

# GENETIC MEDICINE: NOTES ON THE MORAL LITERATURE

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THE MORAL literature on genetic controls is enormous.<sup>1</sup> Furthermore, it touches on several different problems with ethical implications: eugenic engineering (both positive and negative), genetic counseling and screening, genetic abortion,<sup>2</sup> *in vitro* fertilization, cloning, etc. Much of the occasional writing is general in character.<sup>3</sup> The more systematic moral studies on genetics remind one of a masked ball: new disguises but behind them familiar faces. The familiar faces in this instance refer to the methodologies of well-known theologians on the (especially) American scene. Hence, even in the face of the exciting and/or frightening possibilities of contemporary biomedicine, there is a lingering sense of *déjà vu* in the moral literature. Briefly, since ultimate attitudes and judgments vis-à-vis various genetic interventions depend heavily on how the author builds his approach, the emphasis falls heavily on methodology. Three approaches are discernible: a consequentialist calculus, a more deontological attitude, a "mediating" approach.<sup>4</sup>

<sup>1</sup> Literature of the 1960's can be found in Rosalind P. Petchesky's *Issues in Biological Engineering*, ISHA Bulletin no. 7 (Institute for the Study of Science in Human Affairs; New York: Columbia Univ., 1969). Cf. also THEOLOGICAL STUDIES 30 (1969) 680-92, where I review the recent periodical literature. This literature will not be reviewed here. Another valuable bibliographical source is Sharmon Sollitto's "In the Literature," which appears regularly in the *Report of the Hastings Center*.

<sup>2</sup> A conference at Airlie House, Va. (Oct. 10-14, 1971) was devoted to "Ethical Issues in Genetic Counselling and the Use of Genetic Knowledge." It dealt heavily with counseling, screening, and abortion. The papers, currently in the process of publication, include thoughtful essays by Daniel Callahan, Paul Ramsey, James Gustafson, Leon Kass, and John Fletcher. For a brief report of this conference, cf. W. G. Peter, "Ethical Perspectives in the Use of Genetic Knowledge," *BioScience* 21 (Nov. 15, 1971) 1133-37.

<sup>3</sup> Cf., e.g., Donald Huisingh, "Should Man Control His Genetic Future?" *Zygon* 4 (1969) 188-99; S. E. Luria, "Modern Biology: A Terrifying Power," *Nation* 209 (1969) 406 ff.; Kenneth Vaux, "Cyborg, R. U. Human? Ethical Issues in Rebuilding Man," *Religion in Life* 39 (1970) 187-92. Articles of this kind abound in the medical journals and journals such as *Science* and *Science News*. Cf., e.g., *New York Times Magazine*, March 5, 1972, pp. 10 ff.

<sup>4</sup> The very problems theologians decide to discuss are important, for a false move here could bring theology and its important contributions to biomedical decisions into disrepute with the scientific world. Furthermore, too great a futurism would allow existing problems to get solved by default. The matter is complicated by the fact that theologians are at the mercy of the scientific world in deciding what problems are realistic and this very world gives ambiguous answers. For instance, James D. Watson reports of

## CONSEQUENTIALIST CALCULUS

Joseph Fletcher, after reporting on some earlier writing on the subject,<sup>5</sup> sees the whole difference of opinion in terms of "apriorists" and "consequentialists."<sup>6</sup> This is, he says, "the rock-bottom issue . . . the definitive question in the ethical analysis of genetic control." The apriorists, relying on some kind of religious or nonempirical cognition, "would say, therefore, that therapeutic goals are not enough to justify *in vitro* fertilization, positive eugenics, or designed eugenic changes, no matter how desirable they might be." In contrast to this is a pragmatic or consequentialist ethics, which Fletcher claims as his own. "We reason from the data of each actual case or problem and then choose the course that offers an optimum or maximum of desirable consequences." Or again, "results are what counts and results are good when they contribute to human well being," a point to be situationally determined.

Fletcher then looks at a few cases and delivers his verdict. "I would vote for laboratory fertilization from donors to give a child to an infertile pair of spouses." As for cloning, Fletcher is a veritable cheerleader for the enthusiasts. "If the greatest good of the greatest number [i.e., the social good] were served by it," he would "vote" both for specializing the capacities of people by cloning and bioengineering

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Joshua Lederberg's attitude toward cloning that "to him, serious talk about cloning is essentially crying wolf when a tiger is already inside the walls" ("Moving toward the Clonal Man," *Atlantic*, May, 1971, p. 52). Many authors view cloning as too far into the future to merit serious discussion now. On the other hand, statements such as that of Bernard D. Davis, M.D., are not infrequent: "Cloning is thus the aspect of genetic intervention that most requires public discussion today" (*New England Journal of Medicine* 285 [1971] 800).

<sup>5</sup> Inaccurately in at least several places. Speaking of "genetic engineering," Fletcher states that "Richard McCormick condemns it because, he believes, only monogamously married heterosexual reproduction is morally licit." The reference is to THEOLOGICAL STUDIES (cf. n. 1 above), where a position on "monogamously married heterosexual reproduction" is indeed endorsed; but this endorsement is far from a condemnation of all "genetic engineering," as even a quick reading will reveal. Similarly of Dr. Andre Hellegers Fletcher writes: "A Catholic obstetrician . . . has complained that it is 'arbitrary' to start regarding a fetus as human at the 20th week or at 'viability,' and yet the physician himself insists on the even more arbitrary religious doctrine that a fertilized ovum before implantation is human." Fletcher has misread Hellegers' point (*Washington Post*, Jan. 9, 1971, p. A21). Hellegers was simply challenging the *Post's* concern over test-tube babies, since that paper had for years supported the proposition that fetuses before the 20th week could be destroyed. If fetuses can be destroyed before this time, Hellegers rightly wonders why it is improper for scientists to create such blobs of tissue. The point is the *Post's* consistency, nothing more.

<sup>6</sup> Joseph Fletcher, "Ethical Aspects of Genetic Controls," *New England Journal of Medicine* 285 (1971) 776-83.

parahumans or modified men. There then follows one of the most remarkable sentences in the contemporary literature on genetics: "I suspect I would favor making and using man-machine hybrids rather than genetically designed people for dull, unrewarding or dangerous roles needed nonetheless for the community's welfare—perhaps the testing of suspected pollution areas or the investigation of threatening volcanoes or snow-slides."<sup>7</sup>

Fletcher acknowledges several possible objections to all of this. First, it could be objected that since "fertilization or cloning result directly in human beings, or in creatures with nascent or proto-human status," the entailed practice of their sacrifice in the course of investigation is immoral. He dismisses this as "a priori metarational opinion," "belief in a faith assertion."

