

Gregorianum

ROBERTO DELL'ORO

**On the Ultimate That Is the First:
Thinking Beyond (Bio)ethics**

Pontificia Universitas Gregoriana

Roma 2019 - 100/3

On the Ultimate That Is the First: Thinking Beyond (Bio)ethics

I. INTRODUCTION

What does it mean to think metaphysically in bioethics, and is that possible at all? I mean, can we think beyond the terms of a reductive applied ethics that aims at a purely ontic rendition of questions of right and wrong? Could it be that the ontological ground upon which such considerations rest remains fully operative, even if elusive, an after-thought perhaps, yet determining what foregrounds our ethical preoccupations? With metaphysical thinking, then, I do not mean abstract thinking, the way a rationalistic philosophy might conceive. We live always on the basis of an implicit understanding of the ground of things, a ground that is either promising or threatening, gifting our daily endeavors with the joy of being, or leaving us in thrall of a different *mal de vivre*. Such understanding is most concrete: it colors our entire way of being-in-the world, our perception of what it means to be, summoning our trust in the goodness of things, or, conversely, our suspicion toward it¹.

One wonders whether the epistemic conditions that sustain such an elemental mindfulness are not already compromised by the legacy of modernity, whose effectual history feeds the projects of science no less than the practice of medicine, holding us bewitched to impossible dreams of trans-human enhancement². Would the last man of Nietzsche still intone his song, when its

¹ For a systematic articulation of metaphysics in the wake of postmodern deconstructionism, I am indebted to Leuven philosopher William Desmond. In his work, one finds the imposing quality of speculative thinking together with a more personal call to attention for the concrete and simple quality of experience, a kind of phenomenological «return to the things themselves», elicited by a language full of evocation and beauty. In my reflections I rely especially on W. DESMOND, *Being and the Between*, Albany 1995, W. DESMOND, *Ethics and the Between*, Albany 2001, and W. DESMOND, *The Intimate Universal. The Hidden Porosity Among Religion, Art, Philosophy, and Politics*, New York 2016.

² For a useful discussion of the issue from a theological perspective, see R. COLE-TURNER,

melody echoes a twisted reverence, not for a final good, but for a dark origin, an ethos of valuelessness that says «nothing is good»?³

I want to think *beyond* bioethics, in the sense of getting at those questions bioethics tends to push aside, relegating them, at best, to benign superannuation, the useless pastime, supposedly, of meta-ethical devotees untouched by more pressing normative perplexities⁴.

Of course, if such supposition is false, ultimate questions will have to be treated as first, and this for the sake of the more ordinary concerns we implicitly acknowledge as deserving of our intellectual priority: the *ordo rerum* subverts any preconceived notion of what we see as the *ordo disciplinae*, in which case a different reflection will be called for, and with it the retrieval of a deeper ground. What I call, with Desmond, «the primal ethos of life» entails an elemental attunement to the deeper sources of life, over, or against, the ethos we super-impose upon them, thus clogging what is primal with constructions of our own making. The ethical discourse such constructionism engenders tends to focus more on the conditions for establishing moral consensus on what is right, than to articulate, in phenomenological faithfulness to the nature of things, the trust that nourishes our love of the good. Indeed, the good remains *incognito*, and this in spite of the seriousness of our ethical engagement with the main challenges of the day⁵.

ed., *Transhumanism and Transcendence. Christian Hope in an Age of Technological Enhancement*, Washington (DC) 2011, and A. VERHEY, *Nature and Altering It*, Grand Rapids 2010. More robust philosophical considerations can be found in N. AGAR, *Truly Human Enhancement: A Philosophical Defense of Limits*, Cambridge (MA) 2014.

³ The nihilism in question is ultimately theological, rather than moral, though the death of God signals a metaphysical end, the end of the God of onto-theology, as Heidegger saw, which is not without ethical implications. Thus the last man, who is also the madman, famously adds to the declaration of God's death («Where has God gone?... I shall tell you. We have killed him») the following: «Whither are we moving now? Away from all suns? Are we not perpetually falling? Backward, sideward, forward, in all directions? Is there any up and down left? Are we not straying as through an infinite nothing?», F. NIETZSCHE, *The Gay Science. With a Prelude in Rhymes and an Appendix of Songs*, trans. by Walter Kaufmann, New York 1974, Book III, n. 125 «The madman», 181.

⁴ Analytic philosophy defends the relative separation of metaethics from normative ethics. Non-cognitivist versions of the former may, thus, coexist with strongly rationalistic renditions of the latter. R.M. Hare's universal prescriptivism is a point in case, most famously articulated in his *The Language of Morals*, New York 1952. The birth of bioethics is historically tied to a different appreciation for normative questions, and the assumption of so called principle of moral neutrality according to which metaethical premises have no bearing on questions of normative ethics. See A.R. JONSEN, *The Birth of Bioethics*, New York 1998, 65-89. I reject the principle of moral neutrality. The issue for me is not just metaethical, but more deeply metaphysical. At stake is not only the meaning of moral language, but of moral experience as such.

⁵ Thus Rawls, in a somewhat programmatic vein in an early work: «To establish the objectivity of moral rules, and the decisions based upon them, we must exhibit the decision procedure, which can be shown to be both reasonable and reliable» J. RAWLS, «Outline of Decision

I believe much more than issues of public consensus, reducible to the minimal denominator of empty generalities, is at stake. Deeper questions of meaning, concerning the place of science and technology in a democratic society, the dignity of the human person, and the well-being of our ecosystem, call for a different mindfulness, beyond the pragmatic complacency of a content-thin ethical strategy⁶. It is not enough to keep the system open to the latest normative integration, in an endless exercise of reflective equilibrium, if such a system fails to address the deepest matters of our humanity. Brilliant moral theories might come too late, when ethics has already lost its soul⁷.

A renewed attention to the primal ethos of life might provide us with a much needed passageway toward a richer bioethics, an opening, not just epistemological, but more deeply metaphysical, beyond the extremes of what seems to stall ethical discourse today: a univocal foundationalism, on the one hand, and an equivocal relativism, on the other. The former is the attempt to reduce the practical, and therefore dynamic, quality of the *ethos* to an abstract notion of the good, grounded in an essentialist understanding of human nature. A certain neo-scholastic tradition of natural law, as well as more recent versions of ethical essentialism, especially in the analytical mode, might be taken as examples of such an approach⁸. The other extreme is offered by a relativism that sub-

Procedure for Ethics», *The Philosophical Review* 60 (1951) 177-198, at 177. For the distinction between right and good, see J. RAWLS, *A Theory of Justice*, Cambridge (MA) 1971, 446-452.

⁶ As an example of the approach in question, see the classic text of T.L. BEAUCHAMP – J.L. CHILDRESS, *Principles of Biomedical Ethics*, New York 1979, 2013⁷. The authors understand their project as a «work in theory», not a comprehensive moral theory, articulated on the basis of so called common morality (see 1-29, 351-429). Although there is only one universal common morality, there is more than one theory of it. On the topic, see the special issue of the *Kennedy Institute of Ethics Journal* 13 (2003).

⁷ I dispute the notion that coherence, as a necessary dimension of ethical theory, can be understood as a purely formal requirement. Reflective equilibrium is the attempt to create a coherence between moral principles and considered judgments, and this in light of changing circumstances: «What is required is a formulation of a set of principles which, when conjoined to our beliefs and knowledge of the circumstances, would lead us to make these judgments with their supporting reasons were we to apply these principles conscientiously and intelligently», J. RAWLS, *A Theory of Justice* (cf. nt. 5), 20. See also Rawls' reference to reflective equilibrium in his later book, *Political Liberalism*, New York 1996, 8, 381, 384, and 399. On the condition of contemporary bioethics, relative to a lack of questioning about moral meaning, see L. KASS, *Life, Liberty and the Defense of Dignity. The Challenge for Bioethics*, San Francisco 2002, 55-76, and G.C. MEILAENDER, *Body, Soul, and Bioethics*, Notre Dame 1995.

⁸ For an example, R.P. GEORGE, ed., *Natural Law Theory: Contemporary Essays*, Oxford-New York 1992. The discussion on natural law has been revamped, over the past thirty years, by Germain Grisez, John Finnis, Joseph Boyle, William May and Patrick Lee, among others, though the relation between practical reason and the normativity of nature remains problematic in their account. From an analytic perspective, Q. SMITH, *Ethical and Religious Thought in Analytic Philosophy of Language*, New Haven-London 1998, and my review in *Theological Studies* (1999) 379-380.

verts the historicity of the ethos, and deconstruct anthropological constancies able to provide a basis for ethical judgment⁹. We must search for the promise of a different «middle» in the grounding of moral norms, and for a metaphysics of the good that enables the retrieval of a different ethical between.

I will begin with somewhat general claims about the predicament of contemporary medicine with respect to the oblivion of the search for meaning. In a second moment, I reflect, more specifically, on the metaphysical premises, or lack thereof, implicated in our public discussions on end of life and beginning of life issues. Finally, I offer a reconstructive attempt of an ethics defined by love of being, and the porosity bound up with a different opening to the generosity of the good.

