protezione Penale del Diritto alla Vita", in Pontificio Academia per la Vita, *Commento interdisciplinare alla Evangelium Vitae*, Libreria Editrice Vaticana, Città del Vaticano, 1997, 503

essentially a right not to be intentionally killed<sup>36</sup>. It means also that as long as human being is alive, his or her life entitles to be protected<sup>37</sup>.

There are many international institutes which oblige countries and other institutions to guarantee the right to life, for example: The UN Universal Declaration of Human Rights (1948)<sup>38</sup>, Article 3, stated, "*Everyone has the right to life, liberty and security of person.*"<sup>39</sup> The UN Covenant on Civil and Political Rights (1966) Article 6, paragraph 1, stated that, "*Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.*" The European Convention on Human Rights, Article 2, paragraph 1, stated that, "*Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally, save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.*"

### 3.3 Human right as the common bases for respect for person

#### 3.3.1 Etymology of the term person

We have already seen that the relation between human rights and bioethics is fundamental. In fact, it can become a common ground for ethical foundation in our modern society in which there are varieties of opinions, point of views, religions, cultures and so on. Human rights which are based on natural laws are universal and belong to every human being since he or she is human being. Although human rights are common and universal but their applications have to be personal, they have to be applied to each of human person.

There are variety of opinions about the etymology of the term "person"<sup>40</sup>. Some people<sup>41</sup> contend that the term "person" is the English translation of the Latin word "persona" which means mask in a theatrical performance that later it also got the meaning of character. Other people claim that the term "person" came from the Latin word "personare" which indicated the acoustic resonance of the actor's voice

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36 John Keown, *Euthanasia, Ethics and Public Policy: An Argument Against Legalisation*, Cambridge University Press, Cambridge, 2002, 40

37 Elio Sgreccia, Antonio G. Spagnolo and Maria Luisa Di Pietro, *Bioetica: Manuale per i Diplomi Universitari della Sanità*, Vita e Pensiero, Milano, 2002, 94.

38 Eugene B. Brody, *Biomedical Technology and Human Right*, 261 - 267

39 Eugene B. Brody, *Biomedical Technology and Human Right*, 262; Noëlle Lenoir, "Respect for Life and the Law of the Living", in Denis Noble, Jean-Didier Vincent, *The Ethics of Life*, Unesco Publishing, Paris, 1997, 174

40 Laura Palazzani, *Il Concetto di Persona tra Bioetica e Diritto*, G. Giappichelle Editore, Torino, 1996, 17

41 V. Menchiorre, "Persona ed essere" in AA. ZZ, *Essere e Parola: Idee per una antropologia Metafisica*, Vita e Pensiero, Milano, 1982; Ludger Honnefelder, "The Concept of a Person in

behind the mask. Still other people<sup>42</sup> proposed that the term “person” came from Greek word “*prósopon*” which means the things that we see that is the face, the visage<sup>43</sup>. This is the idea that Aristotle used in his writings<sup>44</sup>. This is the same meaning that is found already in Homer’s epic poems dating from the ninth century B. C. He used the term *prósopon* to indicate the face, the appearance, and the figure of human beings. In a further development, the word *prósopon* took on the meaning of a theatrical mask and eventually was used to refer to the role of an actor or the person who was interpreted. It was only in the Hellenistic era that the word *prósopon* was used to refer to an individual, a man in his position in a society<sup>45</sup>. In Roman society, the term person was used to indicate the mask, referring both to the theatrical role of an actor and also the role of an individual in the society and in the family<sup>46</sup>. Until now, there is no unanimous conclusion regarding the etymology of the word person<sup>47</sup>.

