III

Moral Philosophies Guiding Contemporary Bioethics

As it was mentioned in the introduction to chapter 1, St. Thomas Aquinas's reflection on human knowledge and the assent to truth leads to the perfection of man in two ways. The first way (the gift of understanding) was realized in the previous two chapters, where the scientific review of in vitro fertilization, organ donation generally, and UTx specifically was carried out. This chapter and the one that follows it consider the second way, which is forming sure moral judgments.

Chapter 3 explores in three sections the moral philosophies that guide modern medical ethics. The first section is on Catholic bioethics—namely, its foundation in objective truths and moral absolutes, emphasis on the moral determinants of an act, and application of bioethical principles. The second section is on secular bioethics. There, Kantianism and utilitarianism will be surveyed through the lens of principlism. Both sections are written with UTx in mind, because a robust analysis of those moral philosophies would be the subject of multiple volumes of work, far exceeding the scope of this book. The third section is a summary of the chapter.

Catholic Bioethics

Defining the Term *Bioethics*

The term *bioethics* is repeated throughout this book. While the term is becoming more commonly used today in the culture, experience has proven that most people outside of the discipline have yet to encounter it. Those who have encountered it are usually unfamiliar with what it means. The

term first appeared in Germany in the early 20th century. It was then that Fritz Jahr published an article titled "BioEthik." Regarding the meaning he ascribed to the term, Amir Muzur and Iva Rinčić write, "He advocated 'accepting duties not only toward men, but toward all living beings' and [extended] the Kantian Categorical Imperative into a bioethical imperative: 'Respect every living being on principle as an end in itself and treat it, if possible, as such.'"[1] To Jahr, "all living beings" naturally extends to all creatures, including plants and animals.

"BioEthik" was not widely read at the time and, therefore, it did not have the same influence as Van Rensselaer Potter's work did several decades later. Potter, whom many people credit with founding the discipline, envisioned a global bioethic that will "help mankind toward a rational but cautious participation in the processes of biological and cultural evolution." He explains, "I chose 'bio' to represent biological knowledge, the science of living systems, and I chose 'ethics' to represent knowledge of human value systems."[2]

At the same time Potter reintroduced the term *bioethics*, André Hellegers and Sargent Shriver established the Joseph and Rose Kennedy Institute for the Study of Human Reproduction and Bioethics at Georgetown University.[3] Then, three years later, Richard Nixon signed into law the 1974 National Research Act which created the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research,

1. Amir Muzur and Iva Rinčic, "Two Kinds of Globality: A Comparison of Fritz Jahr and Van Rensselaer Potter's Bioethics," *Global Bioethics* 26.1 (February 2015): 24, doi: 10.1080/11287462.2015.1007616. This article compares and contrasts Jahr and Potter's notions of bioethics. See Fritz Jahr, "Bio-Ethi: eine Umshau über der etchischen Beziehugen des Menschen zu Tier und Pflanze," *Kosmos* 24 (1927): 2–4.
2. Sev Fluss, "An International Overview of Developments in Certain Areas, 1984–1994," in *A Legal Framework for Bioethics*, ed. Casimo Mazzoni, (The Hague: Kluwer Law International, 1998), 22; see Van Rensselaer Potter, "Bioethics: The Science of Survival," *Perspectives on Biology and Medicine* 14.1 (Autumn 1970): 127–153, doi: 10.1353/pbm.1970.0015.
3. Duncan Wilson, *The Making of British Bioethics* (Manchester: Manchester University Press, 2014), 2.

the first of what became a long line of US bioethics commissions.[4] Bioethics is now a rapidly growing field with degrees given by numerous colleges and universities, hospitals with resident committees, and institutes and centers founded throughout the world.

Regarding the meaning of the term *bioethics*, the Center for Practical Ethics gives the following definition: "Ethics is a philosophical discipline pertaining to notions of good and bad, right and wrong — our moral life in community. Bioethics is the application of ethics to the fields of medicine and healthcare."[5] While that definition seems straightforward and rather simple at first glance, the "notions of good and bad, right and wrong" and "morals" are extremely complex subjects in a pluralistic society. There are a number of moral philosophies that are in stark contrast with one another in their applied principles, in their analytical approach, and often in the conclusions they make.

