Relevant Principles in Bioethics

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Human cloning, surrogate motherhood, embryo tissue transplant, *in vitro* fertilization, assisted suicide, patients in persistent vegetative state and hydration-nutrition, genetic counseling, advance directives... These are some of the bioethical issues which continue making the headlines of our newspapers. What is their morality? Are they ethical or unethical? How do we judge them? When do we condemn or justify them? To answer these questions, we need the guide of Bioethics. We need sound bioethical principles.

On this occasion, I want to offer some reflections on "Relevant Bioethical Principles." Specifically, on the importance and meaning of principles in Bioethics; on respect for persons and other relevant principles; and on other significant bioethical categories, particularly virtues. Obviously, we can only offer an introduction to the complex topic; hopefully, a good appetizer. *Do we really need bioethical principles?*

1. Need of Bioethical Principles

As a kind of professional ethics —the ethics of the life-sciences— Bioethics is not under psychology, nor under sociology, but under general ethics and, therefore, it is a normative practical science. It comprises correct knowledge and correct action, a circular movement of theory and practice, through which biomedical facts and bioethical principles are mutually fertilized.

Ethical principles in general and bioethical principles in particular are a basic category of general and professional morality respectively. As principles, bioethical principles are considered basic points of

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reference for biomedical practice and research, "action-guides," axiological orientations, general moral directives, standards of conduct for health care professionals. Ethical principles are closely connected and often indiscriminately interchanged with values, norms and rules.

Bioethical principles can be considered as expressions of values, and foundations for specific moral norms and rules. Thus, these principles are truly important, being an essential chapter or chapters of all textbooks of Bioethics, a significant element in all medical and nursing codes of ethics, a constant point of reference of every hospital policy, and even of medico-legal cases.

All ethical theories present and try to justify and rank different bioethical principles, in particular utilitarianism, deontologism, proportionalism, situation ethics, natural rights, personalism, etc. Trying hard not to get too entangled in the forest of ethical theories, we prefer — with many others today — to focus on the human person as the main criterion to justify our ethical principles: the integral human person as a creature, a rational animal, a social and ecological being.

The bioethical principles are not arbitrary or merely positivistic moral guidelines, but fundamental rational orientations flowing from our nature, our human dignity and equal rights. They are not merely abstract or speculative moral ideals, but relevant and basic moral knowledge in dialogue with biomedical practice and enriched by this practice. With authors Benedict Ashley and Kevin O'Rourke, we define ethical principles as "general ethical rules derived from human experience and constantly tested and refined by human experience." Of course, "Moral decisions cannot be deduced from them, but they can be used to guide intelligent analysis of concrete ethical situations."[1] In Bioethics, therefore, we need, radically, bioethical principles. But, *what principles*?

Principles in Bioethics include not only the specific principles for the health-care providers, but also the general ethical principles applicable to medicine and biotechnology, to the respective professionals as persons and social beings.

When we began teaching Bioethics to our first year medical students, only some years ago, we tried to teach them the general

[1] Benedict M. Ashley, OP and Kevin D. O'Rourke, OP, *Health Care Ethics* (St. Louis, MO: The Catholic Health Association of the United States, 1982), p. 178.

ethical principles we had been teaching, for more than some years, to our students in the UST Faculty of Theology. These principles were the following: *the principle of indirect voluntary* (which helps us answer the question: "When are we responsible for the consequences of our actions?"), *the principle of double effect* ("When may we perform, ethically, an action from which two effects follow, one good and one evil?"), *the principle of cooperation* ("How far may we participate in the performance of evil actions done by others?"), *the principle of stewardship* ("Are we the lords of our own lives and creation, or only custodians?"), and *the principle of totality* ("Is the good of a part of the body subordinated to the good of the whole?").

To those principles from general ethics and fundamental moral theology, we added "other bioethics principles." In dialogue with Tom Beauchamp and James Childress, through their popular book *Principles of Biomedical Ethics*,[2] we realized in a deeper way the importance of the bioethical principles of *autonomy, nonmaleficence, beneficence* and *justice*, although we taught that nonmaleficence and beneficence are nonmaleficence-beneficence, that is, only one principle with negative and positive poles. Moreover, to these principles we added the *principle of solidarity*, which is very significant in social ethics and also in Bioethics.