### 3.3.2 Criteria of Person

Leaving aside the etymological controversy and the ancient meaning of the term person, we will examine the modern usage of the term person, especially in bioethics. Respect for the person is at the heart of bioethics<sup>48</sup>. Here, the person is usually seen as a rational, self conscious being who directs his own life, independently from other beings<sup>49</sup>. In

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Moral Philosophy”, in Kurt Bayertz (ed.), *Sanctity of Life and Human Dignity*, Kluwer Academic Publisher, Dordrecht, 1996, 140

- 42 Andrea Milano, *Persona in Teologia: Alle origini del Significativo di Persona nel Cristianesimo Antico*, Edizioni Dehoniane Roma, Roma, 1996, 54
- 43 Jean Delumeau, “The Development of the Concept of Personhood: A Brief Sketch”, in, David C. Thomasma, David N. Weisstub and Christian Hervé (eds.), *Personhood and Health Care*, Kluwer Academic Publishers, Dordrecht, 2001, 13
- 44 Aristotle used the term *prósopon* in his book *History of Animals* I,8.491b.9, “The part that lies below the skull is called the Face: but in the case of man only, for the term is not applied to a fish or to an ox”, Jonathan Barnes (ed.), *The Complete Works of Aristotle: The Revised Oxford Translation*, (vol. I), Princeton University Press, Princeton, 1998, 782
- 45 Andrea Milano, *Persona in Teologia*, 54
- 46 Laura Palazzani, “I Significati del concetto filosofico di persona e implicazioni nel dibattito bioetico e biogiuridico attuale sullo statuto dell’embrione umano”, in Pontificia Academia Pro Vità, *Identità e Statuto dell’Embrione Umano*, Libreria Editrice Vaticana, Vatican, 1998, 55
- 47 Andrea Milano, *Persona in Teologia*, 63
- 48 Hubert Doucet, “The concept of Person in Bioethics: Impasse and Beyond”, in, David C. Thomasma, David N. Weisstub and Christian Hervé (eds.), *Personhood and Health Care*, Kluwer Academic Publishers, Dordrecht, 2001, 121 – 122; Gilbert C. Meilaender, *Body, Soul, and Bioethics*, University of Notre Dame, Notre Dame, 1995, 43
- 49 Ruud H. J. ter Meulen, “Toward a Social Concept of the Person”, in Thomasma, David C,



bioethical debates, the term person enters into many sectors of bioethics, such as in the debate about the status of the embryo in its early development, in the discussion about the cure of the patients<sup>50</sup> and the discussion about the end of life, especially regarding people in the PVS (persistent vegetative status) and other people who are incapable of making a decision about their life due to their difficult situation<sup>51</sup>.

The problem of the status “person” enters in the discussion of bioethics because we have to respect people as person. Right to live and right to have one’s life protected are linked to the status of person<sup>52</sup>. If so, the next logical question is “who is a person?” The debate entered into the early development of the embryo because some people contend that until a certain stage of embryonic development, the embryo is not a person; while other people hold that since the beginning of his biological life, the embryo is a person. Further difficulties also arise from the fact that there is no unanimous agreement about the exact time of the “certain stage” of the development<sup>53</sup> as well as the criteria of personhood itself<sup>54</sup>. Traditionally, the criteria of personhood

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David N. Weisstub and Christian Hervé (eds.), *Personhood and Health Care*, Kluwer Academic Publishers, Dordrecht, 2001, 129

50 See for example: Paul Ramsey, *The Patient as Person*, Yale University Press, New Haven, 1970

51 Gilbert C. Meilaender, *Body, Soul, and Bioethics*, University of Notre Dame, Notre Dame, 1995, 44 – 47

52 Ludger Honnefelder, “The Concept of a Person in Moral Philosophy”, in Kurt Bayertz (ed.), *Sanctity of Life and Human Dignity*, Kluwer Academic Publisher, Dordrecht, 1996, 139

53 Most of the people believe that the “certain stage” is the day 14th of gestation due to the reason of individuality (personhood) of the embryo. There are some others who believe that it should be connected to the viability (the ability to life outside the mother womb) of the offspring. The United States Supreme Court in the case of Roe v. Wade in 1973 declared that the protection of the embryo was granted after the first trimester of gestation. In other words, before the first trimester, abortion can be performed freely.