II. MODERN MEDICINE AND THE OBLIVION OF MEANING

Some time ago, Warren Reich suggested that the problem of the search for meaning in medicine might be illustrated by the metaphor of the stethoscope. Richard Baron, in a famous article for the *Annals of Internal Medicine*, tells the story: «It happened the other morning on rounds, as it often does, that while I was carefully auscultating a patient's chest, he began to ask me a question. "Quiet" I said. "I can't hear you while I'm listening"»¹⁰.

The stethoscope metaphor is emblematic of the inattention to meaning («not hearing») brought about by the reductionist focus (the mode of restricted «listening») in the methodologies of both modern scientific medicine and contemporary ethical theory. To start with, the mind-set created by modern scientific medicine has required for medicine *to be inattentive*, that is, not to hear, the sick person's experience of illness. Influenced by a positivist framework, 19th century medical scientists popularized the notion that practical clinical

⁹ According to Stephen Toulmin, so called anti-foundationalism «shares in the conviction that all earlier quests for a comprehensive system of knowledge, based on permanent, universal systems of overarching principles, were misguided from the start, and are by now discredited. Claims to philosophical universality and permanence can be ignored: their only interest lays in the ways that they could serve as a "cover" for the collective interests of nations, social groups, or genders», S. TOULMIN, «The Primacy of Practice: Medicine and Postmodernism», in R.A. CARSON – C.R. BURNS, ed., *Philosophy of Medicine and Bioethics. A Twenty Years Retrospective and Critical Appraisal*, Dordrecht 1977, 41-42.

¹⁰ R. BARON, «An Introduction to Medical Phenomenology: I Can't Hear You While I'm Listening», *Annals of Internal Medicine* 103 (1985) 606-611, at 606. See also W.T. REICH – R. DELL'ORO, «A New Era for Bioethics: The Search for Meaning in Moral Experience», in A. VERHEY, ed., *Religion and Medical Ethics. Looking Back, Looking Forward*, Grand Rapids 1996, 96-119. In an analogous phenomenological vein, see R. ZANER, *Ethics and the Clinical Encounter*, Englewood Cliffs 1988.

medicine should be viewed as a form of applied theoretical medicine. In the United States, the reformation of medical studies introduced by the medical educator Abraham Flexner, in the first part of the 20th century, completed the picture. Moreover, this happened as a result of modernity's understanding of scientific knowledge, which Gadamer poignantly describes as a capacity to produce effects. In the modern version of scientific knowledge, the mathematical-quantitative isolation of laws of the natural order provides human action with the identification of specific contexts of cause and effects, together with new possibilities for intervention¹¹. In relation to clinical medicine, such an idealization entails a tendency to reduce the *praxis* of medicine, with its matrix of subjective components and contextual features, to the detached objectivity of theoretical knowledge, and to interpret the healing process itself as a production of effects¹².

Of course, one cannot question, in principle, the application of scientific reasoning to medicine. In trying to identify and explain the cause of symptoms, medicine employs probabilistic laws and rules, theories and principles, of the biomedical sciences. Concepts of normal and abnormal, for an example, are statistically derived concepts, based on scientifically validated norms of human biological functioning. In the attempt to classify symptoms as the manifestation of particular disease entities, medicine relies upon hypothetico-deductive and inductive reasoning. Moreover, in order to determine what can be done to remove or alleviate the cause of particular diseases, medicine appeals to prognostic knowledge about the course of the diagnosed disease, as well as efficacy and toxicity of relevant therapeutic possibilities.

And yet, in spite of its undisputable scientific basis, medicine resists final and complete reduction to science. Far from simply bringing different segments of scientific explanations into a unified theory, the specific goal of medicine consists in yielding a general understanding of illness with a specific medical decision on behalf of a concrete patient¹³. As a synthetic action, medicine is both theoretical *and* practical at the same time. Unlike the

¹¹ H.G. GADAMER, *The Enigma of Health: The Art of Healing in a Scientific Age*, Stanford 1996, 35; orig. German, *Über die Verborgenheit der Gesundheit. Aufsätze und Vorträge*, Berlin 1993.

¹² M.W. WARTOFSKY, «What Can the Epistemologists Learn from the Endocrinologists? Or Is the Philosophy of Medicine Based on a Mistake?», in R.A. CARSON – C.R. BURNS, ed., *Philosophy of Medicine and Bioethics* (cf. nt. 9), 55-68.

¹³ I owe such a perspective to the philosophy of medicine of Edmund Pellegrino. See E.D. PELLEGRINO, «The Anatomy of Clinical Judgment: Some Notes on Right Reason and Right Action», in H.T. ENGELHARDT – *al.*, ed., *Clinical Judgment. A Critical Appraisal*, Dordrecht 1979, 169-194; E.D. PELLEGRINO, «The Healing Relationship: The Architectonics of Clinical Medicine», in E. SHELPI, ed., *The Clinical Encounter. The Moral Fabric of the Patient-Physician Relationship*, Dordrecht 1983, 153-172.

patho-physiology of disease, the medical act can be fully understood only hermeneutically, as Gadamer suggests, through an act of interpretation that takes place within the sociological, cultural, and ideological matrix of a defined life-world. For this reason, medicine represents a peculiar unity of theoretical *and* practical knowledge within the domain of the modern sciences, «a peculiar kind of practical science for which modern thought no longer possesses an adequate concept»¹⁴.

My point here should not be misconstrued. Careful scientific attention to the patho-physiology of disease, together with ever more extensive bio-technological applications, has certainly yielded marvelous advances in modern medicine¹⁵. Yet, its positivist reduction has also created a mind-set that brackets questions of meaning, themselves highly significant to human well-being and to the ethical aspects of medicine. The judgment of Edmund Husserl, while summarizing the development of modern sciences, offers at the same time a prophetic anticipation of the predicament of contemporary medicine:

The exclusiveness with which the total world-view of modern man lets itself be determined by the positive sciences and be blinded by the “prosperity” they produced, meant an indifferent turning away from the questions which are decisive for genuine humanity. Fact-minded science excludes in principle precisely the questions which man finds the most burning: questions of the meaning or meaninglessness of the whole of human existence¹⁶.

The central task of ethics in medicine is to foster an *anamnesis* of the very questions medicine seems to bracket: the significance of illness and disease, of our human condition as embodied, of birth, suffering and death, and of the service to the ethos of generosity that sustains the healing professions. Ethics searches for a matrix of meaning supportive of human endeavor. Such matrix is not entirely constructed, even when it is the product of active investment on our part. Meaning can only be envisioned and recognized, and this in order to guide our projects towards their final goal. Would there be a hope of fulfilment at the end of our *praxis*, without a promise of meaning at the roots of our original constitution? The point is more Platonic than Aristotelean, for it calls for an archeology of the good as grounding any hope of teleological completion¹⁷. Therefore, the question of our attentiveness to what is *given* to

¹⁴ H.G. GADAMER, *The Enigma of Health* (cf. nt. 11), 39.

¹⁵ L. KASS, *Life, Liberty, and the Defense of Dignity* (cf. nt. 7), 29-53.

¹⁶ E. HUSSERL, *The Crisis of European Sciences*, trans. David Carr, Evanston 1970, 5-6; orig. German, *Die Krisis der europäischen Wissenschaften und die transzendente Phänomenologie. Eine Einleitung in die phänomenologische Philosophie*, Haag 1962².

¹⁷ On the archeological nature of the good implied by a metaxological metaphysics, see William Desmond: «The metaxological turns to the otherness of the origin, for the beginning intimates the overdetermination of the good [...] this overdeterminate good is an agapeic good:

us becomes paramount, in fact, more wondrous than any of our constructed achievements. We build for ourselves a «brave new world», whether technologically or scientifically defined, but how grateful is our new *Gestell* to the home that birthed us, and within which we ultimately dwell?¹⁸ Do we not run the risk of fashioning for ourselves a second ethos, without any connection to the primal ethos of life? As Desmond suggests:

We are rooted in nature, but we risk denaturing ourselves in claiming to make ourselves according to a second nature. The second nature is not a second “yes,” a redoubled “yes” to the first “yes” at work in the *poiesis* of naturing and our *passio*. More often, it is a “yes” to a *conatus* that has deviated from the subtle insinuations of the now sunken matrix of fecundity¹⁹.

I want to show how such a «transvaluation»²⁰ emerges with respect to two issues, which are on the forefront of our public discussions today: the ethics of dying well, and the morality of artificial reproductive technologies.

III. THE «GOOD DEATH»: ENDEAVORING TO BE AND LETTING GO

It is not easy to add entirely new perspectives to the vast bioethics literature that has emerged, over the years, on the ethics of dying well²¹. The passing of «aid-in-dying» laws in several states, whether defined by statutes, or as a result of popular referenda, simply stokes a fire that was never really extin-

out of its surplus it communicates», W. DESMOND, *Ethics and the Between* (cf. nt. 1), 1-4, at 9. For a comment on Desmond's overall position, see C. O'REGAN, «The Poetics of Eros: William Desmond's Poetic Reconfiguration of Plato», in *Ethical Perspectives: Journal of the European Ethics Network* 8 (2001) 272-302. For Levinas too, the Platonic vision of the good makes possible the exteriority of the Other as an irreducible moment of de-totalization. See E. LEVINAS, *Totality and Infinity. An Essay in Exteriority*, trans. Alphonso Lingis, Pittsburg 1969; orig. French, *Totalité et infini. Essai sur l'extériorité*, La Haye 1961.

