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BOOK REVIEW

Book Review: Biology, Bioethics and The New Society
PRACTICAL REASONING IN BIOETHICS. James F. Childress.
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THE HUMAN GENOME PROJECT AND THE FUTURE OF HEALTH
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*Reviewed by George P. Smith, II**

I.

While abundant fears mark the pathways for the development of the New Biology, humanity's dehumanization and depersonalization will not be fostered—in reality—as a consequence of the continuing quest for mastery of the genetic code through pursuit of the Human Genome Initiative. Indeed, if actions are undertaken and performed here with the goal of minimizing human suffering and maximizing the social good, then the noble integrity of evolutionary and genetic progress will be preserved and the “slippery slope” of careless and irrational action will be avoided totally.¹

Obviously, attendant to the freedom to undertake research into the exciting frontiers of the New Biology is a co-existent responsibility to pur-

* Mr. Smith is a Professor of Law at The Catholic University of America, Columbus School of Law, in Washington, D.C. This review essay honors the high level of professional achievement that Professor Ian Kennedy and Professor Andrew Grubb have reached and continue to make; at the same time, it records my personal gratitude for their enriching friendships and support over the years. *See generally* George P. Smith, II (reviewing Ian Kennedy & Andrew Grubb, *MEDICAL LAW: TEXT AND MATERIALS*, 7 *J. CONTEMP. HEALTH L. & POL'Y* 443 (1991).

1. *See generally Symposium, The Genome Imperative*, 23 *J. L. MED. & ETHICS* 309 (1995).

sue the work in a reasonable and rational manner. The real—although often exaggerated—threats to genetic privacy, and the resulting forms of genetic discrimination, posed as a consequence of research in this field, can be contained by careful development and application of legal norms through legislative schemes at the state and federal levels of government. In partnership, law and science should seek to develop a contemporary agenda for social change that also seeks to fulfill socio-political goals.²

When viewed as but a tool for enhancing the health of the nation's citizens, and of engineering humanity's genetic weaknesses out of the line of inheritance, biological determinism is an absolute necessity for transnational survival in the 21st century. Simply stated, healthier and genetically sound individuals have a much better opportunity for pursuing and achieving the "good life" and making a significant contribution to society's greater well-being or, in other words, social good.³

II.

Both *Practical Reasoning in Bioethics* and *The Human Genome Project and the Future of Health Care* are part of the Medical Ethics Series published by Indiana University Press. And both—on balance—are suitable inclusions for this series. One is, however, much stronger than the other not only in depth, vision, and editorial cohesiveness, but in scholastic importance as well.

With James F. Childress' book, one finds a most commendable effort undertaken by a leading expert in the field of Bioethics directed toward structuring a framework for principled decision making within the field itself. Essentially, bioethics presents a central question: namely, how should individuals live, adjust, and relate to the startling advances of the new reproductive and life extending technologies?⁴ While rather simple in its aspirational focus, the contemporary challenge of bioethics is both complex and, indeed, multi-dimensional in its outreach. Indeed, any dialogue that is maintained here must include not only legal and ethical constructs, but those deriving from biotechnology and genetic engineering as well. Their combined foci should be seen as promoting a basic understanding of and respect for not only human rights, but human dignity as

2. See generally GEORGE P. SMITH, II, *BIOETHICS AND THE LAW: MEDICAL, SOCIO-LEGAL AND PHILOSOPHICAL DIRECTIONS FOR A BRAVE NEW WORLD* (1993).

3. See generally GEORGE P. SMITH, II, *THE NEW BIOLOGY: LAW, ETHICS AND BIOTECHNOLOGY* (1989).

4. George P. Smith, II, *Biomedicine and Bioethics: De Lege Lata, De Lege Ferenda*, 9 J. CONTEMP. HEALTH L. & POL'Y 233, 236, 257 (1993).

well.⁵ From this, then, should come a new debate regarding the extent to which these plethora of medical, legal, scientific, and technological values either challenge or complement traditional rights of humanity.⁶