Having thus dismembered the first objection, he confronts the second, i.e., that there might be something inhuman about the laboratory reproduction of human beings. If one has a sneaking suspicion that behind Fletcher's enthusiasm there lurks a concept of "the human," he is absolutely right. "Man is a maker and a selector and a designer, and the more rationally contrived and deliberate anything is, the more human it is." This opens on a judgment which is at least competitive for "most remarkable statement of the year": "Laboratory reproduction is radically human compared to conception by ordinary heterosexual intercourse. It is willed, chosen, purposed and controlled, and surely these are among the traits that distinguish *Homo sapiens* from others in the animal genus, from the primates down. Coital reproduction is, therefore, less human than laboratory reproduction . . ."<sup>8</sup>

To those who might object or hesitate, Fletcher has the reassuring word that "fear is at the bottom of this debate." But really we should fear not, for "to be men we must be in control. That is the first and last ethical word." Therefore, where cloning, donor insemination, etc. are concerned, "all this means that we are *going to have to change or alter* our old ideas about who or what a father is, or a mother, or a family."

Thus far Fletcher. I have cited him liberally because one has to, as it were, see it to believe it.

The time has come, I think, to blow the whistle on this type of thing. It is not a question of whether this genial Christian and gentlemanly ethicist is right or wrong. We have all been a little bit of both, and much more of the latter. Rather, Fletcher continues to propose to do theology by setting up dubious polarities, promulgating unexamined premises,

<sup>7</sup> *Ibid.*, p. 779.

<sup>8</sup> *Ibid.*, p. 781.

and flourishing rhetorical *non sequiturs*. The whole thing is then baptized into contemporary personalism with a now familiar ritualistic jargon: responsible, loving, pragmatic, personal. This is, of course, enormous fun; but it could be painfully expensive. If theologians are to retain any realistic hope of a dialogue with the scientific community, they must resolutely dissociate themselves from a type of discourse that too often dissolves into theology-by-anecdote.

First, the dubious polarities. An example is "apriorists vs. consequentialists." The former are accused of "religious, metaphysical, nonempirical" thought. They "would say, therefore, that therapeutic or corrective goals are not enough to justify *in vitro* fertilization, positive eugenics or designed genetic changes no matter how desirable they might be . . . Good consequences could not, to the a priori moralist, justify such acts or procedures since they are wrong as means . . ." Here Fletcher's typologies, while retaining a certain pedagogical utility, simply ignore the possibility that it is precisely a form of consequentialism that could lead to a rejection of these things. In other words, what some theologians are saying is that the very desirability of therapeutic or corrective goals is not an isolated factor but must be weighed in light of the personal and social costs involved in moving toward such goals. They are saying that *in vitro* fertilization, cloning, etc., no matter what long-term pragmatic advantages and reliefs they would seem to provide, reveal the decisive disadvantage of containing an attack on the *humanum*, and for this reason (or consequence) are to be avoided. This is hardly metarational apriorism.

Second, the unexamined premises. At the very time Fletcher tells us that the notion of humanness "may well be the most searching and fundamental problem that faces not only ethicists but society as a whole," he announces that the search is really over: "The more rationally contrived and deliberate anything is, the more human it is." This is at best ambiguous and at worst a distortion of the human. Rational control, it is true, is a distinctive achievement of man. But he can use this rationality in inhuman ways. Deliberation and rationality tell us only that a human being is acting, not that he is acting humanly. One can, with utter control and deliberateness, do the most monstrously inhuman things. The Third Reich showed us how. Theology has always known that sin, by definition, is a deliberate, rational, controlled choice—but the most inhuman of acts. Rational control, therefore, is not the guarantor of humane choices but only the condition of their possibility. What happens to man in and as a result of his rationality and deliberate choices tells us whether these choices were more or less human, more or less desirable.

Similarly, Fletcher has argued that "if the greatest good of the greatest number... were served by it," he would approve cloning, bioengineering of parahumans, etc. This remains an "unexamined premise" in several senses. (1) Have we not repeatedly experienced the fact that the greatest good of the greatest number, unassailable as it might be as a theoretical criterion, is practically the warrant for present practices and policies which all but guarantee that this greatest good will not be served? (2) How is the social good to be spelled out even if we accept it as a goal? Who makes the determination? On what basis? (3) How would laboratory reproduction, cloning, etc. serve it? True, Fletcher has said "if," but his failure to confront the serious, indeed decisive, problems buried in this "if" means that for him proportionate good too easily translates "anything to get the job done." He seems not to suspect that it just might be more human to exist with volcanic threats or pollution than to create parahumans to help us overcome these things. It is possible, after all, that by engineering the engineer we would become very competent barbarians. Not to raise such an issue is, in a sense, to have solved it. The editorial page of a subsequent issue of the prestigious *New England Journal of Medicine* carried a (by and large favorable) commentary on Fletcher by Bernard D. Davis, M.D.<sup>9</sup> At one point Davis notes: "One therefore wishes that Dr. Fletcher had discussed the conflicting interests and values that lie at the heart of ethical problems." Exactly.

Finally, the rhetorical *non sequiturs*. Fletcher informs us that in view of the new biomedical achievements "we are going to have to change or alter our old ideas about who or what a father is, or a mother, or a family." Here it must be said that we *have to* change these notions only if what *can* be done biomedically *ought* to be done humanly. Fletcher has given us no persuasive reasons why these things ought to be done, because he has not seriously examined what would happen to the doers in the process. For this reason his "have to change" is an unwitting but two-handed surrender to the scientific imperative. The contention here, then, is not precisely that Fletcher is a consequentialist, but rather that he has provided us with no grounds for thinking that he is a good one.

#### DEONTOLOGICAL ATTITUDE

Paul Ramsey and Leon Kass can be taken as examples of the second approach. The writings of Princeton's Ramsey are about as contrary to Fletcher as it is possible to be. If there is a practical issue in moral

<sup>9</sup> Cf. n. 4 above. For other reactions to Fletcher's article, cf. *New England Journal of Medicine* 286 (1972) 48-50.

theology, chances are Ramsey has been there digging, sorting, and giving forth with his version of Christian wisdom ahead of the pack. There is, it can be said, hardly anyone who has not learned a good deal from him. It must also be said that there is hardly anyone who has not snapped at Ramsey's pedagogical hand in the process, a point verified by the recent literature on biomedicine.