¹⁸ The reference is to Heidegger's notion of «framework» in «The Question Concerning Technology». See M. HEIDEGGER, *The Question Concerning Technology and Other Essays*, trans. William Lovitt, New York 1977, esp. 14-17; orig. German, *Die Frage nach der Technik*, 1954.

¹⁹ W. DESMOND, *The Intimate Universal* (cf. nt. 1), 327.

²⁰ The language is appropriately Nietzschean (*Umwertung der Werte*), if the construction in question is, ultimately, an expression of will to power.

²¹ For the philosophical articulation of the main bioethical issues, e.g., the distinction between assisted suicide and euthanasia, the problem of causation and the moral relevance of the distinction between killing and letting die, intention and foresight, and the entire question of the principle of double effect, see T.L. BEAUCHAMP, ed., *Intending Death: The Ethics of Assisted Suicide and Euthanasia*, Upper Saddle River 1995. Recently, with particular reference to the European experience, D.A. JONES – al., *Euthanasia and Assisted Suicide. Lessons from Belgium*, Cambridge 2017.

guished, only kept alive under the embers of previously defined conceptual systematizations by new publicized cases of requests for «assistance» in dying²². California is only the latest story, for sure, not the last one. What is at stake in the conversation is the problem of articulating the conditions for a *good death* – and more specifically, for a good death when faced with the vulnerability of old age, terminal disease, and unbearable suffering. Such a task remains quite formidable both in relation to its philosophical foundations, as well as with reference to the analysis of specific ethical quandaries²³.

The discussion about the ethics of dying centers on the resources of a restricted language game, defined by the conditions for a control of death²⁴. At the heart of the reflection is the use of medical technology, of the medical power to prolong life. Such power has pushed the limits of our technical possibilities, creating an imbalance between what *can* and what *should* be done, thus leading to the question of the quality of life endorsed or maintained by a particular treatment. To use the distinction made famous by philosopher James Rachels, there is a difference between «being alive» and «having a life»²⁵. But how to decide on the boundary between the two? If «having a life» depends on a perspective of value regarding what renders life livable or worth living, do we end up in the trap of a subjectivism that dispenses with all criteria? Moreover, how to reconstruct an objectivity that obtains for the medical act itself, beyond two equally false alternatives: either turning medicine into a function of patient's individual preferences, or reducing it to maintenance of purely biological mechanisms. In the former case, the *lex suprema* of the medical act is conflated with what the patient wants (*voluntas aegroti*); in the latter, the well-being of the patient (*salus aegroti*) is confused with stubborn insistence on the biological functioning of individual organs. In both cases medicine los-

²² For a recent overview of the legal landscape, J. KEOWN, «Legal Issues at the End of Life», in I. CARRASCO DE PAULA – R. PEGORARO, ed., *Ageing and Disability*, Rome 2014, 203-213. More broadly on theoretical questions concerning public policy, especially with respect to the legal principle of the inviolability (sanctity) of human life, J. KEOWN, *The Law and Ethics of Medicine*, Oxford 2012, and J. KEOWN, *Euthanasia, Ethics and Public Policy*, Cambridge 2016².

²³ For an analysis of dying well in relation to the larger spectrum of anthropological and ethical issues concerning ageing and disability, see M.-J. THIELS, ed., *Ethical Challenges of Ageing*, London 2012. Also I. CARRASCO DE PAULA – R. PEGORARO, ed., *Ageing and Disability* (cf. nt. 22), and I. CARRASCO DE PAULA – R. PEGORARO, ed., *Assisting the Elderly and Palliative Care*, Rome 2015.

²⁴ For a historical analysis, which highlights the particularity of our contemporary attitude toward death, see the classic works of P. ARIÈS, *Western Attitudes toward Death: From the Middle Ages to the Present*, Baltimore 1974; orig. French, *Essais sur l'histoire de la mort en Occident, du moyen âge à nous jour*, Paris 1975; and P. ARIÈS, *Images of Man and Death*, Cambridge (MA.) 1985; orig. French, *Images de l'homme devant la mort*, Paris 1982.

²⁵ J. RACHEL, *The End of Life: Euthanasia and Morality*, New York 1986.

es sight of its ultimate end, namely, the integral good of the patient²⁶.

The debate on the good death – and thus on the normativity of dying – seems paradoxical, in that it unfolds on the premise of a suspension, a bracketing placed on the meaning of death. One often speaks of the ethics of dying, of «dying well», but without always knowing in relation to what. Bioethics claims to provide normative criteria. It does so, however, on the presupposition of suspending any symbolic horizon capable of saying what death *is*, what it represents for the person. Of course, one cannot but be pleasantly impressed by the formal elegance and analytical consistency with which the moral principles of a presumed common morality, logically shared by all rational agents, are put into play, when faced with the most complicated ethical conflicts²⁷. So called «principlism», with its mantra of beneficence, non-maleficence, autonomy, and justice, in turn specified by the rules of proportionality, informed consent, etc., might constitute a helpful point of reference when tackling the many conflicts faced by health professionals, patients and their families, in the different clinical settings. Yet, when ethical «principles» and «rules» are employed mechanically, as if in a kind of a priori framework, such elegant bioethical theory looks more like a game without any grasp on reality. In this version of ethics, «substantial» rationality gives way to «formal» rationality, reflection on ethical content dissolves in sheer proceduralism²⁸.

How could such an approach provide recommendations toward a truly good and dignified death? What if ethical formalism were to betray, in the end, a lack of any points of reference, if not resentment, as Nietzsche might suggest, when faced with the void of sense? Morality, in this case the morality of a

²⁶ At stake in the discussion is the viability of the foundational principle of Hippocratic medical ethics, i.e., beneficence, in its relation to patient's autonomy. For a classical, and still very valuable, articulation of the questions, see E.D. PELLEGRINO – D.C. THOMASMA, *For the Patient's Good: The Restoration of Beneficence in Health Care*, New York 1988.

²⁷ T.L. BEAUCHAMP – J.F. CHILDRESS, *Principles of Biomedical Ethics* (cf. nt. 6). The approach in question, known as «principlism», has been the subject of sharp criticism in the debate over the method of bioethics, both in the United States as well as in Europe. See, E.R. DUBOSE – *al.*, ed., *A Matter of Principles? Ferments in U.S. Bioethics*, Valley Forge 1994; H. TEN HAVE, «Approcci europei all'etica della medicina clinica», in C. VIAFORA, ed., *Comitati etici. Una proposta bioetica per il mondo sanitario*, Padova 1995, 91-118; G. KHUSHF, ed., *Handbook of Bioethics. Taking Stock of the Field from a Philosophical Perspective*, Dordrecht 2004.

²⁸ For a criticism of bioethics as a purely secular field of investigation, autonomous with respect to any moral substantial premise of content, therefore, as a purely formal endeavor, see J.H. EVANS, *Playing God? Human Genetic Engineering and the Rationalization of Public Bioethical Debate*, Chicago 2002. The analysis of Evans, which turns on Max Weber's distinction mentioned above between formal and substantial rationality, refers to the discussion on genetics and genetic research. Nevertheless, in its basic meaning, it could apply to the entire field of bioethics, as it has developed in the United States. For a more generous account of the history of bioethics as public discourse, see A.R. JONSEN, *The Birth of Bioethics* (cf. nt. 4), 352-376.

good death, would only be smoke and mirrors, a nihilistic enchantment. How can we leave unaddressed the existential aspects of death and dying considered in their experiential value, that is, as dimensions of our journeying (*expe-rior*) toward the end? Likewise, how to pass over in silence those dimensions that speak to the trial (*peiros*) entailed by the agony of passing, the physical pain, the loneliness of suffering?

A good death cannot be envisaged as anything but the fulfillment of a good life, and this with reference to a life that will inevitably age. Death will be considered good when it succeeds in expressing the meaning of living, understood as living well. That living well can and must end, at times even tragically, and why – these are questions that do not belong to the discipline of ethics per se. Yet ethics cannot even begin to reflect on its proper criteria if not because it lets itself be challenged by the existential perplexity such questions entail. I believe such questions have a metaphysical quality to them: they interrogate our attitude toward being as such, and to the meaning of things²⁹.