54 For example: John T. Noonan hold that being of humans makes one human and a person (John T. Noonan, *The Morality of Abortion: Legal and historical Perspectives*, Harvard University Press, Cambridge, 1970); Paul Ramsey said that each specific genetic code is unique and identifies that human individual and that is the reason that it is a person (Paul Ramsey, “The Morality of Abortion” in D. H. Labby (ed.), *Life or Death: Ethics and Options*, University of Washington Press, Seattle, 1969, 60 – 93); Michael Tooley hold that to be a person one must have a serious moral right to life as determined by the self consciousness requirements to experience and capable of desiring to exist as a subject of experiences and other mental states. In this case, the fetus and the new born are not a person so that the abortion and infanticide is justified (Michael Tooley, “Abortion and Infanticide” in *Philosophy and Public Affairs* 2(1971) 37 – 65). Clifford Grobstein hold that the human behavior which made a person (Clifford Grobstein, *Science and the unborn*, Basic Book, New York, 1988). Peter Singer holds that the criteria of personhood are the capacity to feel the pain and joy (Peter Singer,



have included ratio like Boetius' definition of person as 'an individual substance in a rational nature'. This view was develop by Thomas Aquinas, saying, "*It belongs to every man to be a person, inasmuch as everything subsisting in human nature is a person... The individual substance, which is included in the definition of a person, implies a complete substance subsisting of itself and separate from all else.*"<sup>55</sup>

In the recent bioethical discussions, people place some important indicators of personhood that are different from each other. For example, Joseph Fletcher said that the most important indicator was the presence of the "neo-cortical function" so that human body may remain 'alive' but if his cortex does not function, he is no more a person<sup>56</sup>. Peter Singer held that the most important indicator was the self-consciousness. Since the right to live is connected to the status of person, for Peter Singer, a chimpanzee or a pig which has higher degree of self-consciousness has more right to live than the neonates with grave retardation<sup>57</sup>. Some other people indicate other indicators of personhood, such as consciousness, reasoning, self-motivated activity, capacity to communicate, and the presence of self-concepts<sup>58</sup>. Many people in the bioethical debate contended that any being which satisfies none of them is not a person.

I think that respect for person should not be based on the above criteria but on the human rights because human rights are the norms that are accepted universally. One of bioethical struggles in our era is to place respect of human person in the center of bioethical education so that all people respect it. The ethics of respect of person is an ethic based on duty; duty to treat human beings as ends-in-themselves and not mere means. Human beings can not be treated only as means although the intention of the act may be very good. The end does not justify the means. Because of intrinsic value of human life, humans

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*The Expanding circle: Ethics and Sociobiology*, Clarendon Press, Oxford, 1981). Gregory E. Pence hold that the personhood is determined by the cognitive criterion of personhood (Gregory E. Pence, *Who's Affraid of Human Cloning?*, Rowman & Littlefield, Lanham, 1998, 88

55 Summa Theologiae III, 16.12.1 – 2

56 Joseph Fletcher, "Indicators of Humanhood: A tentative Profile of Man", in *The Hasting Center Report* 2(1972) 1 – 4

57 Peter Singer, *Liberazione Animali: Il Manifesto di uni Movimento Diffuso in Tutto il Mondo*, Il Saggiatore, Milano, 2003, 35

58 Stephen D. Schwarz, *The Moral Question of Abortion*, Loyola University Press, Chicago, 1990, 88; James J. McCartney, *Unborn Persons: Pope John Pauls II and the Abortion Debate*, Peter Lang, New York, 1987, 103 – 121; H. Tristram Engelhardt, "Viability and the Use of the Fetus" in William B. Bondeson, H. Tristram Engelhardt, *Abortion and the Status of the Fetus*, Kluwer Academic Publisher, Dordrecht, 1983, 184

deserve respect independent of the consequences of actions. Briefly, the ethic of respect for person comprises autonomy, fidelity (loyalty), veracity and avoidance of killing<sup>59</sup>.