Ramsey's weighing of the issues raised by the new biology draws heavily on two basic principles.<sup>10</sup> First, there is the "nature of human parenthood." Human parenthood demands that the spheres of procreation and marital love not be separated. This means that we may not procreate apart from the union of marital love, and that sexual love may not be expressed apart from a context of responsibility for procreation. Repeatedly Ramsey asserts that the inseparability of these two spheres is human parenthood "as it came to us from the Creator,"<sup>11</sup> that we dare not put asunder "what God joined together in creation."<sup>12</sup> On this score alone he rejects AID (donor insemination), cloning, reproduction *in vitro*.<sup>13</sup>

His second basic principle concerns the difference between therapy and experimentation. It might be formulated as follows: we may never submit another human being to experimental procedures to which he cannot consent when these procedures have no relation to his own treatment. On this basis Ramsey believes that we could never *morally* get to know how to do certain things (e.g., cloning) because the very first attempt would have the character of an experiment on the child-to-be. Thus he says:

Because we ought not to choose for a child—whose procreation we are contemplating—the injury he may bear, there is no way by which we can *morally* get to know whether many things now planned are technically feasible or not. We need not ask whether we should clone a man or not, or what use is to be made of frozen semen or ovum banks, or what sort of life we ought to create in hatcheries etc. since we can *begin* to perfect these techniques in no other way than by

<sup>10</sup> Paul Ramsey, *Fabricated Man* (New Haven: Yale Univ. Press, 1970).

<sup>11</sup> *Ibid.*, p. 124.

<sup>12</sup> *Ibid.*, p. 38.

<sup>13</sup> Ramsey approves of AIH in a sterile marriage (p. 112). How this is consistent with his basic principle is somewhat hazy. He writes: "Their response to what God joined together . . . would be expressed by their resolve to hold *acts* of procreation . . . within the sphere of *acts* of conjugal love, within the covenant of marriage" (p. 36). AIH is certainly an act of procreation, and it is certainly within the covenant of marriage; but that it is "within the sphere of *acts* of conjugal love" is far from clear. Perhaps Ramsey stated his principle poorly here.

subjecting another human being to risks to which he cannot consent as our coadventurer in promoting medical or scientific "progress."<sup>14</sup>

Similarly it is the distinction between therapy and experimentation that governs Ramsey's whole treatment of genetic surgery. Such treatment on an existing child, however drastic, is permissible if it does "not place the child at greater risk than now surrounds him as one of a specially endangered population." Here we are dealing with therapy. Where there is question, however, of an as yet unconceived child, Ramsey is rightly much more demanding. There would have to be *no discernible risks* in prospective genetic surgery before one could procreate a child likely to be burdened with Huntington's chorea, PKU, amaurotic idiocy, etc. Until such time as corrective genetic surgery is risk-free, the proper prevention of these diseases is "continence, not getting married to a particular person, not having any children, using three contraceptives at once, or sterilization." Any other procedure would be tantamount to illicit experimentation with human beings. Ramsey's study constantly returns to these two basic principles.

Ramsey's analysis is well informed, precise, and searching, even if frequently repetitious. Furthermore, one wishes that he were more successful in resisting the titillations of his own obiter dicta and neologisms. These more purple than persuasive asides simply blunt his theological punches. This being said, I would say that I find myself very close to nearly all of Ramsey's value judgments.<sup>15</sup> For this reason it is all the more important to raise several issues which seem to call for further attention.

First there is the manner of argument where Ramsey's two controlling principles are concerned. The first (the nature of parenthood as involving inseparability of the two spheres of love and procreation) he views as parenthood "as it comes to us from the Creator." He draws upon the Prologue of St. John and Ephesians 5 as loci where this divine plan is made clear.

The Prologue of John's gospel (not Genesis) is the Christian story of creation

<sup>14</sup> *Ibid.*, p. 134.

<sup>15</sup> I say "nearly all" because I cannot agree with Ramsey that "we cannot rightfully get to know how to do this [use an artificial placenta] without conducting unethical experiments upon the unborn" (p. 113). If a pregnant woman with a nonviable fetus is dying and the only even remote hope of bringing her otherwise doomed child to term is an artificial placenta, I would think it legitimate—as therapy, not experimentation, or at least not exclusively experimentation.

which provides the source and standard for responsible procreation, even as Ephesians 5 contains the ultimate reference for the meaning and nature of conjugal love and the standard governing covenants of marriage. Since these two passages point to one and the same Lord—the lord who presides over procreation as well as the lord of all marital covenants—the two aspects of sexuality belong together.<sup>16</sup>

Ramsey contrasts this nature-of-parenthood perspective with a method which would weigh AID (etc.) in terms of consequences.

Perhaps Ramsey is right. But the question can be raised whether the two approaches are that different, a point suggested in the discussion of Fletcher's work. Ramsey is equivalently saying that there are some principles which hold no matter what the consequences. Others might argue that the principles have been arrived at and do indeed hold precisely because of the intolerable consequences. Specifically, Ramsey seems to say that the two spheres of sexuality are inseparable because God made them this way and told us so. Others would say that they are inseparable because to separate them would dehumanize us and *for this reason* we may say that God has joined them. It seems to me that Ramsey is not clear on how he derives this principle (and therefore, by implication, other principles). He seems to gather it from a reflective reading of Scripture and contrasts this with a consequentialist procedure. Yet over and over again he states it consequentially.

For instance, while discussing cloning Ramsey states: "The conquest of evolution by setting sexual love and procreation radically asunder entails depersonalization in the extreme. The entire rationalization of procreation—its replacement by replication—can only mean the abolition of man's embodied personhood."<sup>17</sup> I agree, but is it not precisely because of these effects (alienation, depersonalization) that the statement is valid? We see more deeply into these things from John's Prologue and Ephesians 5, but the conclusion is not drawn independently of a consideration of effects or consequences, unless one has a very narrow notion of consequences.<sup>18</sup> Rather is it not precisely conse-

<sup>16</sup> *Ibid.*, p. 37.

