

Secular Bioethics and Its Challenge to the Catholic Citizen

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IN HIS OUTSTANDING CONTRIBUTION to the field of bioethics, *Biomedicine and Beatitude: An Introduction to Catholic Bioethics*,¹ Nicanor Pier Giorgio Austriaco, O.P., articulates and defends a Catholic understanding of bioethics that not only offers a philosophically serious alternative to secular bioethics but carefully explains why the promise of secular bioethics—moral guidance untethered to any philosophical anthropology—is impossible to sustain. In this brief essay I explain the importance of Fr. Austriaco's insight and the challenge secular bioethics poses to the Catholic citizen.

I

Consider an episode of the now-defunct television series “Nip/Tuck.” In that episode a prospective patient of the fictional plastic surgery practice of McNamara and Troy meets for a consultation with two of its physicians, Dr. Christian Troy and Dr. Quentin Costa. The patient, Ben White, is using crutches, and it seems that he is missing the bottom half of his right leg. He explains: “I have a condition called B.I.I.D., Body

¹ Nicanor Pier Giorgio Austriaco, O.P., *Biomedicine and Beatitude: An Introduction to Catholic Bioethics* (Washington, DC: The Catholic University of America Press, 2012).

Integrity Identity Disorder. No matter how many psychiatrists I've seen or medications I've taken, I can't stop obsessing about my leg."

Dr. Costa, assuming that Mr. White had suffered some permanent dismemberment, replies, "Well, you have suffered a big loss. It is very natural." Mr. White immediately interrupts, for Dr. Costa does not understand the problem that the patient wants the physicians to remedy. Mr. White wants his right healthy leg amputated because he believes that the leg is an unnatural appendage, for he sees his true self as having only one leg. He has felt this way since he was 5 or 6 years old. He just wants a body that corresponds to his personality. This is why he uses crutches and pretends that he has no right leg. Horrified at the request, Dr. Troy emphatically declines on behalf of his practice. Mr. White, however, retorts: "You have built your practice on body modification and I am no different than somebody who'd come to you for a sex change. Would you turn him away?"

Nevertheless, at the end of the episode we find Dr. Troy operating on Mr. White while he is under general anesthesia after the latter had shot himself in the leg and had been subsequently rushed to the hospital. Dr. Troy, though realizing that the leg can be saved, nevertheless amputates it. The patient's subjective "choice," rather than the patient's objective good, is what ultimately guides the end of medicine in this particular case.

This episode, though seemingly farfetched, vividly illustrates the consequences of a philosophical anthropology that, when incorporated into the practice of medicine, requires that health professionals act as if there are no basic goods, intrinsic purposes, and proper ends to which human acts are morally required to conform.² This is why

² I say "seemingly" farfetched, because there are actual cases that bring to the forefront the very issues raised in the fictional case of Mr. White. Take, for example, the case of deaf parents in the United Kingdom who wanted to adopt a deaf child produced by in vitro fertilization. An account of this case reads: "A deaf father who wishes to have a deaf child has spoken of his anger that a clause in new fertility legislation will make it illegal to use embryos with a genetic abnormality in IVF treatment, when ones without the same defect are available."

"Tomato Lichy, an artist and designer, and his deaf partner Paula Garfield, a theatre director, argue that to prefer a hearing embryo over a deaf one is tantamount to discrimination and suggests they do not have the same right to life."

"The Human Fertilisation and Embryology Bill permits the selection of a hearing child through IVF, but embryos with deafness genes will be discarded, pro-

throughout the episode Dr. Troy becomes less confident about what he owes Mr. White and why, at the end, Dr. Troy finally acquiesces to his patient's choice.

II

Although Mr. White's story is a work of fiction, it serves to accentuate a problem in secular bioethics that should concern the Catholic citizen. It arises, as we shall see, precisely because secular bioethics relies heavily on a school of thought that has come to be known as Principlism. It is a way of doing bioethics—profoundly influenced by the work of Tom Beauchamp and James Childress³—that suggests that health professionals should assess the morality of their clinical judgments on the basis of four principles—autonomy, non-maleficence, benevolence, and justice—while at the same time excluding from their judgements controversial metaphysical beliefs about the nature of the human person that are usually tightly tethered to religious traditions. The physician, in other words, must remain *neutral* between contested and contrary worldviews (or, what John Rawls calls, comprehensive doctrines).⁴ Consequently, these four principles and our understandings of them do not require that we embrace a particular philosophical anthropology in order to apply them to clinical judgments, even though it seems intuitively

vided at least one other is found to be 'perfect'.