For Marciano Vidal, my professor of moral theology, the basic bioethical principles were "nonmaleficence-beneficence, the freedom of every rational subject, and the right of all to a just distribution of the benefits/burdens in the field of health-care."[3] On the other hand, a well known French author, Guy Durand,[4] preferred to speak of two leading principles, recognized by all, namely, "respect for life" and the "self-determination of the person."

Among "other bioethical principles," we added other relevant principles related to those mentioned above, in particular, the *principles of informed consent, of truthful communication, of confidentiality*. Studying the monumental work by Ashley-O'Rourke, *Health Care*

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[2] Tom L. Beuchamp and James F. Childress, *Principles of Biomedical Ethics* (New York and Oxford: Oxford University Press, 1979), p. 56 and ff.

[3] Marciano Vidal, Bioética. *Estudios de Bioética Racional* (Madrid: Editorial Tecnos, 1989), pp. 23-25.

[4] Guy Durand, *La Bioética, Naturaleza, Principios, Opciones*. Vers. Española Miguel Montes (Bilbao: Desclee de Brouwer, 1992), pp. 42-72

Ethics,[5] I encountered more than sixteen ethical and bioethical principles. These are drawn from the ethical theory they call prudential personalism, closely linked to Christian humanism and personalism.

For those of us who are Christians, and in general for religious peoples, ethical and bioethical principles are rooted in the most radical principle, namely, God's sovereignty over all creation. For the Christians in particular, their faith, the mysteries of their faith —the Incarnation, Redemption and Resurrection of Christ— have an impact upon the bioethical principles, which are explicitations of the so-called natural law, or the law of being human and, therefore, universal, and culturally mediated. Most bioethical principles are essentially human. This may explain the fact that President Clinton's healthcare reform plan is similar, we are told, to the plan of the Catholic Health Association of the United States.[6]

2. Respect for Persons and Other Principles

From a humanist and personalist perspective, the human person is the most radical ethical principle, the fundamental bioethical criterion —the integral human person in his/her relationship to God, to other humans and to the world.[7]

Ethics in general and Bioethics in particular are ordered, therefore, to the defense and promotion of the human person, the point of reference and departure for all moral discourse. We could formulate the first bioethical principle thus: "The human person ought to be respected always."

What does it mean to respect person? The word "respect" is a translation of the Latin word *respectus*, which is derived from the verb *respicere* that means "to look again," "to look attentively and intensely." Respect evokes reverence, esteem, recognition.

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[5] Ashley-O'Rourke, *o.c.*, p. 19 and ff.

[6] Xavier Thevenot, *La Bioética* (Bilbao: Ed. Mensajero, 1990), pp. 47-60). See Orville N. Griese, *Catholic Identity in Health Care: Principles and Practice* (Brainstree, Massachussetts: The Pope John Center, 1987); Jeremiah J. MacCarthy and Judith A. Caron, *Medical Ethics. A Catholic Guide to Healthcare Decisions* (Los Angeles: Liguori Publications, 1990; "Reform Update", *Health Progress*, Nov. 1993, pp. 8-9.

[7] Cf. Bernard Haring, *Medical Ethics* (Notre Dame, Indiana: Fides Publ., 1973), p. 6; Vidal, M., *o.c.*, p. 24.

Why do we have to respect persons? Why? Because they are persons. That is, because they possess inner worth, incomparable value, unique and equal dignity and rights. Because, as Vatican II says, the human person stands above all things and has rights which are universal and inviolable. Truly, as Seneca said, *homo sacra res homini*, the human person is a sacred reality for the human person, hence deserving special reverence, as St. Thomas pointed out, in line with the Psalmist's prayer, "God has made him little less than a god".[8] Consequently, men and women are to be respected, not by reason of what they have, not even mainly by reason of what they do, but by reason of what they are, namely, human persons!