I find Desmond's distinction between *conatus* and *passio* helpful in this context³⁰. *Conatus essendi* is a way of standing before things defined by the endeavor, the effort to be. We do not choose such a posture. We are already endowed with it by virtue of our relation to the world, though such posture may take up a certain primacy on account of our emphasis on doing or acting. The *conatus* is the defining posture of modernity, in whose larger narrative the «effort to be» makes the appearing of things conditional upon a subjectivity that posits and determines. Being *is* insofar as it responds to the (transcendental) forms of its apperception by a subject that measures and rules any phenomenonic presence³¹. Such a posture has obvious epistemological importance, which Descartes and Kant will fully unpack. Given the ambiguity that marks the appearing of things -- thus the doubt about them, the *cogito* tries to recover an irrefutable certainty, starting no longer from the promise of meaning that inhabits reality, but from the subjective certainty that defines the very act of thinking. Such act must necessarily presuppose – and beyond all doubts no less – the existence of the *cogito* who thinks. In this way, however, one sees

²⁹ Thus, von Hildebrand, commenting on Pascal (*Pensées*, VI, Frag. 347) writes: «And so (Pascal) alludes to in a singular manner the contradictory nature of the metaphysical situation of mankind, in part due to the fallenness of life, yet also to the ineffable survival of his personal condition after death», D. VON HILDEBRAND, *Über den Tod*, St. Ottilien 1980, 33.

³⁰ The distinction is central throughout *The Intimate Universal*, but see also W. DESMOND, «Pluralism, Truthfulness, and the Patience of Being», in C. TAYLOR – R. DELL'ORO, ed., *Health and Human Flourishing. Religion, Medicine, and Moral Anthropology*, Washington (DC) 2006, 53-68. The distinction can be properly understood only in light of the complete work of Desmond. For a study of Desmond's thought, see T. KELLY, ed., *Between System and Poetics: William Desmond and Philosophy after Dialectic*, Burlington 2007.

³¹ W. DESMOND, *Ethics and the Between* (cf. nt. 1), 17-47.

a shift, a «Copernican revolution» in the relation of subject and object, and, moreover, in the priority of the former over the latter.

This «anthropological turning point» entails important cultural consequences, and conditions our way of thinking about nature. We no longer «undergo» nature, so to speak, but actively shape it according to heuristic models, which, reducing nature's complexity to mathematical univocity, enables us to describe and empirically verify it. For sure, the book of nature has much to say still, but will do so because the «spectator scientist» sets the conditions to prevent its hiding, thus forcing nature to yield its secrets, as Galileo suggests in *Il Saggiatore*³². All this presupposes a neutralization of being to *mathesis universalis*. One thinks of the meaning of such neutralization with respect to the distinction between primary and secondary qualities, or the Cartesian reduction of the human body to *res extensa*, now become a mechanism separate from the mind. If true reality can only be rendered in mathematical terms, then it is imperative to bring the unverifiable *pathos* of things back to the dianoetic precision of scientific formulae. This holds true also for the subject, whose emotional complexity will have to be reduced, now, to the act of «thinking clearly and distinctly». In the words of Spinoza: «*non ridere, non lugere, neque detestari, sed intelligere*»³³.

So much for the epistemological significance of the *conatus*, whose implications, however, extend to ethics, and, more specifically, to the ethics of dying. I would say the following: the subject who fashions reality also grants value to it. This is so because the neutralization of being, with respect to the object, entails something like a rebound effect, a kind of «contraction of value» – especially with Kant – in favor of the subject. Only the person possesses an intrinsic value: as a good in-itself, it is never to be treated as a means, only as an end. Unlike nature, understood now as phenomenal field open to endless manipulation, the person is not neutral; rather, being the source of absolute meaning, it becomes the condition for the very possibility of meaning's attribution. But, as William Desmond points out:

³² «Nature loves to hide» had said Heraclitus, but the modern gaze is more akin to an act of unveiling. The forcing of nature also signals the end of teleology: *Naturam finem nullum sibi praefixum habere, et omnes causas finales nihil nisi humana esse figment* («Nature has no fixed goal and all final causes are but figments of the human imagination»), B. SPINOZA, *Ethics*, trans. Samuel Shirley, Indianapolis 1992, 59.

³³ B. SPINOZA, *Theological-Political Treatise*, trans. Samuel Shirley, Indianapolis 2001) 1, 4. Nietzsche correctly interprets the spirit of Spinoza's quotation when he says: «What does knowing mean? *Non ridere, non lugere, neque detestari, sed intelligere!* says Spinoza, so simply and sublimely, as is his wont. Nevertheless, what else is this *intelligere* ultimately, but just the form in which the three other things become perceptible to us all at once?», *The Gay Science* (cf. nt. 3), Book IV, n. 333 «What Does Knowing Mean?», 261.

Here is the sting. The subject cannot live with this devaluation of otherness, and even less with the devaluing of its own valuing. It will not be passive to this. It will be active. The subjectification of value inevitably leads to the primacy of self-activity that impresses itself on the other... We witness the recoil of the subject on itself out of the hiding of neutrality it had schemed for itself. There is no escape from itself, but now when it awakens again to itself, it has been transformed into a more *radically self-assertive subjectivity*³⁴.

In this paradigm, the good death is the *humanized* death, death lived as chosen, not as undergone or endured. «Choosing death» is to determine it, the way our choice determines the theoretical models that grant access to reality as such. To be «the measure of all things» is to be greater than death. Thus, the latter will be neutralized, if not in its inevitability of fact that inexorably happens, at least, in its dramatic quality of experience to be resisted³⁵. The effort to be, the *conatus essendi*, is a struggle against death, the attempt to indefinitely postpone it, or else, to anticipate it «rationally», as in the case of euthanasia or assisted suicide. Absolute passivity is not worthy of man.

This paradigm is not without important emphases. The efforts to humanize death, above all through the contributions of medical and scientific research that aim at the treatment and management of pain, are essential part of our modern way of relating to death. An inhumane and dehumanizing death cannot be good. Yet, this paradigm contains also the seeds of a possible degeneration. It risks thinking of a «good death» according to the logic of scientific-technological control and neutralizing planning, which, in the paradigm of modernity, renders a life worth living. The truth is another: we can prolong life, eliminating from it all pain and suffering, but will never succeed in «managing death». Death will always come, an unexpected surprise and an expression of the heteronomy of nature, even more striking now, because it seems to contradict the autonomy by which we attempt to completely define ourselves. The separation, the dualism of person and nature, constitutes the condition of possibility for controlling death, but it can also lead to conflicting results: a technological effort that de-personalizes nature; or a will to power that de-naturalizes the person, reducing it to self-determining rationality. The *epoche* on any search for the meaning of death is the inevitable result of both these developments, stemming from the same root.

³⁴ W. DESMOND, *Ethics and the Between* (cf. nt. 1), 29 (emphasis in the original).

³⁵ According to Leo Scheffczyk, this is the final outcome of Heidegger's reflection, which, if on the one hand, recognizes death in its inevitability of fact that occurs, on the other, tends to overcome it «trans-subjectively». See L. SCHEFFCZYK, «Die Phänomenologie des Todes bei Dietrich von Hildebrand und die neuere Eschatologie», in J. SEIFERT, ed., *Truth and Value: The Philosophy of Dietrich von Hildebrand*, Bern 1992, 271. Heidegger's effectual history, however, has been important with respect to theological reinterpretations. For an example, K. RAHNER, *On the Theology of Death*, New York 1961; and L. BOROS, *The Moment of Truth. Mystrium Mortis*, London 1969.

I ask: what if something else companioned, more originally (*co-natus*), the vector of intentionality that drives our own effort and strive for control? What if a more radical openness, perhaps even intimacy, to reality sustained our θαυμάζειν, the astonishment at the fact that being *is*, when it could also *not* be. In wonder, we take up our residence in the between, attuned to the saturation of meaning that dwells in things, in *their* value, and in whose hospitality we build a world for ourselves³⁶. The *conatus essendi* can only be a derivation, of course possible and legitimate, of a more original *passio essendi*, of an undergoing (*passio*) that also becomes a «passion» for being. With respect to the previous paradigm, the *passio essendi* bears with it the recognition that we are not the origin of meaning. Only because originated, can we attribute meaning to things, and do so on the condition of a previous attunement (Heidegger's *Stimmung*) to the promise of meaning that already inhabits things. In this paradigm, there is no separation between being and value, fact and meaning, for being is, intrinsically, promising and valid, good and beautiful. Of course, we produce and make, search and fashion, yet do all this without bracketing the charged sensuousness of the world in which we dwell. Our activity perfects nature, it acknowledges in being a reserve of meaning to make our own and bring to fulfillment. The receptivity at work in this is clearly not a form of passivity either, for it is to a consciousness and to its active intentionality that the meaning of things discloses itself. And yet, the activity of consciousness rests on the inexhaustible mystery of things (with a bow to Gabriel Marcel), on their endless and never to be reduced profundity, which makes itself known, because it opens itself up, because it reveals itself. In this perspective, our relation to being is a relation of trust, rather than doubt, of promising proximity, rather than distancing suspicion. With respect to freedom, we come to recognize that its task is indeed to do and build, to fashion the world, but only because, prior to this, the world was «let be». Thus, the task of freedom is essentially «responsorial», in fact, a responsibility, beyond the autonomy that finds fulfilment in will to power, seized at another's expense. It is, rather, a freedom that lets things be, in the generosity of love and giving³⁷.