<sup>17</sup> *Ibid.*, p. 89. Ramsey reveals a similar approach in many places. For instance, on cloning, he says it would not be right "because of its massive assaults upon human freedom and its grave violation of the respect due to men and women now alive and to human parenthood as such" (p. 61). Again, speaking of the separation of procreation and marital love, he notes: "Herein men usurp dominion over the human—the dominion they hold rightfully only over the animals. This is bound to pierce the heart of the *humanum* in sex, marriage and generation" (p. 88).

<sup>18</sup> By "consequences" I include two things: the immediate entailments or implications of an action, the more mediate aftereffects.



quences which lead us to this conclusion? The dominating effect or consequence is the depersonalization of man, and this simply overrides any long-term eugenic goals. Therefore it is far from clear that Ramsey should speak of his principle as valid independently of consequences.

To say that a certain procedure is depersonalizing or dehumanizing demands, of course, both some notion of the *humanum* and the predictable effects on the *humanum* of prospective procedures. I shall return to this shortly.

Ramsey's second principle (the immorality of experimentation without consent) raises a somewhat similar problem. In *The Patient as Person* he has argued—dealing explicitly with infants—that the reason for this conclusion is that such experimental procedures make an “object” of an individual. In these cases, he contends, the parents cannot consent for the individual. Consent is the heart of the matter. If the parents could legitimately consent for the child, then presumably experimental procedures would not make an object of the infant and would be permissible. Therefore the basic question is: why cannot the parents provide consent for the child? Why is their consent considered null here while it is accepted when procedures are therapeutic? To say that the child would be treated as an object does not answer this question; it presupposes the answer and announces it under this formulation.

Adults may donate an organ to another (*inter vivos*) precisely because their personal good is not to be conceived individualistically, but socially—that is, there is a natural order to other human persons which is in the very notion of the human personality itself. The personal being and good of an individual does have a relationship to the being and good of others, difficult as it may be to keep this in a balanced perspective. For this reason, an individual can become (in carefully delimited circumstances) more fully a person by donation of an organ; for by communicating to another of his very being he has more fully integrated himself into the mysterious unity between person and person.

Must not something analogous be said of experimentation for the good of others? It can be an affirmation of one's solidarity and Christian concern for others (through the advancement of medicine), though it is easy to be naive about the dangers and abuses of this idea. Becoming an experimental subject *can involve* any or all of three things: some degree of risk (at least of complications), pain, associated inconvenience (e.g., prolonging the hospital stay, delaying recovery, etc.). To accept these for the good of others could be an act of charitable concern.

If these reflections are true of adults, must not the same be said of

infants and children in so far as they are human persons? Therefore, precisely why is parental consent illegitimate in their case? Or perhaps more sharply, the parents' consent to therapy directed at the child's own good is both required and sufficient because it is the closest we can come to a *reasonable presumption of the child's wishes*. The fact that the therapy or surgery is for the child's good could be but a single example of a reasonable presumption of the child's wishes. Are there others? According to Ramsey, no. But I wonder.

Perhaps the following approach is not totally without merit. It was suggested that organ donation and participation in experimentation (both within limits) could contribute to the personal good of the individual involved if his personal good is defined within its proper social setting. This is a general and abstract statement. It must be concretized and qualified.

The first qualification is that whether it is personally good for an individual to donate an organ or participate in experimentation is a very circumstantial and highly individual affair. For some individuals these undertakings could be or prove to be humanly destructive. Much depends on their personalities, backgrounds, maturity, present or future position in life, etc. The second and more important qualification is that these procedures become human goods for the donor or subject precisely because and therefore only when they are voluntary; for the personal good under discussion is the good of expressed charity. For these two reasons I would conclude that no one else can make such decisions for an individual, i.e., *reasonably* presume his consent. He has a right to make them for himself.

But are there situations where such considerations are not involved and where the presumption of consent is reasonable? I think it is quite possible. For instance, if the only way a young child could be saved were by a blood transfusion from another child, I suspect that few would find such blood donation an unreasonable presumption on the child's wishes. The reason for the reasonableness of the presumption is not precisely that the blood donation is in any way a good for the donor. Rather it is that a great good is provided for another at almost no cost to the child. *Parum pro nihilo reputatur*. Could the same reasoning apply to experimentation? Concretely, when a particular experiment would involve no discernible risks, no notable pain, no notable inconvenience, and yet hold promise of considerable benefit, would not parental consent be a reasonable presumption of the child's wishes—not because it is in any way for the child's good, but because it is not in any realistic way to his harm? *Parum pro nihilo reputatur*. This is certainly

to "use" the child, but in a way in which it is reasonable to presume he would want to be used, or not object to being used.

But we may not stop here. Since the individual has the right to make for himself decisions which involve risk, or pain, or notable inconvenience—a right which invalidates any presumption of his wishes—then he has a right to be protected against any possible violations of such a right, any dangers to it. It is here that one might argue the possible absoluteness of the personal-consent requirement. That is, our times are times of eager scientific research, enthusiastic eugenic ambitions, strong if subtle collectivistic tendencies, and growing impersonalization of health care. Thus it could be argued that we have a cultural situation with a built-in escalatory tendency to expose nonconsenting persons to violations of their rights. This means that there is a real danger of exceeding those limits to which the infant (e.g.) could be *reasonably* presumed to consent. He has a right to be protected against such a danger.

This danger is not sufficiently removed, it could be further argued, by the protections of parental consent, because this consent itself is in our day too often unstable and vulnerable to many noxious influences. Therefore, putting the nonconsenting person simply out of bounds where pure experimentation is concerned *might* be the only way to hold the delicate relation of individual to society in proper balance. I say "might" because if these dangers could be countered, then it would seem that some experimentation might be a reasonable presumption of the child's consent. If so, then this reasonableness would provide the basis for validating parental consent.

At this point it must be said parenthetically that in these matters it is always better to err, if err one must, on the side of conservatism. Hence if there is any doubt about the reasonableness of the presumption or, more basically, about the validity of these reflections, the personal-consent requirement should be viewed as a practical absolute. More specifically, whether there is any risk, pain, or inconvenience involved is a matter which cannot be left exclusively in the hands of medical researchers. The terrible examples in M. H. Pappworth's *Human Guinea Pigs* make this clear. Some of the researchers regard as "trivial" or "routine" procedures the ordinary patient would, with good reason, view as seriously bothersome and notably risky. Because a complication can be handled by subsequent therapy does not mean it is no longer a complication. Medical technology can dazzle us into distorted human judgments.