### 3.3.3 Autonomy

Let me briefly discuss only about one of them: autonomy. Respect for person means respect of autonomy of a person. Under normal circumstances, every person is capable of self-determination whether to do or not to do something. It is a matter of choice and opportunity and therefore those who do not have full capability must be protected. Briefly the Belmont Report B.1. summarizes one aspect of respect for person, "*Respect for persons incorporates at least two ethical convictions: first, that individuals should be treated as autonomous agents, and second, that persons with diminished autonomy are entitled to protection. The principle of respect for persons thus divides into two separate moral requirements: the requirement to acknowledge autonomy, and the requirement to protect those with diminished autonomy.*" The Belmont Report continues stating, "*Some persons are in need of extensive protection, even to the point of excluding them from activities which may harm them; other persons require little protection beyond making sure they undertake activities freely and with awareness of possible adverse consequences. The extent of protection afforded should depend upon the risk of harm, and the likelihood of benefit. The judgment that any individual lacks autonomy should be periodically reevaluated, and will vary in different situations.*"

## 4. Concluding Remarks: Character Building

The first part of bioethical development was dominated by Principlism. The most prominent figures in this era were Tom L. Beauchamp and James F. Childress. Their book, *Principles of Biomedical Ethics*<sup>60</sup> which was published in 1979, soon became a best seller. In their book, Beauchamp and Childress explained that there are 4 principles that have to become the main basic principles in resolving bioethical problems. They are: respect for autonomy, nonmaleficence, beneficence and justice. Among the four principles, the principle of respect for autonomy enjoys the highest place. Whenever there is conflict among the four principles, the principle of respect for autonomy rules.

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59 Robert M. Veatch, *The Basics of Bioethics*, Prentice Hall, Upper Saddle River, 2003, 65

60 Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, Oxford University Press, Oxford, 1979

Because of the principle-oriented medical ethics which regulated moral judgment and decision making, many people called this theory "Principlism"<sup>61</sup>. Some people also called it "The Mantra of Georgetown" because the application of the principles is often mechanic and automatic like a mantra and because one of the writers, Tom L. Beauchamp, was a professor in Georgetown University, Washington D.C.<sup>62</sup>.

Although Principlism got wide acceptance, there are many serious critics. Albert R. Jonsen and Stephen E. Toulmin said that Principlism appeared to promote a hierarchical form of reasoning that deduced ethical resolutions for complex clinical problems from fixed moral principles and rules<sup>63</sup>. Antonio G. Spagnolo noted that Principlism appeared to be an end in itself and there is no clear common priority among the principles because it depends on the situation and the intuition of the subject<sup>64</sup>. David C. Thomasma criticized Principlism for failing to take into sufficient account the character of the agent, as well as the nuances of real life that situate and define the moral quandary<sup>65</sup>. Principlism places rationality as the sole grounds for moral norms. Principlism is too abstract and doesn't provide an authentic source for judging why one principle rather than the other ought to be given more weight in a particular case<sup>66</sup>. Principlism is too far divorced from the realities of clinical ethics and the rich and varied history of individuals who struggle with decisions in the medical setting<sup>67</sup>. The main question of Principlism is 'what do we have to do if we have bioethical problem?' So Principlism is a 'have-to ethics'.

Principlism is good as foundation, but our bioethical education has to go beyond Principlism because Principlism ignores the moral experience