"Mr Lichy said: 'Being deaf is not about being disabled, or medically incomplete - it's about being part of a linguistic minority. We're proud, not of the medical aspect of deafness, but of the language we use and the community we live in'" (Lucy Cockcroft, "Couple who want deaf child angry at IVF ban," *The Telegraph* [11 March 2008], available at <http://www.telegraph.co.uk/news/uknews/1581333/Couple-who-want-deaf-child-angry-at-IVF-ban.html>).

Although Lichy and Garfield are surely correct that it is morally wrong to discard a human embryo simply because it is deaf, they are mistaken in thinking that in order to avoid this injustice we must pretend that the child would not be better off if he possessed the genetic capacity to hear.

³ See Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, 7th ed. (New York: Oxford University Press, 2013; orig. 1979).

⁴ Writes Rawls: "A moral conception is... comprehensive when it includes conceptions of what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is to inform our conduct, and in the limit to our life as a whole" (John Rawls, *Political Liberalism*, rev. ed. [New York: Columbia University Press, 1996], 13).

that we must know *something* of the meanings of self and freedom (for autonomy), harm (for non-maleficence), goodness (for benevolence), and the common good (for justice), all of which appear, even to the philosophically untutored, dependent on some concept of human nature. Nevertheless, under a Principlism account of medical practice, bioethics becomes an enterprise in which the health professional can apply the “ethics” of bioethics without a commitment to any particular metaphysical account of the “bio” of bioethics. This, it seems to me, cannot be accomplished, since no matter how conscientious a physician is in attempting to remain neutral between competing worldviews, his judgments will assume some controversial understanding of human nature and its good, whether he realizes or not, even if that concept of “good” is most authentically realized in the physician meeting the preference satisfaction of the patient in the exercise of that patient’s autonomy.

Unsurprisingly, the autonomy principle of Principlism becomes the primary guide by which the application of the other principles is assessed. Take, for example, the account of the principle of nonmaleficence offered by Beauchamp and Childress in their book *Principles of Biomedical Ethics*, one that has become the standard text in the field. “[T]he principle of nonmaleficence,” they write, “obligates us to abstain from causing harm to others.”⁵ Although no Catholic bioethicist would dispute that claim, he would go further than Beauchamp and Childress and interpret nonmaleficence to include a moral obligation for a free and fully informed competent patient *not* to inflict harm on herself, with that understanding of harm being grounded in a human being’s proper ends. But if nonmaleficence is divorced from such a philosophical anthropology, then it becomes difficult to believe that a fully informed and competent patient can be harmed if she non-coercively agrees to a “treatment” that her physician freely administers. How is such a patient “harmed” if there is no objective standard by which to assess “harm” apart from the patient’s competence, informed consent, and the willingness of her physician to meet her preference satisfaction? This is why Beauchamp and Childress ask us to “consider the actions of physician Timothy Quill,” who prescribed “the barbiturates desired by a forty-five-year-old patient who had refused a risky, painful, and often unsuccessful

⁵ Beauchamp and Childress, *Principles of Biomedical Ethics*, 150.

treatment for leukemia. She had been his patient for many years, and members of her family had, as a group, come to this decision with his counsel. She was competent and had already discussed and rejected all available alternatives for the relief of suffering.”⁶ Although they admit that Dr. Quill lied to the medical examiner in order to minimize his legal liability, and they do briefly discuss some issues raised by a few of Dr. Quill’s critics, Beauchamp and Childress nevertheless state that they “do not criticize Quill’s basic intentions, his patient’s decision, or their relationship.” For “physicians such as Quill do not act wrongly in assisting competent patients, at their request, to bring about their deaths.”⁷ Consequently, the moral distance between the fictional Dr. Troy’s meeting of his patient’s preference satisfaction and that of the real Dr. Quill doing the same for his patient seems virtually indiscernible.

III

So, absent any common understanding of what constitutes the human good, secular bioethics has little to go on to determine a patient’s best interests except for the preference satisfaction of the patient herself. This, as I have noted, is offered as a neutral position allegedly uncommitted to any controversial philosophical anthropology. But is that actually so? Is the primacy of patient autonomy, as understood in secular bioethics, really neutral between rival accounts of the human person?