In ethical perspective, human persons must be treated as subjects and not as objects, as ends and not as means, as he or she (better, as thou), and not as it. Some ethicists express the principle of respect for persons through Kant's categorical imperative: "Act in such a way that you always take humanity, in yourself as well as in every other person, as an end and never as a means."[9]

The ethical principle of respect for persons is mediated by the principle of justice, which could be formulated, in general, thus: "Give to each person his or her due, that is, his or her rights." In particular: "Equal cases are to be given equal treatment, without any discrimination."

To respect persons fully, the principle of justice has to be complemented by the principle of solidarity: "Love all persons, members of the human family: principally, the most proximate and the most needy." The bioethical principles of justice and solidarity illuminate the problems connected with the distribution of limited resources, professional fees, free services to the poor, and organ donations.

In Christian perspective, the principle of respect for persons, and its concretization in the principles of justice and solidarity, is expressed in the fundamental principle of Christian ethics: "Love God above all; love your neighbor as yourself, and love the needy neighbor with preferential love."

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[8] Seneca, *Epistulae morales*, 95, 33; Vatican II, *Gaudium et Spes*, 26; St. Thomas Aquinas, *Sum. Theol.* I, 29, 3.

[9] Cf. Thevenot, *o.c.*, 34-36.

The bioethical principle of justice is further explicitated in another relevant principle, the principle of autonomy: "Respect the autonomy of the person."

What does it mean to respect the autonomy of a competent human being? Autonomy, or self-rule, or self-determination, gives the human being who is capable the right of true free choice, and asks from other humans —including the healthcare givers— the duty to respect his or her bodily integrity, conscience, and freedom.

Autonomy, of course, is not absolute. It is ethically limited by another principle, the principle of stewardship: "God is the Lord of life and of creation; persons are their custodians." (Applicable to the responsible stewardship of life, goods, and resources). And also by the *principle of solidarity*. Hence, the human person is an autonomous being, but also a heteronomous person that depends upon God and is related to other humans by close bonds of blood and/or love. The principle of autonomy is ethically broken by extreme individualism and strong authoritarian paternalism. In Philippine culture, close family ties and moderate medical paternalism are important ethical traits.

The principle of autonomy is carried out through the principle of informed consent, the principle considered by bioethicists as the most universally accepted bioethical principle: "*Inform your patients about their state of health, illness, diagnosis, prognosis, alternative treatment, so that they may give free and informed consent to a particular kind of medical treatment, or procedure.*" Although "the physician knows best," the competent patient is the one to decide (usually with his or her family), upon the recommendation of the physician, on the course of medical action to be taken regarding his or her illness. And to decide properly, he or she needs to be informed properly, to understand this information correctly and to consent voluntarily to a particular surgical or medical procedure. Hence, three things are required by this principle: first, information to be given by the physician; second, comprehension by the patient; third, freedom of the patient to decide on the kind of medical or surgical treatment to be pursued.[10]

In the case of incompetent patients, the healthcare providers are ethically bound by a co-relative principle, the *principle of proxy consent*:

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[10] Kevin O'Rourke and Dennis Brodeur, *Medical Ethics*, I (St. Louis, MO: CHA, 1986), pp. 51-53.

"Inform the closest relative, or the guardian about the patient's state of health, etc. so that he or she may decide with the physician on the course of medical action." It is necessary to add that the essential condition of proxy consent is "the best interest of the patient"—and not of the family or the physician or the researcher.

To give informed consent freely, then, the patient, or the proxy, needs to know the truth about the former's health. Thus, the principle of informed or proxy consent is tied up with the bioethical *principle of truthfulness*: "Tell the truth about their state of health/illness to your patients or respective representative."

The whole truth and nothing but the truth? Certainly, the truth required to make a free and responsible choice. Three standards are usually given to disclose the required truth: the *professional-practice* standard, the *reasonable-person* standard, and the *particular-patient* standard. The truth is to be told prudently, compassionately and hopefully.[11]

3. Confidentiality, Nonmaleficence-Beneficence

Truthful communication to patients does not mean open communication to others, except, in generai, the closest family members, particularly in Philippine context. Respect for patients as persons, for their inalienable rights includes respect for their right to privacy, which is safeguarded by another relevant ethical principle, namely, the *principle of confidentiality*: "Keep professional secrecy."