³⁶ The turn to «givenness» is, of course, central for phenomenologically inspired thinking. This goes beyond differences among phenomenological schools, whether «realistic» or «transcendentally» defined. For an example of the former, see the beautiful book of E. KOHAK, *The Embers and the Stars: A Philosophical Inquiry into the Moral Sense of Nature*, Chicago – London 1984. Marion's position is an attempt to overcome the dichotomy in question on the basis of a reversal of the transcendental position itself, in which intuition exceeds intentionality. Before coming to itself as self-determining, the subject is already called into reciprocity, already «appealed to». See J. L. Marion's essay on «The Saturated Phenomenon», in J.L. MARION, *The Visible and the Revealed*, trans. Christina M. Gschwandtner and others, New York 2008, 18-48; orig. French, *Le visible et le révélé*, Paris 2005.

³⁷ This inevitably entails a de-mystification of the modern ideal of autonomy, a recognition

The relation to death unfolds within this context, and according to the same logic. The humanization of death will be possible on the condition that death be accepted, not suppressed or censured. Death is, after all, part of the human experience, an event whose significance cannot be anticipated; a disclosure, in fact, a total revelation of meaning, both promising and significant³⁸. The «passivity» implied by death is, therefore, an expression of the more general receptivity of life: «There is a passivity without which man could not be man. Part of the reason for this is the fact we were born, that we were given-birth-to. Here there follows the fact that we are loved. So, too, is the fact that we die»³⁹.

The acceptance of death is still bound to an act of preparation on our part, one that opens up for us a space of creativity. We all die, yet, we face death *differently*. In the same way in which life requires its own special art, accomplished daily in the cultivation of virtues, so, too, does death require a kind of art, the *ars moriendi*. Death is a threshold toward which we journey together, as if in pilgrimage, comforted by prayer⁴⁰. In a Christian framework, death is, at bottom, an eschatological event, one which belongs to the personal

that, in the long run, Kantian autonomy degenerates into will to power, as in Nietzsche. On this reading, see already R. GUARDINI, *Das Ende der Neuzeit. Ein Versuch zur Orientierung*, Würzburg 1951, and H. DE LUBAC, *Le drame de l'humanisme athée*, Paris 1945. For a different, more positive interpretation of modernity, with respect to the ideal of autonomy and its possible Christian reinterpretation, see J. SCHWARTLAENDER, ed., *Modernes Freiheitsethos und christlicher Glaube*, München 1981, especially the contributions of Schwartländer, Honecker, Kasper, and Böckle.

³⁸ From a Christian point of view, this acceptance concerns both suffering and death, and yet not in the sense of a masochistic passivity. Klaus Demmer writes: «In the end, the Christian faith is anything but an ideology of suffering. Even for the Christian, suffering does not possess value in and of itself, and therefore it is never sought for its own sake. Rather, one accepts it, almost as an anticipation of death, which, too, must be accepted», K. DEMMER, *Leben in Menschenhand. Grundlagen des bioethischen Gespräch*, Freiburg 1987, 146. On the topic of suffering, see the reflections of M. SCHELER, «The Meaning of Suffering», in M.S. FRINGS, ed., *Max Scheler (1874-1928): Centennial Essays*, The Hague 1974, 121-163. From a theological perspective, see D. SOELLE, *Leiden. Annehmen und widerstehen*, Freiburg 1973.

³⁹ E. JÜNGEL, *Death: The Riddle and the Mystery*, London 1975, 85. The point is also made by Levinas, deserving of broader exegetical attention and interpretive articulation, well beyond the limits of a single quotation. Still, here is one, as a *donne à penser*: «[...] the subjectivity of the subject, its very psyche, (is) a possibility of inspiration. It is the possibility of being the author of what has been breathed in unbeknownst to me, of having received, one knows not from where, that of which I am the author. In the responsibility for the other we are at the heart of the ambiguity of inspiration», E. LEVINAS, *Otherwise Than Being or Beyond Essence*, trans. Alphonso Lingis, Pittsburg 1998, 148-149; orig. French, *Autrement qu'être ou au-delà de l'essence*, La Haye 1974. «Inspiration» is existing «through the other and for the other, but without this being alienation», E. LEVINAS, *Otherwise Than Being* (cf. nt. 39), 114-115.

⁴⁰ On prayer as a dimension of the *ars moriendi*, see W. REICH, «L'arte del prendersi cura del morente», *Itinerarium* 4 (1996) 31-43.

narrative of each and every human being, yet also points to a trans-historical fulfillment, to definitive communion with God beyond the limits of history: «Birth and death are thresholds and transitions, and as the radical transition of birth is creation, the radical transition of death may not be nothing, but resurrection»⁴¹.

My reflections, at this point, would have to become more attentive to the particularity of cases and situations, thus letting anthropological considerations merge more smoothly into the ethical. The passage is not without difficulties, the logical pitfall implicated by the so called naturalistic fallacy being only one of the potential missteps. A more daunting task consists, in my opinion, in the difficulty to articulate a nimble casuistry, which takes into account nuances of contexts and diversity of clinical situations. Though a universal experience, death reserves for each of us a more intimate invitation. To prepare for the ultimate journey, we must face *the fact* that we die alone⁴², even when surrounded by others, given over, in the most radical way, to the mystery of our own singularity⁴³. For example, the condition of patients who lost their autonomy to cognitive disability will impose ethical challenges that are different from those of patients who never possessed such discretionary autonomy. Likewise, we will have to distinguish criteria defined by substituted judgment standards from those based on rules of beneficence or non-maleficence, as in the case of best interest assessments by surrogate decision makers. Such a detailed casuistry will have to find more adequate treatment elsewhere. What is relevant, in this context, is the realization that the ethical quality of one's death depends on embracing, rather than rejecting, the inevitable passivity entailed by life's ontological condition. Such condition is not chosen, but given, all the accomplishments of our own making notwithstanding.

Consider the anticipation of treatment decisions in advance directives. In the materiality of the «letter», one such document may betray a different attitude of «spirit»: the acceptance of death, in the logic of the *passio essendi*, or the other, more desperate effort, indeed the *conatus*, to deny it. In articulating our personal preferences for this or that treatment, we might only exorcise our fears, reassuring ourselves that in managing its terminal phases, we'll grant the mute alterity of death a face we can at least recognize. Let there be silence after that: if something more is to be had, it will be according to our own

⁴¹ W. DESMOND, *The Intimate Universal* (cf. nt. 1), 363.

⁴² Is this something analogous to a Kantian *Faktum der Vernunft*? In which case, the facticity of death would be the ultimate test confronting our freedom, now, no longer a freedom of choice, only a freedom to let go.

⁴³ There is also an ethical singularity that is thrown into relief by the ontological singularity in question. On this, already K. RAHNER, «On the Question of a Formal Existential Ethics», *Theological Investigations*, II, Baltimore 1961, 217-234.

measure, beyond all feelings of dependence, and without surrendering to any kind of heteronomy, such as the one imposed by a treatment we do not want⁴⁴.

I am not rejecting the preparation of advance directives, only the potential abstractness that might accompany their drafting, when such *preparatio mortis* bespeaks an exercise of freedom that stubbornly decides and plans⁴⁵. Still, death will come to us in a future that is *ad-ventus*, both indeterminate and indeterminable. In trusting abandonment, death must be let happen, for we cannot escape it. In this light, the attempt to control death can become a paradox, especially when we fail to see how the scrupulous articulation of our directives, for an example, in relation to treatment decisions, points more to the radical alterity of death, than to our presumed capacity to domesticate it. Of course, we can clearly state what we want, even with a document that possesses the power of binding others to our wishes; yet, it will always be *others* who are charged with the task of respecting our desires and carrying them out: *their* decision will be, eventually, beyond *our* control.

I think of this paradox with regard to «aid in dying». The request for assisted suicide, now legal in eight jurisdictions in the U.S., will be heralded as an instance of self-determination, and in the name of a «death with dignity». And yet, while asserting their own autonomy for the last time, patients who choose to die must still abandon themselves to someone else, who, providing the lethal cocktail, does for them what they can no longer do on their own⁴⁶. It is clear that, if the language of dying, even in the ethically exemplary case of filling out advance directives, is articulated by the patient against the backdrop of an *epoche* on the true meaning of death, the doctor and the healthcare personnel, in turn, cannot but share this «conspiracy of silence», in which that which cannot be spoken about, will inevitably be passed over in silence⁴⁷. Of course, doctors will have their own reasons for resisting talking about death

⁴⁴ On the ethical challenges of surrogate decision making, see A.E. BUCHANAN – D.W. BROCK, *Deciding for Others. The Ethics of Surrogate Decision Making*, Cambridge 1990.

⁴⁵ Relying upon Dietrich Bonhöffer's distinction between «resistance» and «surrender», see P. CATTORINI, «Tra resistenza e accettazione: indicazioni etiche per superare accanimento vitalistico ed eutanasia», in P. BENCIOINI – C. VIAFORA, ed., *Etica e cure palliative. La fase terminale*, Roma 1998, 77-87. For a physician's narrative of care of patients at the end of life, specifically from the perspective of palliative care, see I. BYOCK, *The Best Care Possible: A Physician's Quest to Transform Care Through the End of Life*, New York 2012.