It clearly is not. Take, for example, the case of Mr. White, the fictional would-be amputee. In one understanding of bioethics, which I will call the Classical Tradition (CT), his request is *not* morally justified, since the body’s parts work in concert for the good of the whole human being. Thus, a physician who performs the amputation violates the principle of nonmaleficence, captured in the ancient Hippocratic precept to “do no harm,” even if the patient is competent,⁸ consents freely, and is fully

⁶ Ibid, 184.

⁷ Ibid.

⁸ One, of course, could respond to this by suggesting that anyone who suffers from Body Integrity Identity Disorder (B.I.I.D.) is *by definition* incompetent. But that simply begs the question, for one could just as dogmatically assert the incompetence of patients who choose gender reassignment surgery, as Mr. White pointed out in his retort, or even of Jehovah’s Witnesses who refuse to undergo blood transfusions. Having said that, there are some scholars who argue that some patients who request

informed. Of course, a physician, under the CT, could indeed amputate Mr. White's leg, but only if it is diseased and its continued attachment to the body imperils the patient's life or his overall good (e.g., the leg is the host of a disease that if it spreads to the brain will result in a lifetime of serious mental impairment). To justify this act, the physician would appeal to the "principle of totality,"⁹ a principle that receives its meaning from what we know of the human person's good as a whole. Thus, the wrong of amputating a healthy limb is determined by what one understands human nature to be and what that tells us about a human being's parts, properties, intrinsic purposes, and proper ends.

Consequently, a physician who does indeed honor Mr. White's request does not believe that he is in fact harming his patient, for if he did harbor that belief, he would be acting in clear violation of the principle of nonmaleficence. Such a physician clearly would be denying that

the amputation of healthy limbs are in fact competent. See, e.g., Tim Bayne and Neil Levy, "Amputees by Choice: Body Integrity Identity Disorder and the Ethics of Amputation," *Journal of Applied Philosophy* 25 (2005): 75-86. Bayne and Levy write: "One might argue that the wannabe's [i.e., the prospective amputee's] response to her somatic alienation demonstrates a form of irrationality. One might think that the rational response to a conflict between one's subjective experience of embodiment and one's body would be to change one's experience of embodiment rather than change the structure of one's body. The claim is correct but irrelevant: the wannabe's desire for amputation appears to be born out of an inability to change the way in which she experiences her body. Of course, it may be that some wannabes would rather change their actual body to fit their experienced body than vice-versa. Is someone with such a desire set competent to make a request for amputation? They certainly challenge our notions of autonomy and competency, but it is far from obvious that they ought to be regarded as incompetent. It is important to bear in mind that they have spent many years—perhaps even decades—with a non-standard sense of embodiment. (Most wannabes report having had a feeling of somatic alienation since childhood.) Their experience of themselves has been built around this sense, and to require them to change it is, to some extent, to require them to change who they are. The case is not dissimilar to a situation in which an elderly person, blind from an early age, is suddenly presented with the opportunity to regain her sight. The decision to decline such an offer can be understood as an exercise of rational agency" (81).

⁹ According to David Oderberg, the principle of totality "is simply a reflection of the evident metaphysical truth that the parts of a thing are subordinated to the thing itself; in the moral sphere, this is mirrored by the idea that the fundamental unit of concern is the human being, so that the parts of the person are morally important only insofar as they contribute to the person's normal functioning. If the person can only survive without a certain part, then the part must go even if the functioning is thereafter impaired" (David S. Oderberg, *Moral Theory: A Non-Consequentialist Approach* [Oxford: Blackwell, 2000], 78-79).

medicine should be practiced by everyone, and not just him, under the CT.¹⁰ The implication would be that the fundamental questions that the CT is supposed to answer—questions having to do with what activities, practices, and ends constitute the human good—are largely under the authority of the patient and his preference satisfaction. Moreover, the lesson it teaches to the rest of the community is that the practice of medicine does not recognize any normative account of human nature to which the acts of physicians and patients must conform in order to be morally licit. This is hardly a “neutral” point of view, even though it is presented as such.