The approach proposed here moves away a bit from the absoluteness of Ramsey's analysis, though not necessarily from the absoluteness of

his conclusions. Ramsey's analysis must conclude that *any* experimentation, even the most trifling and insignificant such as a buccal smear, on nonconsenting persons is beyond the reach of parental consent because it involves us in "treating another as an object." Perhaps. But this latter seems to be a rhetorical way of formulating a judgment concluded on other grounds.<sup>19</sup> I have suggested that we might approach the morality of risk-free, pain-free, inconvenience-free experimentation, rare as such experiments might be, through the notion of reasonable presumption of the child's wishes. In other words, is it not possible that the inviolability against all experimentation (if we ought to maintain such inviolability) of those incapable of consent is only a relatively necessary conclusion of human prudence rather than of intrinsic morality? At least I believe the question must be examined further.

The writings of Leon Kass reveal moral tendencies and judgments very close to those of Ramsey. For this reason he would probably fall into Fletcher's apriorist pigeonhole. In his major writings Kass realistically limits himself to the two questions which have some practicality in the future: *in vitro* fertilization (with eventual uterine implantation) and cloning.<sup>20</sup>

As for the first, its least controversial use will be the provision of their own child to a sterile couple. At first glance the intramarital use of artificial fertilization seems to resemble ethically AIH (artificial insemination by husband). But Kass raises two moral objections. First, the implantation of the embryo fertilized *in vitro* involves the hazards of deformity and malformation. These hazards are being imposed nontherapeutically on a child-to-be without his consent. This, Kass argues, "provides a powerful moral objection sufficient to rebut the implantation experiments." Secondly, discarding unimplanted embryos raises another problem. Kass is undecided as to whether we are dealing with a protectable humanity at this (blastocyst) stage, but we certainly will

<sup>19</sup> That Ramsey himself might agree with this and the underlying method is suggested by his attitude toward exceptional instances in situations of consent. He notes: "In the grave moral matters . . . a physician is more liable to make an error in moral judgment if he adopts a policy of holding himself open to the possibility that there may be significant, future permissions to ignore the principle of consent than he is if he holds this requirement of an informed consent always relevant and applicable" (*The Patient as Person* [New Haven: Yale Univ. Press, 1970] p. 9).

<sup>20</sup> Leon Kass, "Making Babies—the New Biology and the 'Old' Morality," *The Public Interest*, Winter, 1972, pp. 18–56. This long study is nearly identical with Kass's "New Beginnings in Life," an occasional paper privately published by the Hastings Center (Institute of Society, Ethics and the Life Sciences). Cf. also Leon R. Kass, "The New Biology: What Price Relieving Man's Estate?" *Science* 174 (1971) 779–88, and his "What Price the Perfect Baby?" *Science* 173 (1971) 103–4.

be at a later stage and therefore “had better force the question now and draw whatever lines need to be drawn.” Apart from these objections, Kass finds no *intrinsic* reason to reject *in vitro* fertilization and implantation. But the argument must not stop here. A procedure possibly unobjectionable in itself makes possible other procedures. This is not an “argument from abuse.” Rather he insists on

the fact that one technical advance makes possible the next and in more than one respect. The first serves as a precedent for the second, the second for the third—not just technologically but also in moral arguments. At least one good humanitarian reason can be found to justify each step. Into the solemn and hallowed tent of human sexuality and procreation, the camel’s nose has led the camel’s neck and may some day soon, perhaps, even lead the camel’s spermatozoa.<sup>21</sup>

I suspect that Pius XII had something like this in mind when he condemned AIH.

As for cloning, Kass again raises the twin issues of production and disposition of defectives and contends with Ramsey that they “provide sufficient moral grounds for rebutting any first attempt to clone a man.” He further urges the serious psychological problems of identity and individuality and finds them “sufficient to reject even the first attempts at human cloning.”<sup>22</sup>

Kass eventually goes beyond this piece-by-piece approach and brings a broader cultural analysis to bear on the two questions. Here his writing is most powerful and persuasive. He argues that “increasing control over the product is purchased by the increasing depersonalization of the process” and that this depersonalization is dehumanizing. Against Fletcher’s contentions he would insist that “human procreation is not simply an activity of our rational wills . . . it is more complete human activity precisely because it engages us bodily and spiritually, as well as rationally.”<sup>23</sup>

The separation of reproduction from human sexuality Kass sees as a dehumanizing threat to the existence of marriage and the human family. “Transfer of procreation to the laboratory undermines the justification and support which biological parenthood gives to the monogamous (or even polygamous) marriage. Cloning adds an additional, more specific, and more fundamental threat: the technique

<sup>21</sup> “Making Babies,” pp. 38–39. The last sentence of the citation occurs only in the earlier (“New Beginnings in Life”) version. Either its frivolity annoyed the editor of *Public Interest* or Kass waxed formal when he went public.

<sup>22</sup> *Ibid.*, p. 45.

<sup>23</sup> *Ibid.*, pp. 48–49.

renders males obsolete. All it requires are human eggs, nuclei, and (for the time being) uteri; all three can be supplied by women."<sup>24</sup>

Kass's concern for the family is not blind institutionalism. Rather he is concerned that "the family is rapidly becoming the only institution in an increasingly impersonal world where each person is loved not for what he does or makes, but simply because he is. The family is also the institution where most of us, both as children and as parents, acquire a sense of continuity with the past and a sense of commitment to the future."<sup>25</sup> For these and other reasons Kass urges that "when we lack sufficient wisdom to do, wisdom consists in not doing." He is sharply critical of theologians-turned-technocrats (e.g., Karl Rahner<sup>26</sup>) whose notion of man as "freedom-event" provides no standards by which to measure whether self-modifying changes are in fact improvements.

Those unfamiliar with Kass will find his writings both enlightening and entertaining. Charles Stinson of Dartmouth College demurs.<sup>27</sup> He takes a rather dim view of the attitudes and analyses of Ramsey-Kass. He sees both of them as biomedical pessimists. Behind Kass's pessimism he finds a body-soul dualism which contends: if mental-spiritual life is not a "separate entity" beyond genetic manipulation, it is some-

<sup>24</sup> *Ibid.*, p. 50.

<sup>25</sup> *Ibid.*, p. 51.