Confidentiality (from *confiders*, "with trust") represents a relationship of trust with another person. As professionals, the healthcare providers are obliged to keep professional secrecy. This binding bioethical guideline is already found in the Hippocratic Oath:

> Whatever I shall see or hear in the course of my profession, as well as outside my profession in my intercourse with men, if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets...

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[11] Cf. Ruth Macklin, *Mortal Choices* (Boston: Houghton Mifflin Co., 1988), pp. 35-48; O'Rourke-Brodeur, *o.c.*, pp. 59-60; Elizabeth Kubler-Ross, *On Death and Dying* (New York: Macmillan Publishing Co., 1970), pp. 28-37.

We mentioned earlier that autonomy is not absolute. Likewise, confidentiality. The right to privacy —an important human right— is not absolute and, therefore, confidentiality to keep this privacy is not absolute either; for confidentiality is limited by other rights of the patient —e.g. the right to life—, the rights of others —e.g. to life, health, etc.— and the common good —e.g. the obligation to report infectious diseases.

The *principle of justice*, specifically as social justice —whose object is the common good centered on human rights and duties—, demands also respect for "the right to health," "the right of every individual to adequate healthcare," or to "basic and comprehensive healthcare."[12]

The right to adequate healthcare is an explicitation of the right to life. It unfolds in two ways: at the social level, it means equality of access to health care and defense against the dangers to health; at the personal level, it signifies the health of the patient, which is the proper objective of the healthcare professions: the health of a mortal patient which implies for the healthcare givers not only curing, but also caring.

The health of the patient is promoted by the observance of the principles of *totality* —applicable to mutilation ("The part is subordinated to the whole, and therefore, the good of the part to the good of the whole")—, and the principle of *nonmaleficence-beneficence*, chronologically one of the first bioethical principles, already present in the Hippocratic Oath: "I will use treatment to help the sick according to my ability and judgment, but I will never use it to injure or wrong them." *Beneficence* includes and goes beyond *nonmaleficence*, which is its least requirement; "*Primum non nocere*," that is, "If you cannot do something good to a patient, at least do not harm him or her." This is a clear indictment against euthanasia or mercy killing.

Often in medical practice, there will be some harm or bad side effects. In cases like these, the *principle of double effect*, a contribution of Catholic ethics to Bioethics, will be illuminating. Called today by some authors the *principle of comparison of values*, it is applicable to maternal-fetal conflicts in particular. Its ethical application, however, requires the fulfillment of its four conditions, namely: (1) the action

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[12] Cf. John Laul II, *Laborem Exercens*, 9; UN's *Universal Declaration on Human Rights*: December 1948, Art. 25. See F. Javier Elizari, "Moral de la Vida y de la Salud," en *Praxis* II (Madrid: Ed. Paulinas, 1981), pp. 183-188.

with two effects (one good and one evil) is not evil; (2) the good effect is immediate or simultaneous with the evil effect; (3) the intention of the agent is the good effect, and (4) the reason for acting is proportionately grave.[13]

The *principle of double effect* is connected with the *principle of cooperation*: "Formal and immediate material cooperation in the evil action of another is immoral, while mediate material cooperation may be moral."

Moreover, the fourth condition of the principle of double effect is considered an important principle for many ethicists, especially proportionalists: the principle of proportionality, also called the *principle of the lesser evil*, which has been traditionally accepted, in a way, by Catholic moral theology, and by the ordinary Magisterium of the Church. We even find its positive teaching in the latest challenging encyclical of John Paul II, *Veritatis Splendor*, or "the Splendor of truth."[14]

Furthermore, the principles of *nonmaleficence-beneficence*, and the principles of *stewardship* and of *proportionality* are connected with the significant distinction between ordinary and extraordinary means. Morally speaking, ordinary (proportionate) means which are beneficial to patients and do not involve serious burdens are obligatory, while extraordinary (disproportionate) means which are ineffective or futile or too burdensome are optional. Not giving beneficial treatment when possible may be under-treament, while providing useless treatment, realizing the scarcity of health resources, may be over-treatment, and also immoral.[15]

The *lesser evil, confidentiality, informed consent, justice...* These are important bioethical principles. They are relevant indeed! *Are they sufficient to enlighten and judge ethically biomedical and biotechnological practice?*

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[13] Thomas O'Donnel, S.J., *Medicine and Christian Morality*. (Staten Island, NY: Society of St. Paul, 1991), pp. 26-30.