In the real case of Dr. Quill, a physician cooperates with the suicide of his patient.¹¹ He does not merely withdraw burdensome care at her request—with the foreseeable though unintended consequence of death—or merely honor her decision not to undergo treatment for leukemia, both which are *prima facie* permissible under the CT.¹² Rather, Dr. Quill becomes an accomplice to homicide, for he provides to his patient barbiturates, the means of her self-killing, *precisely because* that is what she intends to do. As in the fictional case of Mr. White, this act reveals something about the human good under which the physician is operating. The CT sees life as a basic intrinsic good that grounds a Sanctity of Life Ethic (SLE): It is always and everywhere morally wrong to intentionally take an innocent human life. Although life has instrumental value under the CT—for it allows one to experience and participate in other goods, for example knowledge, religion, friendship, etc.—it has intrinsic value as well. So, under the CT, Dr. Quill’s act is not justified. It stands to reason, then, that Dr. Quill does not believe that his patient’s life had intrinsic value. In fact, his own account concedes as much,¹³ admitting that his patient’s life was valuable *to her* only insofar as it allowed her to be independent and remain in control.¹⁴ As in the case of Mr. White, the Quill case teaches the rest of the community something about the philosophical anthropology under which the physician is op-

¹⁰ See Austriaco, 135–69.

¹¹ Ibid, 154–55.

¹² See *ibid.*, 135–69.

¹³ Timothy Quill, “Death and Dignity: A Case of Individualized Decision Making,” *The New England Journal of Medicine* 324 (7 March 1991): 691–94.

¹⁴ *Ibid.*, 693.

erating: life does not have intrinsic value. Again, this is hardly a position that is neutral between contested and contrary worldviews.

IV

For the Catholic citizen, the implications of all this are daunting. On the one hand, the Catholic citizen is told that secular bioethics is neutral between contested and contrary worldviews and thus cannot in principle impose itself on Catholics and other dissenting citizens. On other hand, as we have seen, secular bioethics in fact affirms, however passive aggressively, an understanding of the human person that is intrinsically hostile to the Catholic perspective and other accounts that are within the Classical Tradition. Consequently, as secular bioethics becomes more and more the primary way by which medicine understands the physician's obligation to his patients, and as health care providers and governments that regulate those providers increasingly embrace this view as normative, it will more and more seem to the physician, his peers, and a wide spectrum of the Catholic's fellow citizens that any dissent from secular bioethics is inconsistent with the patient's good and the ends of medicine. Thus, for the Catholic citizen who continues to believe the secular bioethics promise of worldview neutrality, and considers that promise to be a bulwark against third-party interference with Catholic institutions, physicians, and business owners who want to live out their faith authentically, he or she is in for a rude awakening. For, as we have seen, given the logic of any set of beliefs about the normativity of human action, including secular bioethics, promises of worldview neutrality will inevitably collapse into the actuality of worldview hegemony.

V

One may, in response, challenge this thesis by pointing out that in the cases of Mr. White and Dr. Quill no Catholics were coerced to participate in these immoral acts. That is certainly true, but to stop at this banal observation is shortsighted. For it ignores how practices, such as medicine, are shaped by overarching beliefs about the human good that in one generation are offered as optional—because they are contested by reasonable people of good will—but eventually seem incontest-

able and thus obligatory to the next generation of practitioners. This is because the latter wind up unconsciously and uncritically accepting controversial anthropological assumptions that, from their lights, the earlier generation had failed to recognize were integral to the application of these “neutral” principles. Consider, as examples, the issues of abortion and contraception as they were understood by the U.S. Supreme Court when that court first found a fundamental legal right for a citizen to procure each.

In *Roe v. Wade* (1973),¹⁵ Justice Harry Blackmun writes, in his majority opinion, that because experts—including philosophers, theologians, and physicians—disagree on whether the fetus is a person, “the judiciary, at this point in the development of man’s knowledge, is not in a position to speculate” as to the answer.¹⁶ Nevertheless, he concedes elsewhere in the opinion that if Texas (the state whose law was being challenged in the case) could show that the fetus is in fact a person, this would undercut the right to abortion, because the fetus would then be protectable under the Fourteenth Amendment.¹⁷

In the Supreme Court’s holding in *Griswold v. Connecticut* (1965),¹⁸ Justice William O. Douglas overturned Connecticut’s anti-contraception statute on the grounds that a married couple’s decision to use contraception is constitutionally protected by a “zone of privacy” that can be inferred from combining the principles behind several of the Constitution’s amendments and their implications.

Marriage, reasons Douglas, is a pre-political association that is more fundamental than the Bill of Rights or the Constitution itself.¹⁹ He illustrates this point by drawing our attention to numerous other as-

¹⁵ *Roe v. Wade*, 410 U.S., 113 (1973).