<sup>26</sup> The reference to Rahner is to "Experiment: Man," *Theology Digest* 16 (1968) 57-69. (Cf. "Experiment Mensch: Theologisches über die Selbstmanipulation des Menschen," *Schriften zur Theologie* 8 [Einsiedeln: Benziger, 1967] 260-85.) Rahner's position is not accurately presented if it is drawn from "Experiment: Man" alone. His "Zum Problem der genetischen Manipulation" (*Schriften zur Theologie* 8, 286-321) must also be read. In this latter essay Rahner develops positions very close to those of Ramsey and Kass, and manifests a deep skepticism, even negativism, where eugenic genetic manipulation is concerned. He insists, e.g., that not everything that can be done ought to be done (p. 318). In applying this to donor insemination, Rahner argues that personal sexual love has an essential relationship to the child; for the child is the expression and realization of the abiding unity of the spouses. But "genetic manipulation does two things. First it separates on principle the procreation of a new person (as the abiding expression of the love-union of the spouses) from marital union. Secondly, it transfers procreation (sundered and separated from its human source) outside of the human sphere of intimacy" (p. 313). That Rahner would reject this is obvious. Furthermore, he speaks repeatedly of resisting "the temptation of the possible" and calls "immunity against the fascination of the newly possible" a virtue contemporary man must develop, and apply in the area of genetic manipulation. One of Rahner's major concerns is how his basic "No" to some of these possibilities can be made persuasive amid the existing moral pluralism. The Ramsey-Kass criticism of Rahner is, therefore, not only misleading in itself; it also *seems* to provide the support of a great theological name for utopian schemes and eugenic experiments which Rahner would resolutely disown.

<sup>27</sup> Charles Stinson, "Theology and the Baron Frankenstein: Cloning and Beyond," *Christian Century* 89 (1972) 60-63.

how not as true as we had thought. Behind Ramsey's outlook Stinson sees a faulty theology of creation "which assumes that God *intended* certain aspects of natural structures and forces to remain *always* beyond the control of man's intelligence." Stinson then repeats in a variety of ways what he mistakenly takes to be a counterstatement to Ramsey-Kass: increased empirical knowledge about the processes of life need not erode its divine meaningfulness. On the basis of such general assertions and the conviction that sooner or later we will be involved in "the socially regulated cloning of individuals," Stinson opts for the Rahnerian view that man's limitless power to experiment on himself is really a sign of the creaturely freedom given him by God.

Granted that the writings of both Ramsey and Kass do at times achieve liturgical fervor and leave them vulnerable to the accusation of both overstatement and pessimism, still Stinson's essay, interesting as it is, meets the serious issues they raise with little more than a gathering of evasions and begged questions.

Item. "No doubt, as Ramsey points out, accidental miscalculations and ignorance of variables will result in fetal monstrosities. Not a pretty picture to contemplate. Moreover, there will inevitably be abuses of power on the part of a small minority of insensitive or rash scientists and technicians. But are we to conclude that, because of its *risks* and possible abuses, all such work is intrinsically immoral?"<sup>28</sup> Since when is the certain ("no doubt") production of fetal monstrosities reducible to a mere risk? Ramsey may be wrong, but to talk of bench-made monstrosities as "risks" is hardly a persuasive way of showing it.

Item. "Ramsey's outlook is grounded . . . in a faulty theology of creation which assumes that God *intended* certain aspects of natural structures and forces to remain *always* beyond the control of man's intelligence."<sup>29</sup> Ramsey claims nothing of the kind. He does, indeed, argue (not "assume") that God intended certain aspects of natural structures as permanent, but he would insist that this is not to put them "beyond the control of man's intelligence;" it is only to say that certain controls may not be intelligent.

Item. "And why would a cloned human being not feel himself (or herself) to be a 'person' or 'embodied'? Possibly for a number of reasons, but Ramsey does not specify any."<sup>30</sup> To which two things must be said. First, when Ramsey refers to cloning as involving "the abolition of embodied personhood," he need not and does not refer primarily to the feelings of the cloned product, but to the parents and their concept of

<sup>28</sup> *Ibid.*, p. 60.

<sup>29</sup> *Ibid.*, p. 61.

<sup>30</sup> *Ibid.*

parenthood. Secondly, he does indeed with Kass specify reasons about the feelings of the cloned human being.<sup>31</sup>

Item. "Let me hazard a key theological concept for the future: it is the ongoing content of human life that is spiritually significant—not its origin whether natural or artificial."<sup>32</sup> Comment: it is precisely the Ramsey-Kass point that artificial origin will affect the "ongoing content of human life." One must wrestle with this contention if one is to meet Ramsey-Kass where they are.

Item. "This feat [the first cloning of a man] would certainly not invalidate Ramsey's ethical norms but it would make them irrelevant speculatively."<sup>33</sup> Does the first use of the atomic bomb make it speculatively irrelevant to urge the question "should we ever have done it?" If such a question is utterly urgent—as it is—then the more urgent question was: should we do it? Our mistakes of the past should teach us at least to take these earlier questions more seriously—unless one wants to hold the disastrous view that we can learn only from our mistakes.

Item. Of genetics a hundred years hence Stinson notes: "And this will *no doubt* include the socially regulated cloning of individuals who are deemed to be especially valuable to the community."<sup>34</sup> Here, I believe, is the real and ultimate pessimism: that because we *can* we certainly *will* do. Is there a better way to render any present ethical reflection irrelevant than to think it really makes no difference anyway, and therefore to reduce the issue to "what shall we do after we have cloned men?"

#### MEDIATING APPROACH

James Gustafson and Charles Curran are examples of the third approach. A methodology midway between the rather structureless utilitarian calculus of Fletcher and the Ramsey-Kass insistence on the absolute immorality of some means is that of Gustafson. Under a nine-point division Gustafson lays out the many ethical issues in biomedicine.<sup>35</sup> Repeatedly he sets up groups of alternative approaches, states the warrants for them, unravels their latent presuppositions, and notes the questions they raise.

For instance, in perhaps the most substantive sections of his study,

<sup>31</sup> Cf. Ramsey, *Fabricated Man*, pp. 71-72.

<sup>32</sup> *Art. cit.*, p. 63.

<sup>33</sup> *Ibid.*, p. 62.

<sup>34</sup> *Ibid.*

<sup>35</sup> James M. Gustafson, "Basic Ethical Issues in the Bio-Medical Fields," *Soundings* 53 (1970) 151-80.