⁴⁶ Michel Maret defines euthanasia as «the paradoxical figure of autonomy». See M. MARET, *L'euthanasie. Alternative sociale et enjeux pour l'éthique chrétienne*, Paris 2000, 71-100. For an articulation, both anthropological and theological, of the dialectic of activity and passivity in dying see K. DEMMER, «Handeln als Einüben des Sterbens. Ein Kapitel theologischer Anthropologie», in A. HOLDEREGGER, ed., *Das medizinisch assistierte Sterben. Zur Sterbehilfe aus medizinischer, ethischer, juristischer und theologischer Sicht*, Freiburg 1999, 175-191.

⁴⁷ J. KATZ, *The Silent World of Doctor and Patient*, Baltimore, 2002.

with their patients, and will express their will to power in their very unique way. For an example, by hiding themselves behind the technological imperative to fight death until the end, by opting for an aggressive treatment that has become futile, or by stirring up for patients and their families an impossible hope of recovery, which is but a mask of fear, the doctors', no less⁴⁸. The bracketing of the reality of death, as well as the privatization of the criteria for dying, renders any solidarity with the dying impossible: the last word in this predicament can only be the loneliness of the dying⁴⁹.

IV. ASSISTED REPRODUCTION AND THE EXPLOITATION OF THE BODY

The discussion on questions of assisted reproductive technologies provides a second example⁵⁰. A look at the cultural context in such technologies have developed shows quite clearly that their evolution has led to nothing less than a deconstruction of procreation. From an integral experience of human relationality, endowed with specific phenomenological characteristics, procreation has now been reduced to reproduction, a process of technical making, guided by the logic of calculative rationality. Such a deconstruction, subtle as it may be, entails also a redefinition: not only of parenthood, but of human identity *tout court*. Though originally born of a commitment to the alleviation of infertility, artificial reproductive technologies have progressively surpassed, if not abandoned, their original therapeutic intent, taking on, rather, unquestionable eugenic features. The search for a remedy to pathological conditions in both women and men has morphed into the search for the perfect progeny, a development in line with the logic of neutralizing commodification pursued by the market: like things, gametes, embryos, the wombs of women, and so children also, have now a price, rather than a dignity. In the end, artificial reproductive technologies have revolutionized the dynamics driving the appropriation of

⁴⁸ For an empirical analysis of the relation between doctor and patient with respect to death, see the instructive study of K.K. CURTIS – M.G. MCGEE, «An Overview of Physician Attitudes toward Death and Dying: History, Factors, and Implications for Medical Education», *Illness, Crisis, and Loss* 8 (2000) 341-349.

⁴⁹ N. ELIAS, *The Loneliness of the Dying*, New York 2001.

⁵⁰ See the useful articulation of the various ethical issues, together with a very substantial bibliography, in the 2004 Report of the President's Council of Bioethics, *Reproduction and Responsibility: The Regulation of New Biotechnologies* (available at https://bioethicsarchive.georgetown.edu/pcbe/reports/reproductionandresponsibility/exec_summary.pdf). Also M. WARNOCK, *Making Babies: Is there a Right to Have Children?*, New York 2002. More recently, S. WILKINSON, *Choosing Tomorrow's Children: The Ethics of Selective Reproduction*, Oxford 2010. For an analysis attentive to anthropological and theological dimensions, see P. LAURITZEN, *Pursuing Parenthood: Ethical Issues in Assisted Reproduction*, Bloomington 1993.

personal identity, the bond between generations, and the meaning of the historical links that tie them together.

The discussion about artificial reproductive technologies does not take place in a vacuum. It is nourished by recessive premises. Consider, among others, the question of embodiment, a topic that hardly surfaces as relevant in contemporary bioethics. The focus on normative dimensions, already found as dominant in the conversation about end of life issues highlighted above, tends to push to the side premises of a deeper philosophical nature, unquestionably central to any ethical reflection⁵¹. Thus, what one encounters as serious suggestions for policy proposals on artificial reproductive technologies do fly in the face of elementary considerations about our embodied condition; as such, they hardly withstand even the lowest bar of philosophical justification. Take as an example the proposal submitted by the international committee on artificial reproductive technologies of the World Health Organization, in October of 2016. The proposal in question would change the WHO's previous definitions of infertility and disability, to now include single women and men who are unable to have children due not only to a medical condition, but also to either the inability to find a suitable sexual partner, or the lack of a sexual relationship that might bring about conception. What this means is that, under the new definition, the WHO would deem single men and women as equally infertile and disabled as heterosexual couples unable to conceive a child on account of a recognized medical pathology. Subsequently, their condition of infertility will count as «disability». As a disability, it should deserve, so goes the argument, publicly-funded provisions of reproductive technologies, including gamete donation and surrogacy.

A more serious example is the case recently publicized in the American news, concerning the Food and Drug Administration (FDA) approval of an *in vitro* fertilization technique, which uses DNA from three people in an attempt to prevent certain illnesses, like muscular dystrophy and respiratory problems⁵². The United Kingdom's fertility regulator, the *Human Fertilization and Embryo Authority*, already changed its own laws, in December 2016, to permit the procedure. And last January 2017, the announcement came from Ukraine, that a child had been successfully produced with such mitochondrial transfer technique. Most commentators, especially scientists and doctors, welcome the advent of yet another technological fix to a congenital predisposition with an attitude of unquestionable awe. On the other hand, the more critically minded, among them ethicists, are willing to grant that some moral problems

⁵¹ On the predicament of contemporary bioethics, and the need for anthropological integration see C. TAYLOR – R. DELL'ORO, ed., *Health and Human Flourishing* (cf. nt. 30).

⁵² See K. TINGLEY, «The Brave New World of Three-Parent I.V.F.», *The New York Times*, June 27, 2014.

for this «three parent baby» solution do exist after all: doubts about safety are raised, together with the fear of unforeseen eugenic slippery slopes. Strangely passed over in silence, though, remains the most obvious question, «whose child will this baby be»?

Of course, experts are quick to rebut this preoccupation as scientifically naïve, if not totally unfounded: they reassure the concerned public that because the female donor of healthy mitochondrial DNA to the defective biological mother provides, in the end, a very negligible genetic contribution, she should not be described appropriately as a «parent». However, when considered from another angle, namely, that of the personal identity of a child thus produced, the question «whose child will this baby be»? comes to the fore as actually very serious.

This is so because personal identity is now imperiled by what I would call «an ambiguity of belonging»: for the child so produced, the embodied matrix of traceable biological debts represents more an opportunity for doubt, than a condition for self-identification. Lack of evidence about one's distinct genetic lineage may turn the trust in the source that gives to be, under normal circumstances the synergy of two genomes, into puzzlement about one's own origin and identity⁵³.

Examples could be multiplied *ad infinitum*. Like others, the two I mentioned cannot fail to raise concerns. At stake are recessive premises about the body, embodiment, and the «embodied self» that drive these technologies in the first place, and, more in general, our understanding of medicine's goals. Furthermore, the development of artificial reproductive technologies, especially in their most extreme expressions, stands squarely within the legacy of a dualistic anthropology, itself resting upon the broader attitude toward being previously portrayed. Anthropology always reflects a specific view of metaphysics, of what does it mean «to be», and the mechanization of the body brought about by modernity will be better understood, when seen within the horizon of the more general neutralization of reality modernity inaugurates⁵⁴. As neutral, the natural order has no language of its own, no deeper message to convey to an observer willing to see, or to listen. This is so because a deep perplexity has now replaced the ancient wonder about the inherent value of being, more, about the inherent goodness of being. In this view, the subject

⁵³ For a stimulating analysis of the way in which biotechnology redefines embodiment, see M.J. THIEL, «La corporéité face à la maladie et la mort», in S. MÜLLER – *al.*, *Exploring the Boundaries of Bodyliness. Theological and Interdisciplinary Approaches to the Human Condition*, Göttingen 2013, 1-13.

⁵⁴ On this R. DELL'ORO, «Embodiment as Saturated Phenomenon: Medicine, Theology, and Some Metaphysical Premises of Modernity», *International Journal of Philosophy and Theology* 2 (2014) 69-84.

has become the *only* source of value in an ethical sense: the good is not, as in the classical definition, «what everyone wants» (*bonum est quod omnes appetunt*); rather, what we want, we call the good (so Hobbes and our contemporary versions of moral contractualism inspired by him). Whether responding to the necessity of a rational ordering of duty, as in the Kantian version of autonomy, or the maximization of value in a network of effective powers, as in the calculative prudence of utilitarian rationality, the moral self of modernity emerges in its absolute centrality. Moreover, the moral self stands before the good as a dis-embodied self, auto-nomous because separated not only from what it sees as the heteronomy of nature, including that of the body, but also from the heteronomy of larger claims to social solidarity, as in the various versions of individual liberalism. The modern self, as Alasdair McIntyre and Charles Taylor have so eloquently highlighted, is, in the end, the «unencumbered self», an atomistic individuality that fails to recognize the embodied nature of communal and historically defined ties⁵⁵.