[14] Cf. John Paul II, *Veritatis Splendor*, 80: "It is true that sometimes it is lawful to tolerate a lesser moral evil in order to avoid a greater evil or in order to promote a greater good." The Pope adds: "It is never lawful, even for the gravest reasons, to do evil that good may come of it." See also Paul VI, *Humanae Vitae*, 14.

[15] *Catechism of the Catholic Church*. (Vatican City, 1992), no. 1810.

4. Not Only Bioethical Principles

Although important and relevant, bioethical principles are not sufficient (against excessive principlism) to judge wholly the concrete, situated actions of healthcare professionals, to justify or condemn biomedical procedures. Furthermore, to be used rationally, these principles have to be integrated into the whole spectrum of applied professional ethics.

Bioethical principles are necessarily linked to the norms of morality: rooted in God's *eternal law* —supreme norm—, they are specific conclusions drawn by *right reason* —proximate norm— and basic ethical guidelines for *conscience* —our immediate, and subjectively the most important, norm of morality. Furthermore, to serve as existential guidelines, the bioethical principles have to be connected with other important basic categories, in particular the *determinants of morality*, namely, the moral object, the circumstances and the end of the agent.

Let us repeat that bioethical principles are not mainly abstract, speculative ethical standards, but basic moral guidelines drawn from our human nature as ethical beings and in continuing dialogue with biomedical practice. In reality the medical fact —*is*—, the statements of fact are the context of morality —*ought*—, the moral judgments. There is a growing consensus among bioethicists who label as spurious the distinction between bioethical theory and applied bioethics. Thus it is often recommended that principles are studied through the discussion of medico-moral cases, especially paradigmatic cases.

Another essential point: we study bioethical principles not merely to know them and apply them to cases, but to practice them, too! The objective of principles in Bioethics is good deeds by the healthcare givers. In truth, "To know and not to do is not yet to know" (Buddhist saying). *How to practice these principles*?

Good professional practice is strengthened by the acquisition of the moral virtues, or moral excellences or skills which rectify our potencies and develop them to the fullest. A good act is a good act, but it does not make a person good. Virtues do: "With God's help, virtues shape character and make easy the practice of what is good."[16]

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[16] Ronald D. Lawler, OFM, Cap,- "Catholic Teaching in Moral Matters," *Ethics and Medics*, Vol. 18, No. 10 (October 1993), p. 3.

It is heartening to point out here that, after realizing the inadequacy of dilemma ethics in Bioethics, many bioethicists are developing an ethics of virtue. "Ethics without virtue?" *Genuine normative ethics without virtue*? Not possible.

Not possible at all! Some are even saying that virtues must be the core of the healthcare professionals codes of ethics. Even to judge human actions properly, a certain moral goodness is needed by the judge, the ethicist: "Most moral teachers have agreed with Aristotle that maturity and even a certain goodness are required to have sound judgment in moral thinking."[17]

How does one apply bioethical principles to different situations and circumstances? By following a true and certain conscience —according to ethical principles—, a conscience discerning prudently the right thing to do at the right time; by doing good actions continually and, thus, acquiring the virtue of prudence (and the other cardinal virtues intimately connected with prudence), the good habit of human conduct, "the mother of all human virtues." (St. Augustine)

Certainly, the best way to know and apply bioethical principles is by practicing the virtues closely allied with these principles. *How does one carry out continually the principle of "respect for persons?"* By performing respectful acts in a constant manner, that is, by acquiring the virtues of justice and solidarity. While justice will incline us to treat the other person as "an equal" to be respected in his/her dignity and rights, solidarity will direct us to love the other person as a brother/sister and thus go beyond the requirements of pure (?) justice.