Gustafson approaches genetic medicine from the contrasting positions of inviolable individual rights and the benefits which might accrue to others and society in general. He proposes three contrasting options. (1) The rights of individuals are sacred and primary and therefore under no circumstances are they to be violated in favor of benefits to others. (2) Anticipated consequences judged in terms of the "good" that will be achieved or the "evil" avoided ought to determine policy and action regardless of the restrictions on individual rights that this might require. (3) Both 1 and 2 are one-sided. Decisions require consideration both of individual rights and of benefits to others. One of the two will be the base line, the other will function as the principle justifying exceptions to the base line.

It is clear that Gustafson would opt for the third alternative, indeed for third alternatives in nearly every case where opposing methods or stances have been proposed. Thus, as between "restricting the kinds of experimentation that will be permitted through civil legislation . . . and clearly defined moral rules" and "ensuring the maximum possible freedom for research," Gustafson goes for a bit of both: maintaining maximum possible freedom but at the same time formulating principles and values which provide guidelines for procedures and for the uses of research. Similarly, he values summary rules but is uncomfortable with absolute rules. Or again, he argues that "the value of human physical life is primary" but this does not "entail that no other values or rights might override the right to bodily life." He wants societal benefits to count in genetic decisions, but not at all costs, just as he wants individual rights to be respected, but not at all costs. And so on.

What I believe Gustafson is doing is trying to hold in balance or bring to terms two intransigent elements of moral discourse: the complexity of reality, yet the abiding need to attempt to bring our decisions under objective rational scrutiny if our moral policies are to remain truly human. These two elements constantly surface as Gustafson's profound concerns. Equivalently he is suggesting that moral reasoning is neither as fixed and rational as Ramsey would sometimes lead us to believe, nor as shapeless and arbitrary as Fletcher's writing suggests.

Where does this leave him? With a goal and a means to it. The goal is the counsel that for man the experimenter and intervener "the chief task is to develop with both sensitivity and clarity an understanding of the qualities or values of human life and a conception of the basic human rights that will provide the moral guidelines or touchstones for human development."<sup>36</sup> That is why Gustafson's recent work has been concerned with the "normatively human." The means: ongoing, rigor-

<sup>36</sup> *Ibid.*, p. 178.

ous conversation between those who best pose ethical questions and those who are shaping developments in the biomedical field.

Gustafson's study — subtle, sensitive, sophisticated — resolutely avoids the blandishments of the shock statement and asks all the right questions. But there is one aspect of his approach which seems at least incomplete, even dissatisfying. For instance, he states that while the right to physical life is primary, "this would not entail that no other values or rights might ever override the rights to bodily life. . . ." Thus he endorses an "ordering which gives *some* guidance in particular decisions." Precisely at this point it is necessary to say what these other values and rights might be and why they may be said to override the primary right.

Similarly, in dealing with biomedical procedures, Gustafson says that both individual rights and societal benefits must be considered. One of the two is the base line, the other functions as a principle justifying exceptions. Thus he says: "It might well be that under certain circumstances it is morally responsible to make the thrust of individual rights the base line, and under other circumstances the accounting of benefits." What are these circumstances? What is the criterion to make individual rights decisive in some instances, social benefits decisive in others? Until we know this, Gustafson's middle position is incomplete and fails to provide even "some guidance." It represents more a rejection of the opposing alternatives than a satisfying synthesis of the two.

This point should be urged because of its further implications. Let me put it this way. To say that there are overriding values *without stating what they might be*, to state that there are circumstances in which the base-line priority shifts *without stating what they might be*, is to do two things: (1) to empty the notions of "primary" and "base line" of most of their significance for decision-making; (2) to suggest that these overriding values can only be discovered in individual decision. I do not think that these are true. What Gustafson wants (and rightly) to say is that rational moral discourse is limited, that there comes a point when the complexity of reality leads us beyond the formulations of traditional wisdom. That, I think, is true. And I believe that we have always known it, even though we have not always admitted it. But where that point is located is very important. Failure to specify at least some of the values which can override a primary value or right all too easily suggests that there is no point to which rational deliberation can lead us, that we cannot specify these values, and that this can only be done in individual decisions. Does this not remove moral discourse in principle from objective and rational

scrutiny? Gustafson does not want this, not at all. But how his admirable pastoral<sup>37</sup> sensitivities do not find their way to this theological cul-de-sac I fail to see.

I urge this point with a fear and trembling born of unqualified admiration for Gustafson's remarkable talents and work, of fear that the question may reflect my own overrationalization of the moral life, of the conviction that he as well as, and probably better than, any theological ethicist on the American scene can bring light to those aspects of these remarks which hover in darkness.

Charles Curran states that moral theology, in facing biomedical problems, must proceed from a historical point of view, emphasize the societal aspects of the issues, and accept the self-creative power as a gift of equal importance with creatureliness.<sup>38</sup>

As for historical consciousness, we need a more "open" concept of man. For example, where Ramsey rejects Muller's eugenic proposals because they separate procreation and marital love, Curran agrees but believes that "the teaching Ramsey finds in Ephesians 5 might also be historically conditioned."

Similarly, in the past we were guilty of an individualist reading of the principle of totality. The task of contemporary moralists is to do justice to the social, cosmic aspects of man without falling into collectivism. Contemporary genetic possibilities force on us a realization of responsibilities beyond the individual.

Thirdly, where the question of man's dominion is concerned, we must hold in tension man's greatness and creatureliness. Curran does not believe that Ramsey grants man enough dominion, just as he would believe that Fletcher uncritically grants him too much. Ramsey's one-sidedness Curran traces to an eschatology developed only in terms of apocalypse (discontinuity between this world and the next). Eschatology, Curran insists, must include three elements: the apocalyptic, prophetic, and teleological. After shaking and mixing these three ingredients, he ends with an eschatology where man's final stage is not totally continuous with man's present existence (against the utopians) and not totally discontinuous with it (against the apocalyptic likes of Ramsey).

On the basis of these broad strokes Curran emerges with a position

<sup>37</sup> I use the word "pastoral" because I wonder to what extent Gustafson is lifting the anguish of personal decision (to which, of course, it is all too easy to become insensitive) into the larger sphere of moral policy and general moral reasoning.