In his latest encyclical letter, *Laudato Sii*, Pope Francis reminds us that the problems inherent in the modern paradigm cannot be denied any longer, for an example, in the face of the current ecological crisis⁵⁶. And yet, it is not only an explicitly Christian-inspired anthropology what raises doubts about our current predicament. The debate within feminist theories on the ethics of artificial reproductive technologies, among others, suggests something of the tensions intrinsic to the modern understanding of body, procreation, and parenthood as neutral practices, as such entirely open to endless manipulation. For sure, *pro-interventionist* feminist thinkers tend to welcome developments in reproductive technologies as positive. They promise to control nature, and to re-define the meaning of gender constructions, relative especially to the distinction between male and female. In this view, invasive procedures that break women's links to biology, birth, and maternal nurturing can only further a feminist agenda of self-sufficiency and control⁵⁷. On the other hand, *non-interventionist* feminist thinkers see reproductive technologies differently: a

⁵⁵ The term is Sandel's, and it refers to Rawls's notion of agency implied by the original position. See M. SANDEL, «The Procedural Republic and the Unencumbered Self», *Political Theory* 12 (1984) 81-96. The genealogical dimensions of such notion have been explored by A. MCINTYRE, *After Virtue. A Study in Moral Theory*, Notre Dame 1981, 2007³. Charles Taylor speaks of the «buffered self». See C. TAYLOR, *A Secular Age*, Cambridge (MA) 2007, 27.

⁵⁶ *Encyclical Letter Laudato Si of the Holy Father Francis on Care of Our Common Home*, at http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html.

⁵⁷ For a synthesis, A.M. JAGGAR, «Feminist Ethics», in L.C. BECKER – C.B. BECKER, ed., *Encyclopedia of Ethics*, New York – London 2001², 528-539. Classical works of feminist ethics on the issue includes S. SHERWIN, *No Longer Patients. Feminist Ethics and Healthcare*, Philadelphia 1992, and R. TONG, *Feminine and Feminist Ethics*, Belmont (CA) 1993.

strengthening of arrogant human control over nature, and thus over women as part of the «nature» that is to be controlled. They see new reproductive technologies as an imposition upon women who look at themselves as failure, if they cannot become pregnant. They insist that technological progress, requiring the invasion and manipulation of women's bodies, must always be critically scrutinized with a kind of hermeneutics of suspicion, especially when the market becomes the ultimate mechanism for the exploitation of the body⁵⁸. Indeed, it is hard to miss the marketing and advertisement strategies associated with fertility clinics and service providers, which, understandably, are eager to do what any business does best: sell to prospective customers, and this in the language of products and commodities:

The danger is that the bodies of the couple and the child – now conceived as a product – are seen too much under the light of serviceable disposability. Indeed, embryos are disposable if they are not serviceable. It is manipulation, not participation, but also manipulation through a kind of participation: the exploitation of life is beneficiary to the gift of life that forgets the giftedness it exploits. These manipulations are ominous with respect to the deeper participation of the human being in energies of fecundity that come to it from beyond itself and that take it, help it partake of what is, beyond itself⁵⁹.

There is more to body, procreation, and parenthood than our technical rationality assumes. There is an irreducible otherness to them that reflects the personal presence of the embodied person, an ontological incommunicability that resists any constructive pretense. Moreover, to recognize the embodied condition of our being-in-the-world, to grant its radical otherness, is to abide by the symbolic reminder of our being-given-to-be. In the flesh that nourishes our joy and suffering, pain and pleasure, lies the trace of the source that releases us into being, the subtle allusion, most often forgotten, at times denied, of the gift that we are, not from ourselves, but from «an-other».

V. THINKING BEYOND: (BIO)ETHICS IN THE LOVE OF BEING

How to address the predicament of contemporary bioethical thinking? Whether in the areas of reproductive technologies or at the end of life, I find normative questions wanting: not so much for lack of proper ethical discernment, or failure to address questions with a sense of nuances. It is more the overall agnosticism about the ground of our ethical perplexities what leaves

⁵⁸ On this, B. DUDEN, *Disembodying Women. Perspectives on Pregnancy and the Unborn* Cambridge (MA) 1993. Also H. HAKER, *Haupsache gesund? Ethische Fragen der Pränatal- und Präimplantationsdiagnostik*, München 2011.

⁵⁹ W. DESMOND, *The Intimate Universal* (cf. nt. 1), 327.

one with a feeling of inescapable dearth. As if there were more: beyond the «overlapping consensus» of regulatory frameworks that are supposed to put our moral differences to rest, leaving us content with peaceful agreements negotiated by political cunning. Mindfulness about things that matter to us the most -- the wondrous mystery of life giving, the frightening inevitability of our demise, our coming into being, our passing into nothing, keep us perplexed still, puzzled about the meaning of it all.

The metaphysical retrieval I am calling for is a return to a different awareness of the *intrinsic* value of being, the source that gives in the dawn of life, but also the night into which everything will eventually disappear. Is such a source loveable and worthy of trust, or a dark origin engendering horror? If the latter, it will have to be reduced to the forms of our manipulative domestication. To think so is to be in thrall to a metaphysical, albeit nihilistic, premise, for a dark origin still pervades our sense of things, even when it precipitates them into the ground-less abyss⁶⁰. As it happens, not few in bioethics are less than shy, when it comes to judging life as worth or not worth living, whether in the conditions of near-death neurological impairments, or in those of prenatal deformity⁶¹. But what does it mean to prefer the logic of me-ontic annihilation to the logic of life-affirming openness? Who can say that *not* to be born is better than being given a chance at living? Isn't the wisdom of the Greek Silenus, which both Schopenhauer and Nietzsche are fond of quoting, echoing somewhere in the distance: first, if it is possible, best not to be at all, and, second, if in being, best not to be, as soon as possible. One will then argue that every person is severely harmed by the very fact of being «thrown» into existence, that in bringing any person into existence one impermissibly harms that person⁶².

My reflections are grounded in a different confidence⁶³: that the primal ethos of life is loveable and worthy of trust, an *agapeic* origin that is also the issue of the good. And so our ethical thinking will be true when it rests on the premise (or promise) of a *just* rapport with the good. To be *on a par* with the claim the good makes is to be more profoundly attuned to the generosity of its self-giving (*bonum diffusivum sui*), attentive to an offering of grace that is born (or re-born) of a porous opening to what (or who?) gives us into being.

⁶⁰ The reader will forgive my linguistic exhibitionism, as I play with the semantic proximity of the two German words in question, i.e., *Grund*, ground, and *Ab-grund*, abyss.

⁶¹ A point in case: the recent developments in common law concerning the notion of «wronful birth».

⁶² I hear an implicit reference to Heidegger's *Geworfenheit*. The more obvious conclusion of the «anti-natal» view in question is that it is always wrong to have children. A less obvious, yet still plausible conclusion is that it would be better if humanity became extinct. Along those lines, D. BENATAR, *Better Never To Have Been: The Harm of Coming Into Existence*, New York 2006. For a critical assessment, see the review of E. HARMAN, *NOUS* (2009) 776-785.

⁶³ Yes, there is a faith involved in this, *cum-fides*.

To be is to be gifted: our disposition to receive already subtends any endeavor to be, mindfulness of the *cum* already companions the *co-natus*, and this in terms of relativity to both the deeper metaphysical sources of being, as well as the demands of daily otherness, from those more intimate, implicated in the proximity of family and friends, to those awoken by a more universal generosity: to the unknown stranger, the handicapped child, the immigrant foreigner.

The «reconstructed» ethos of contemporary bioethics is blind to the sources of value that nourish the primal ethos of life. Phenomenologists speak of *Wertblindheit*⁶⁴, and perhaps this is an appropriate, if somewhat technical, way to put it: blindness to the sheer givenness of being as good, now reduced to neutral thereness available for endless manipulation. Being springs from an origin that gives without boundaries, out of a love that is unconditional, a love that lets be in pluralized creation, saturated with aesthetic worth.

I speak of creation here, not to immediately qualify the issue as theological. One should resist the attempt to re-colonize public discourse in the name of a political use of theology, born of resentment toward a secular bioethics that has marginalized religious voices. The issue is more deeply philosophical in nature: the task of a theologically mindful bioethics may not be achieved without unclogging the resistances to «think beyond», recognizing the hyperbolic signs at the heart of being itself⁶⁵. This requires philosophical *finesse* more than proselytizing ardor. As von Balthasar suggests, «in order to be a serious theologian, one must also, indeed, first, be a philosopher; one must – precisely also in light of revelation – have immersed oneself in the mysterious structures of creaturely being»⁶⁶. Desmond puts the matter in terms of the porosity that we *are*, both in relation to what we have received, and in terms of our *own* openness beyond ourselves: «We are porosity because we are first received in being: given to be, before we are self-surpassing, or porous in a derived sense to what is beyond ourselves. We are in being as idiotic singulars, but at the heart of the idiotic selving is this intimate porosity that is the mark of our being creatures: emergent as what we are from no-thing – created from nothing»⁶⁷.