¹⁶ *Roe*, 410 U.S., 160.

¹⁷ “The appellee and certain amici argue that the fetus is a ‘person’ within the language and meaning of the Fourteenth Amendment. In support of this, they outline at length and in detail the well-known facts of fetal development. If this suggestion of personhood is established, the appellant’s case, of course, collapses, for the fetus’ right to life would then be guaranteed specifically by the Amendment. The appellant conceded as much on reargument. On the other hand, the appellee conceded on reargument that no case could be cited that holds that a fetus is a person within the meaning of the Fourteenth Amendment” (*Roe*, 410 U.S., 157–8).

¹⁸ *Griswold v. Connecticut*, 381 U.S., 479 (1965).

¹⁹ *Griswold*, 381 U.S., 486.

sociations that the Court had already recognized as protectable under the Constitution, even though they are not directly addressed by it. The freedoms of association, to educate one's children as one wishes, to assemble, and to be a member of groups and parties in order to promote one's philosophies and beliefs are all within the scope of the Constitution's protections.²⁰

So given the Court's generous understanding of the wide diversity of equally reasonable views on abortion as well as the eclectic range and variety of associations whose integrity the Court claims to jealously guard, it would seem that those who defend the Court's holdings on abortion and contraceptive use would think it inconsistent with these holdings to treat these practices as public goods that dissenting associations would be forced to provide directly to others. But, as Fr. Austriaco points out,²¹ this is a diminishing perspective in the United States.

Consider the Affordable Care Act's (ACA's) Health and Human Services (HHS) mandate. It requires that religious institutions and private businesses (with some narrow exceptions) must provide contraception and abortifacient drugs in their employees' health care plans,²² even if the leadership of the religious organization or the ownership of the private business believes it is a violation of conscience to cooperate materially with the distribution and use of contraceptives and abortifacient drugs. This policy represents a significant shift from the sensibilities found in *Griswold* and *Roe*. In those cases there was an understanding that the fundamental question on which the issues of contraception and abortion turned—what is the nature of the human person and the proper end of her sexual powers?—allowed for a variety of philosophical and theological answers over which reasonable citizens of goodwill may disagree. The HHS mandate, on the other hand, takes the *procedural* rights integral to the use of contraception and abortion services as entailing the *only* correct *substantive* answer to the question of the nature

²⁰ *Griswold*, 381 U.S., 482–85.

²¹ Austriaco, 247–75.

²² Women's Preventive Services Coverage and Religious Organizations (1 February 2013), available at <http://ccio.cms.gov/resources/factsheets/womens-preven-02012013.html>. For a response, see The Becket Fund, "Still Unacceptable and Unconstitutional: HHS Proposed Rule still leaves religious Americans at risk" (1 February 2013), available at <http://www.becketfund.org/hhsannouncement1/>.

of the human person and the proper end of her sexual powers: she is an organism ordered toward no intrinsic moral goods, except those she consciously chooses consistent with her own preference satisfactions that do not interfere with the similar choices of others. Thus, for an employer that is required by the government to provide *health* insurance to all of its employees, it would be inconsistent with that requirement for the government to allow the employer's contested metaphysical understanding of the human person (and thus its "religious" understanding of *health*) to obstruct the right of its employee to pursue her preference satisfaction that she sees as necessary for her to live an authentic existence consistent with her own vision of the good life.

This is the problem of secular bioethics in all its glory. The promise of personal and corporate liberty on the matters of abortion and contraception—as asserted in *Roe* and *Griswold*—now seems like a ruse. What initially appeared as perfectly consistent with the secular bioethicist's promise of worldview neutrality—a call for respecting diversity and contrary visions of the good life—seems now to be about permanently eradicating from the public conversation one understanding of the good, the true, and the beautiful—the Classical Tradition—and replacing it with another. The promises of neutrality and mutual respect initially offered by proponents of reproductive liberty decades ago look now in retrospect to be the first of many steps in a hostile takeover of large swaths of cultural real estate, a project that will not be complete until the Church and its people are entirely banished from that commons.²³



²³ It is an interesting and important question as to whether or not it was the intention of the early advocates for contraception and abortion rights to marginalize the Classical Tradition from the practice of medicine. However, for my purposes in this essay, it is beside the point. What is the point is that culture, like nature, abhors a vacuum. For this reason, promises of worldview neutrality, however motivated they are by appropriate intuitions about fairness and equality, cannot be kept.