<sup>38</sup> Charles Curran, "Theology and Genetics: A Multi-faceted Dialogue," *Journal of Ecumenical Studies* 7 (1970) 61-89. (This also appeared as "Moral Theology and Genetics" in *Cross Currents* 20 [1970] 64-82.)

which states on the one hand that "there are important human values which would stand in the way of the geneticist on some occasions" (e.g., adhering to the bond between procreation and marital union), on the other that "one can envision certain historical situations in which *it might be sacrificed for greater values.*"<sup>39</sup>

The italicized words are interesting, for they indicate two things: (1) that Curran's basic position is very close to that of Ramsey and Kass; (2) that it is held on consequentialist grounds. This latter seems clear even against Curran's explicit denial, because if a value is "sacrificed for greater values," clearly a calculus model is operative. This leads one to force a question on Curran which his essay does not satisfactorily answer: *why* hold in the first place that the spheres of procreation and marital love must in our historical time be held together? Ramsey gets this from a reflective reading of Scripture, the kind of argument Curran would reject as ahistorical and eventually deontological. Yet he also rejects the more experiential (consequentialist) model. What is left?

Curran's essay, like Gustafson's, is a helpful "both-and" balancing act, but at a different level—the level of broad cultural contrasts (e.g., between the narrowly scientific and the fully human, the utopian and the pessimistic, etc.). Ultimately, however, it finesses several of the hard questions and is less than complete in analyzing its own methodological presuppositions.

Thus far some recent moral literature; now to a concluding personal reflection. The two most commonly discussed issues seem to be fertilization *in vitro* and cloning.<sup>40</sup> The first is almost upon us and the second is possibly only decades away, though expert opinion differs about this. Furthermore, many of the moral issues in the more distant and exotic possibilities are essentially present in these problems. In both instances Ramsey and Kass have seen a serious issue in the production and destruction of embryos. I do too, though I am not certain of the exact way the issue should be formulated. But given the cultural attitudes now prevalent toward fetal life, I have little confidence that these points will be taken very seriously by most biotechnicians. In one sense, of course, this is all the more reason for raising them. However, because the discussion surrounding production and disposition of the

<sup>39</sup> *Ibid.*, p. 83.

<sup>40</sup> Though with regard to *in vitro* fertilization several variations must be weighed distinctly for their differences: (1) with husband's seed or donor's; (2) with implantation in wife's uterus or someone else's; (3) with no implantation but use of artificial placenta (etc.)—a development apparently rather far off. For differing views on *in vitro* fertilization, cf. *Medical-Moral Newsletter* 8 (March-April, 1972) entire issue, and *Hastings Center Report* 2 (1972) 1-3.

“failures” to some extent suggests that in other respects we should go ahead and that “artificial children” are desirable if these objections can be met, the more basic moral issue strikes earlier. It is that of marriage and the family.

Briefly, I am in deep sympathy with the views of Ramsey-Kass and (less explicitly) Curran that these procedures are inimical to marriage and the family (Ramsey says the “nature of parenthood”) and that therefore in terms of their immediate implications and foreseeable effects we should not take such steps (nor *allow* them to be taken, since a public good of the first order is involved) unless a value the equivalent of survival demands it.

If there is, among the eugenic dreams and apocalyptic fears surrounding biomedical technology, a single certainty, it is this: *in vitro* fertilization and cloning do factually debiologize marriage and the family. Ramsey and Kass have argued that this is depersonalizing and dehumanizing. I believe they are right, and for two reasons.

First, by removing the origin of the child from the sphere of specifically marital (bodily, sexual) love, that love itself is subtly redefined in a way which deflates the sexual and bodily and its pertinence to human love, and therefore to the human itself. The artificially produced child can obviously be the result of a loving decision, even a deeply loving one; just as obviously it can be loved, cared for, and protected within the family. And precisely for these reasons is it quite valid to say that this child is the “product of marital love.” But at this point that term has undergone a change, a change which has to some extent debiologized and “debodified” the word “marital.” The term has moved a step away from its full bodily and therefore *human* connotations. Man is everything we say of him: freedom, reason, body, emotions. He is the sum of his parts. To reduce his humanity to any one of these or, what is the same, to suppress any one of these from his humanity is dehumanizing. And that is what is happening here.<sup>41</sup>

Secondly, moving procreation into the laboratory “undermines the justification and support which biological parenthood gives to the monogamous marriage,” as Kass puts it. In other words, the family as we know it is basically (not exclusively or eminently) a biological unit. To weaken the biological link is to untie the family at its root and therefore to undermine it. That this is dehumanizing and depersonalizing depends entirely on what one thinks of the family (or Kass’s monogamous marriage).

The family, I would argue, embodies the ordinary conditions wherein we (parents, children, and others) learn to become persons. In the

<sup>41</sup> Cf. Rahner, “Zum Problem der genetischen Manipulation,” p. 313.

stable, permanent man-woman relationship we possess the chance to bring libido and eros to the maturity of *philia*-friendship. Through monogamous marriage we experience the basic (not the only) form of human love and caring, and learn thereby to take gradual possession of our own capacity to relate in love. That is why marriage is a sacrament: it is the human stuff eminently capable of mirroring God's own covenant-fidelity, His love. It is the ordinary societal condition of our coming to learn about responsibility, tenderness, fidelity, patience, the meaning of our own sexuality, etc. Without its nourishing presence in our midst, we gamble with our best hope for growth and dignity, our chances of learning what it means to love and be loved. For those created by and in the image of a loving God, and therefore destined to a consummation in this image, such a gamble is humanly suicidal. To undermine the family in any way would be to compromise the ordinary conditions of our own growth as persons, and that is dehumanizing.

Obviously marriages (and families) fail. And just as obviously the surrogate arrangements which pick up the pieces of our weakness, failure, and irresponsibility can and do succeed. Furthermore, it seems undeniable that the contemporary shape of family life cries out for restructuring if monogamous marriage is to survive, grow, and realize its true potential. But these facts do not negate the basic necessity of the monogamously structured family for human growth. They only say that it is worth criticizing vigorously because it is worth saving.

These reflections are not likely to be very persuasive to a culture which, it can be argued, is comfort-bent, goal-oriented, technologically sophisticated, sexually trivialized, and deeply secularized. But if they are true, they suggest that the moral theological analysis of the bio-medical problems discussed in these pages must attend much more than it has to a Christian critique of the culture which not only generates such remarkable possibilities but above all shapes our reflection about them.<sup>42</sup>

<sup>42</sup> This bulletin was composed at and supported by the Kennedy Center for Bioethics, Georgetown University, Washington, D.C.