⁶⁴ Especially D. VON HILDEBRAND, *Ethik* (GW II), Stuttgart 1973. On «value blindness» and Modernity, see J. SCHMUCKER-VON KOCH, «Wertblindheit als Signatur der Moderne: Zum Verhältnis von Recht und Sittlichkeit bei Dietrich von Hildebrand», in J. SEIFERT, ed., *Truth and Value* (cf. nt. 35), 141-152.

⁶⁵ The sheer fact of our very being, with the contingency it entails, is already hyperbolic: it «throws us above», in an exercise of transcendence that is a reversal of our existential fallenness.

⁶⁶ H.U. VON BALTHASAR, *Theo-Logic: Theological Logical Theory, Volume I/Truth of the World*, trans. by Adrian J. Walker, San Francisco 2000, 8; orig. German, *Theologik. Erster Band: Wahrheit der Welt*, Einsiedeln 1985. With specific reference to the interplay of theology and philosophy in ethics, see K. DEMMER, *Moraltheologische Methodenlehre*, Freiburg 1989, 119-178.

⁶⁷ W. DESMOND, *The Intimate Universal* (cf. nt. 1), 211-212.

Recovering a sense of the worth of beings entails an articulation of respect on our part: respect for other human beings, respect for the givenness of creation. This too is necessary, if not that, *qua* human expression, respect remains ambiguous, even contradictory: in the language of the 1999 National Bioethics Advisory Commission, which drafted the first document on embryo experimentation for the purposes of stem cell extraction, «respect for the embryo» can be reconciled with the intention to destroy and use it⁶⁸. The matter then, is deeper. At stake is not only an *ethical* attitude, but an *ontological* love, love of being as worthy to be and to be affirmed. That we exist and live in the opening of such love, in the *passio essendi* that generates our ontological *complacentia* toward being, orients all our endeavors, the striving of our *conatus*, in the direction of an affirmation of otherness. Porosity beyond the atomistic individuality of «unencumbered selfhood» is more than an exercise in autonomous self-determination. The question of what limits the latter is very much at stake in the tension between liberalism and communitarianism, which defines much of contemporary ethical discourse. For sure, the world endorsed in the communitarian social model appears to be in tension with the individualist mind set of liberal thinkers. Individualists even claim that communitarians express little more than nostalgia for a simpler, pre-modern past. But does the «communitarian» model necessarily stand in opposition to the «liberal» model? The recognition of individual freedoms, such as the freedom of scientific research and clinical experimentation, are unquestionable values for any contemporary rendition of the relation between self and society. A society is a good society when it sustains freedom through the mutual respect its members show in their interaction with one another. This goes, first of all, to the realization that aiming at the good of society entails protecting, rather than eroding, a space for moral pluralism, hospitable to an interaction across differences, on the presupposition that the *public realm* is not just the neutral space to be conquered or won over, and that the members of an «open society» are not to be faced as enemies but as partners: dialogue among moral agents, whether «strangers» or «friends», to use the distinction *in vogue*, can only function on the presumption that any claim to meaning and truth is, at the

⁶⁸ National Bioethics Advisory Commission, «Ethical Issues in Human Stem Cell Research. Volume 1» (https://repository.library.georgetown.edu/bitstream/handle/10822/559364/nbac_stemcell1.pdf?sequence=1&isAllowed=y.) The logic behind the reasoning must be unmasked as fallacious, when appealing to a Kantian justification: persons, so goes the argument, presuppose moral agency. Since embryos are incapable of moral agency, they should not be recognized as persons, i.e., object of respect. Such argument fails to see that for Kant, respect for person is rationally grounded in the intersubjective character of the categorical imperative. Thus, it presupposes moral agency as a matter of *necessity*, rather than discretionary attribution. The humanity *in* the person is the transcendental condition of possibility of her moral agency, not the other way around.

same time, an attestation of freedom and respect for the other. To that extent, liberalism and communitarianism not only stress two different dimensions of the same reality, but grow one on top of the cultural achievements of the other. As Charles Taylor recognizes, the free individual with his own goals and aspirations is himself only possible within a certain kind of civilization. It took a long development of certain institutions and practices, of the rule of law, of rules of equal respect, of habits of common deliberations, of cultural self-development, and so on, to produce the modern individual. Without these, the very sense of oneself as an individual would atrophy⁶⁹.

This is true. However, one must go beyond the potential accommodation of two reciprocally implicated social models. If what is at stake in the debates of bioethics is ultimately the full extent of our porosity to the good, then the question is not only retrieving the relativity of autonomy to otherness, but «to open up» autonomy, even the autonomy of social intermediation, beyond itself, toward a more generous freedom, an agapeic freedom that responds to the value of being in its unconditional worth. Such freedom is irreducible to serviceable disposability, whether predicated on contractarian interest, or utilitarian maximization of social value: «The agapeics transforms the social space of our between-being, consecrates it into a neighborhood of love wherein neighboring, as a “being beside,” is neither simply passive nor simply active [...] We receive and do ourselves in the agapeic neighborhood»⁷⁰.

Can such a freedom beyond autonomy be recognized without reference to an agapeic God, a source of endowing freedom that is also an enabling of social intermediation? Desmond alludes to an «antinomy of autonomy and transcendence», thus seeming to offer a negative response, for the God of autonomy is only a practical postulate, not an endowing source. But to be bound to an agapeic God is not to be in bondage: «The enabling of social power is given but now understood as gifted by a surplus generosity, ultimate in itself and calling human beings to imitate and to enact this generosity in finite life. This is not a matter of our erotic self-transcendence, it is a communication of transcendence itself into the midst of our transcending, which now no longer can just circle around itself»⁷¹.

Will contemporary ethical discourse heed the call to such a freedom, breaking the spell that has bewitched its reasoning into the vicious circularity of will to power, affirming only itself, only to destroy itself? I suggest that the opening can be occasioned by a porosity to a theological contribution, itself sustained by a robust metaphysics, which calls public discussions on moral

⁶⁹ See the impressive reconstruction in C. TAYLOR, *Sources of the Self. The Making of Modern Identity*, Cambridge (MA) 1989.

⁷⁰ W. DESMOND, *The Intimate Universal* (cf. nt. 1), 411.

⁷¹ W. DESMOND, *The Intimate Universal* (cf. nt. 1), 417.

questions to the suspension of preconceived judgments and dogmatisms of any kind, opening our eyes to a deeper vision of what is good for us, because worthy to be affirmed in itself.

Director, Bioethics Institute
Professor, Department of Theological Studies
Loyola Marymount University
University Hall 4500
Los Angeles, CA 90045 (USA)
E-mail: rdelloro@lmu.edu

Roberto DELL'ORO

ABSTRACT

The article deals with «presuppositions» in the field of bioethics. It does so with a concern for questions of meaning, which bioethics tends to bracket, rather than address, on account of a tendency to reduce normative problems to the level of procedural *rightness*. The question of the *good*, that is, of what grounds our answers, remains recessive. This is, ultimately, a metaphysical *lacuna*, for whether we know it or not, we always rely upon an implicit understanding of the ground of things. The author's examples in the article, relating to bioethical debates at the end and the beginning of life, respectively, show that the tendency is to project upon reality a suspicion of neutrality, when not lack of value. We tend to emphasize a dimension of active striving (*conatus*), rather than receptive wonder (*passio*), with respect to the good. In so doing, we grow increasingly inattentive to the sheer givenness of being, now reduced to neutral thereness available for endless manipulation. Relying especially on the work of Leuven philosopher William Desmond, the article calls for a different attunement to the value of things as «given», rather than «produced», and a different love for the gift of being that is worthy of our trust.

Keywords: medicine and meaning, ethics of death and dying, artificial reproductive technologies, metaphysics, bioethics.

RIASSUNTO

Scopo dell'articolo è di investigare i presupposti del discorso bioetico, con particolare riferimento alla questione del senso. Tale questione ultima è infatti rimossa, piuttosto che articolata, e ciò per la tendenza in bioetica a ridurre i problemi normativi al livello della loro *correttezza* procedurale. La questione del *bene*, e cioè di ciò che fonda il discorso normativo, rimane nell'ombra. La lacuna in questione è, secondo l'autore, ultimamente metafisica. L'articolo dipana questa tesi attraverso un'analisi del dibattito bioetico sulla fine e sull'inizio della vita. In entrambi i casi è evidente la tendenza ad enfatizzare una relazione attiva (*conatus*) piuttosto che recettiva (*passio*)

nei confronti del bene. Ma ciò comporta un'attenuata attenzione verso l'essere nel suo darsi, a favore di una concezione materiale, che lo reduce a pura datità disponibile alla manipolazione dell'uomo. Prendendo le mosse dalla riflessione del filosofo di Lovanio William Desmond, l'autore richiama l'importanza di una gratuita relazione con le cose viste nel loro valore intrinseco, in quanto «date», piuttosto che «prodotte», una relazione d'amore che recupera il valore dell'essere come dono.

Parole chiave: medicina e senso, etica del morire, tecniche di riproduzione assistita, metafisica, bioetica.