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- 61 Guy Durand, *Introduction Générale à la Bioéthique: Histoire, Concepts et Outils*, Fides - Cerf, Montréal, 1999, 60 - 62; Antonio G. Spagnolo, *Bioetica nella Ricerca e nella Prassi Medica*, Torino, Edizione Camilliane, 1997, 93. Ronald M. Green, "Method in Bioethics: A Troubled Assessment", in *Journal of Medicine and Philosophy* 15(1990) 179 - 197; K. Danner Clouser and Bernard Gert, "A Critique of Principlism", in *Journal of Medicine and Philosophy* 15(1990) 219 - 236
  - 62 Guy Durand, *Introduction Générale à la Bioéthique: Histoire, concepts et Outils*, p. 61; K. Danner Clouser and Bernard Gert, "A Critique of Principlism", in *Journal of Medicine and Philosophy* 15(1990) 219 - 236
  - 63 Albert R. Jonsen and Stephen E. Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning*, Berkeley, University of California Press, 1988. Stephen Toulmin, "The Tyranny of Principles" in *The Hastings Center Report* 12(1981) 31 - 39
  - 64 Antonio G. Spagnolo, *Bioetica nella Ricerca e nella Prassi Medica*, Camilliane, Torino, 1997, 93
  - 65 Edmund D. Pellegrino and David C. Thomasma, *The Virtues in Medical Practice*, Oxford, Oxford University Press, 1993, xi
  - 66 David C. Thomasma, "Virtue Theory, Social Practice, and Professional Responsibility in Medicine", in R. B. Edwards and E. E. Bittar (eds.), *Advances in Bioethics: Critical Reflection on Medical Ethics*, vol. IV, London, JAI Press, 1998, 322. 324
  - 67 David C. Thomasma, "Beyond Autonomy to the Person Coping with Illness", in *Cambridge Quarterly of Healthcare Ethics*, 4 (1995): 12

of each person who is involved in various situations. The attention which is paid to the real situation, life and human subject will change the paradigm of bioethics. Briefly, the starting point for bioethical reflection should be the real thing, the experience. So the real question is not 'what do we have to do?' but 'what type of person do we have to become?' The real questions are the questions about the real situation, such as 'what is going on around me, what type of relation do we have, and so on.'"<sup>68</sup>

In this case, the revitalizing virtue ethics may give good insights. In his book *After Virtue*<sup>69</sup>, Alasdair MacIntyre proposed that society in our modern time need the ethics which bases on virtue. Virtue (*aretē*) has been one of leading ethical principles for centuries but unfortunately it faded out in recent decades. In general, the central notion of virtue is rooted in the classical-medieval synthesis, particularly in Aristotelian ethics: *Etica Nicomachea*, *Etica Eudemia* and *Magna Moralia*<sup>70</sup>. There are 4 cardinal virtues in order to live a good life and become a good person: fortitude, temperance, justice and wisdom. These virtues can be achieved by education and exercises. Virtues can be discovered by reason and were under the guidance of reason in their operation. When acting by virtues, people go beyond what is required by positive laws because positive laws are only a minimal agreement among many parties while virtues need to do more than a minimal. It needs to maximize all the human characters. Virtues are traits that make a person good and enable him to do his work well. So it needs a teleological quality in relation both to the person and to the project of living a good life. Since the understanding of good and bad does not automatically make a good person, so the virtuous person needs knowledge of the good in any action, a choice of the good for its own sake and a source for knowledge and choice in a good character<sup>71</sup>. Thus, virtue is not just feeling about what is good but it is a conscious habit to act well. It means that virtues result from the habitual exercise of the virtues itself. Aristotle affirmed that virtue can be taught by training and practice.

For many people, discussing virtues in our era is like discussing dinosaurs. It is, they say, far away from real life. In fact, it is exactly what is lacking in our modern life. Many people prefer minimalist actions which base enough on laws and precepts. Even in medical ethics, which used to be virtues-based ethics, now many medical staffs do defensive medicine.

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68 Francesco Bellino, *La Storia della Bioetica e la Svolta Biopedagogica*, Cacucci Editori, Bari, 2001, 14 – 15

69 Alasdair MacIntyre, *After Virtue*, Gerald Duckworth, London, 1999

70 Edmund D. Pellegrino and David C. Thomasma, *The Virtue in Medical Practice*, Oxford University Press, Oxford, 1993, 3

71 Edmund D. Pellegrino and David C. Thomasma, *The Virtue in Medical Practice*, 5

In order to defend themselves and not to be sued, they act only according to what is permitted by laws. In this way, human beings experience drawbacks and it is difficult to practice virtues. It is the beginning of the degradation of human relationships. Bioethical education has to surpass this minimalist border; it has to go further to educate and train students to become virtuous people.

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