How does one apply constantly the principle of nonmaleficence / beneficence? By developing the moral traits of benevolence/beneficence, characteristics of the virtue of solidarity as practical love of neighbor, as compassion, a key virtue for healthcare professionals. For Christians, charity as love of God and neighbor is "the form of all virtues." (St. Thomas)

When and how does a physician tell the truth to a terminally ill patient? By telling the truth prudently and compassionately; by acquiring the beautiful virtue of truthfulness or veracity, the good habit which inclines persons to manifest in both their lives and their speech, the

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[17] Cf. St. Thomas Aquinas, *II-II*, 109.

convictions of their minds; by witnessing truthfulness as a mediation of love.

The bioethical principles we have briefly studied seem, in general, clear; but, in difficult cases, they cannot be clear enough. What to do when one is in doubt, in bioethical doubt? As, when we have a doubtful conscience, we are asked to consult those who know; in our case, bioethicists or Bioethics Committees —if there are in our healthcare facility—, one of whose main functions is precisely to act as consultative and advisory bodies. Unless obliged by an emergency situation, let us never act in doubt. In this context, one helpful virtue is humility which tones down our self-importance and directs us to acknowledge how little we really know and how much we need and must value the help from others, who are as good or better than us. We need, but of course, God's help (grace), too: prayer is the mother of all virtues, according to St. Catherine of Siena.

5. The Need of Virtues

Why at times we do not follow the ethical principles we know? Because we are weak, or blinded by sin or vice: "Virtue enhances vision; vice darkens and finally blinds." (Gilbert Meilaender) In the same vein, *"Why we do not follow sometimes our conscience —which listens to and applies ethical principles?* St. Thomas answers by saying that we do not follow the decisions of conscience because we lack virtue.[18] We all need, the virtue of courage or fortitude; the healthcare professionals, physicians in particular need to acquire, through the of courageous acts (and God's grace) the cardinal fortitude to be strong in the face of suffering and follow their conscience, to witness their values, to faithfully bioethical principles.

Organ transplant and donation, high-cost, high-risk medical procedures, allowing to die, basic healthcare for the poor, hospice care, suffering and death, healthcare reform... Medico-moral problems! What is their morality? Good bioethical principles will help us give an answer —at times a tentative answer; at times, a clear one. Often, principles will raise more questions than answers; but, even then, they

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[18] St. Thomas Aquinas, *I-II*, 58, 5; cf. Gilbert C. Meilaender, *The Theory and Practice of Virtue* (Notre Dame, Indiana: University of Notre Dame Press, 1984), p. 11, and ff.

can be helpful. May our introduction to the topic of bioethical principles challenge us to reflect more deeply on them.

It is good, and even necessary, to speak of principles in Bioethics —to know and apply them. It is better, however, to complement this practical knowledge with the acquisition of the respective virtues. In a real sense, the practice of virtue is what morality is all about, meaning lived morality,[19] the morality that leads to self-realization and, ultimately, happiness. After all, virtue is the road to happiness.

As we close, therefore, let us not disregard relevant bioethical principles and their corresponding virtues, for bioethical principles truly become personal and professional ethical guidelines when they are known and lived by our healthcare professional, including bioethicists, especially bioethicists, for only then can they become — like good physicians and nurses— real teachers: "Moral truth cannot be conveyed solely in words; it must be conveyed in example" (W. Barclay).

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[19] Cf. James F. Drane, *Becoming a Good Doctor. The Place of Virtue and Character in Medical Ethics* (Kansas Cityp MO: Sheed & Ward, CHA, 1988), p. 154 & ff.; Peter Kreeft, *Back to Virtue* (San Francisco: Ignatius Press, 1992); Romanus Cesario, O.P., *The Moral Virtues and Theological Ethics* (Notre Dame, Indiana: University of Notre Dame Press, 1991): Christina Hoff Sommers, "Teaching the Virtues", *Chicago Tribune Magazine*, September 12, 1993, pp. 14-18.