The Childress book draws upon twelve previously authored pieces⁷—starting as early as 1970.⁸ They are a blend of “common methodological assumptions and approaches as well as substantive convictions,”⁹ and develop other lines from his pathbreaking book with Tom L. Beauchamp, *Principles of Biomedical Ethics* (4th ed. 1994). Four additional chapters as well derive from co-authored pieces.¹⁰

Considered from a substantive perspective, the essays in this book may be termed, “liberal communitarian.” This classification is

founded on a strong presumption in favor of respect for personal autonomy, including several rules derived from that principle, such as liberty and privacy, but it also concedes that this principle and its derivative rules are only *prima facie* binding, rather than absolute, and can thus sometimes be overridden for the sake of communal goods.¹¹

This approach to the study of Bioethics has been termed, by others, as “principalism”¹²—for it examines both presuppositions of different principles and the implications deriving therefrom.¹³ The three controlling principles here are respect for autonomy,¹⁴ justice, and fairness,¹⁵ where central focus is placed on access to health care and its rationing and beneficence and non-maleficence.¹⁶ Naturally, when conflicts arise and cannot be resolved, an effort is made to see and apply these principles as rules. Often times this merger is not achievable and, so, principles and rules are balanced against each other to find a compromise resolution.¹⁷

Principled reasoning often relies upon analogical reasoning and should

5. *Id.* at 236. See also James F. Childress, *The Normative Principles of Medical Ethics*, Ch. 2, in *MEDICAL ETHICS* (Robert M. Veatch ed. 1997).

6. SMITH, *supra* note 4, at 237.

7. See JAMES F. CHILDRESS, *PRACTICAL REASONING IN BIOETHICS*, Preface at xiii, xiv (1997).

8. See *id.* at x.

9. See *id.* at ix.

10. See *id.* at xii, xiii, xiv.

11. See *id.* at xi.

12. See *id.* at ix. See also Chapter 2.

13. See *id.* at Ch. 2.

14. See *id.* at Chs. 3-7, 14, 15.

15. See *id.* at Chs. 10-13.

16. See *id.* Preface at ix.

17. See *id.* at Ch. 10.

not be considered incompatible with it. Indeed, practical applications inevitably involve both.¹⁸ Professor Childress makes this point repeatedly and without clarity throughout these essays in this book.¹⁹

III.

There are twelve chapters in the Murray, Rothstein, and Murray book ranging from considerations of the Genome Project on health services for minorities²⁰ and access to health care,²¹ to its effects on reproductive decision making²² and the distribution of medical resources.²³ In the introduction to the book, it stated that all of the contributions in it share a thesis: namely, "that the Human Genome Project, in combination with other forces, will reshape health care in the United States."²⁴ And, furthermore, that these various forces involved will set in motion "important ethical dimensions."²⁵

18. See, e.g., *id.*

19. Ch. 4, *The Genome Project and Health Services for Minority Populations*.

20. THE HUMAN GENOME PROJECT AND HEALTH SERVICES FOR MINORITY POPULATIONS, Ch. 11, *The Genome and Access to Health Care* (Thomas H. Murray et al. eds., 1996).

21. *Id.* at Ch. 5, *Genetics and Reproductive Decision Making*.

22. *Id.* at Ch. 9, *The Human Genome Project and The Distribution of Scarce Resources*.

The other chapters are: Ch. 1, *The Impact of Mapping The Human Genome on The Patient-Physician Relationship*; Ch. 2, *Educating Clinicians about Genetics*; Ch. 3, *Medicine, Gene Therapy, and Society*; Ch. 6, *Access to the Genome and Federal Entitlement Programs*; Ch. 7, *The Implications of the Human Genome Project for Access to Health Insurance*; Ch. 8 *Genetics and Employment; More Disability Discrimination*; Ch. 10, *The Human Genome Project: Its Impact on Medical Practice*; Ch. 12, *The Genetic Factor in Health Care Reform: Framing the Policy Debate*.

23. Thomas H. Murray, *Introduction: The Human Genome Project and The Future of Health Care*, vii.

24. *Id.*

25. See, e.g., *id.* at Ch. 8, p. 163. "People who carry genes for cystic fibrosis, sickle cell anemia, or hemophilia will never develop these particular impairments but may transmit them to their children." (no citation).

Ch. 8, p. 168. "The ADA explicitly prohibits an employer from basing any employment decisions about individuals on their known relationships with people who have disabilities." (no citation).

Ch. 10, p. 201. "There is increasing pressure to provide those services at the lowest possible cost to the government, the employer, and the consumers." (no citation).

Ch. 10, p. 205. "It [HMO's] is fast approaching the situation where health insurance of managed care groups is by far the major source of income of physicians." (no citation).

Contrariwise, Chapter 12 is the most integrative of all of the chapters; for it not only references, but analyzes (and often synthesizes) with care most pertinent positions found within the other chapters in this book.

Without question, the editors of this book have drawn on individuals who have recognized professional prominence in their areas of expertise. And, the topics elucidate the major genetic issues that are implicit in The Genome Project. I found, on balance, the book to be of interest. Yet, that said, I have to wonder about the level of scholastic commitment undertaken by the contributors in preparing their essays for this book and the level of copy editing given by the editors and accepted apparently by the editors of the Press itself.

I have long maintained that scholars must support their conclusions with authority. And, they must not ask readers to simply "trust them." Sadly, many of the authors in this book give very scant treatment to complete documentation in support of their propositions.²⁶ The reader is all too often—in essence—told to accept, on face value, various points. The essay comprising Chapter 1 has but nine notes; Chapter 11 has three notes, and Chapter 10 has but fourteen. In some chapters, notes and references are prepared according to the Chicago style,²⁷ others use the Harvard System of Citation.²⁸ Some list the publisher of book sources,²⁹ others do not.³⁰ Still other chapters have only notes³¹ while others choose only reference sources,³² while others have notes and references.³³ Some of the notes are more properly considered as references.³⁴ And, in Chapter 11, while general references are made in the body of the chapter to Albert Jonsen's essay in Chapter 1, no specific citations to pages are given to the actual place in this essay where these points are made by Jonsen.³⁵ Once again, the careful reader has to search on his own for this information.

There used to be a popular song in the 1960s titled, "Little Things Mean A Lot." I thought of this song repeatedly as I read this book; for, to my thinking, a more careful preparation of the manuscript and a uniform style of editing would enhance the scholastic value of the book within this series of the Indiana University Press. The impression made upon me by this book was that it was done in a rush. If more time and

26. *See, e.g., id.* at Ch. 7.

27. *See, e.g., id.* at Ch. 6.

28. *See, e.g., id.* at Ch. 7.

29. *See, e.g., id.* at Ch. 12.

30. *See, e.g., id.* at Chs. 1, 4, 6, 7, 10 & 11.

31. *See, e.g., id.* at Chs. 2, 9 & 12.

32. *See, e.g., id.* at Chs. 3, 5 & 8.

33. *See, e.g., id.* at Ch. 7, notes 24, 31, 38, 42 & 58.

34. *Id.* at Ch. 11, at ps. 210, 211 & 213.

35. *See* IAN KENNEDY, *THE UNMASKING OF MEDICINE* Ch. 2 (1981).

care had been expended in preparing the essays here, it could have been a valuable scholastic undertaking. Informative it is—to be sure. But, for me as a research scholar, it simply lacks in-depth supporting research and a cohesive or uniform style of citation. I was distracted by the uneven divisions between notes and references. This book would have been strengthened considerably if, as with the Childress book, the supporting authorities were styled, simply notes, and followed one standard of citation.

IV.

Within the broad perimeters of the New Biology, man must endeavor to execute his investigatory and manipulative or creative powers within the scientific laboratory with a rational purpose and within a spirit of humanism—guided also by the central bioethical principles of autonomy, beneficence, and justice. Man should seek to minimize human suffering, thereby contributing to the social goal of allowing each member of society an equal opportunity to achieve their maximum personal integrity and seek spiritual tranquility.³⁶ Genetic engineering that contributes to the social good should be utilized fully. There can be no real doubt that genetic manipulation provides a perilous opportunity which may either threaten freedom or enhance it—depending upon the balance struck between its use for individual need, satisfaction, and social good.

36. See DIETER GIESEN, *INTERNATIONAL MEDICAL MALPRACTICE LAW* 674-684 (1988).