Foundations of Catholic Bioethics

The Catholic bioethical tradition is robust with its theological roots penetrating all of salvation history, beginning when man was created in the *imago dei*. Its philosophical roots are millennia old and remarkably diverse. Take the example of Aquinas. He explored the works of the ancient Greek philosophers Plato and Aristotle, as well as the Christian philosophers Dionysius, St. Augustine of Hippo, Boethius, St. Anselm of Canterbury the Muslim philosophers Avicenna and Averroes, and the Jewish philosopher Maimonides. Another example of the depths of the Catholic bioethical tradition is found in Archbishop Daniel Cronin's synthesis on the principle of elective extraordinary means. To define that principle, Cronin drew on the writings of nearly fifty theologians spanning five centuries, from Rev. Francisco de Vitoria, OP, to Rev. Gerald Kelly, SJ.[6]

Flowing from this robust tradition, Rev. Nicanor Pier Giorgio Austriaco, OP, gives the following definition of bioethics: "Rooted in faith and

4. "History of Bioethics Commissions," Presidential Commission for the Study of Bioethical Issues, Bioethics Archive, Georgetown University, updated January 15, 2017, https://bioethicsarchive.georgetown.edu/pcsbi/history.html.
5. "What is Bioethics?," The Center for Practical Bioethics, accessed May 20, 2020, https://www.practicalbioethics.org/about-us/what-is-bioethics.html.
6. Daniel Cronin, *Ordinary and Extraordinary Means of Conserving Life*, 50th anniversary ed. (Philadelphia: National Catholic Bioethics Center, 2014).

reason, [bioethics] is a rich tradition informed by scriptural exegesis, by theological reflection, and by philosophical arguments. … [Bioethics] is a distinctive and mature field of inquiry that strives to apply the principles of Christian morality to profound and deeply human questions."[7] He identifies three characteristics that distinguish Catholic bioethics from its secular counter parts. Those three characteristics are an embrace of objective truths and moral absolutes, the evaluation of an act's three moral dimensions, and the steadfast defense of human life through an assemblage of principles.[8]

Objective Truths and Moral Absolutes

Aquinas defines truth as the agreement between the intellect's judgment on the nature of something and that something as it really is.[9] Said a simpler way, truth is man's judgment evidencing his mind and reality are in accord. Consider here the implications of the aphorism *perception is reality.* In that instance, reality exists in the mind of individuals rather than those individuals existing in reality. Claims like the human embryo at six weeks old is simply a mass of tissue, a biological male can be a female if he so chooses, and marriage is the union of two same-sex persons become plausible to someone who attempts to recreate reality to accommodate those claims. His perception becomes his reality. Objective truth does not lend itself to that Cartesian claim; rather, it claims a thing (the object) has a nature per se independent of man's perception.

Pope St. John Paul II was deeply concerned about the modern culture's rejection of objective truths and the moral absolutes that necessarily flow from them. Connecting that rejection to relativism, he writes the following: "Any reference to common values and to a truth absolutely binding on everyone is lost, and social life ventures on to the shifting sand of complete relativism. At that point, everything is negotiable, everything is open

7. Nicanor Pier Giorgio Austriaco, *Biomedicine & Beatitude: An Introduction to Catholic Bioethics* (Washington, DC: Catholic University of America, 2011), 7. Those questions regard "the meaning of life, its beginning, its continuation, and its end, that are raised by the life sciences."
8. Nicanor Austriaco, "Metaphysics and Catholic Bioethics," *Ethics & Medics* 25.11 (November 2000): 3, doi: 10.5840/em2000251123.
9. Thomas Aquinas, *Summa theologiae*, trans. Fathers of the English Dominican Province (South Bend, IN: Christian Classics, 1981), I.16.1 corpus and I.16.2.

to bargaining."[10] Joseph Cardinal Ratzinger echoed that sentiment when he spoke of the "dictatorship of relativism" in his last homily before his election to the papacy in 2005. There, Ratzinger describes relativism as the move to reject "anything as definitive" and to aim at nothing other than "one's own ego and desires."[11]

Interestingly, the Barna Group conducted two studies in 2016 and 2017 that surveyed the opinions on morality of nearly two thousand respondents who span three generations. The results are worth noting. When asked if morality changes over time and based on society, 24 percent of Generation Z respondents, 21 percent of millennial respondents, and 18 percent of Generation X respondents think it does. Moreover, 21 percent of Generation Z respondents, 23 percent of millennial respondents, and 18 percent of Generation X respondents think morality depends on individual beliefs. One Generation Z respondent said, "Society changes, and what's good or bad changes as well. It is all relative to what's happening in the world."[12] If the data are characteristic of the attitudes of those generations, then millions of Americans embrace the dictatorship of relativism and reject objective truths and moral absolutes.

The Natural Law

As is written above, objective truths reveal a thing has a nature per se independent of man's perception. The same can be said of morals. The Catholic bioethical tradition upholds a morality that transcends societies. It is universal. Natural law, reflecting eternal law, reveals moral absolutes. J. Budziszewski describes the eternal law as follows: "the principles by which God made and governs the universe."[13] He followed that brief definition with an

10. John Paul II, *Evangelium vitae* (March 25, 1995), n. 20.
11. Joseph Ratzinger, Homily Offered for the Mass "pro eligendo Romano Pontifice" (St. Peter's Bascilica, April 18, 2005), https://www.vatican.va/gpll/documents/homil-pro-eligendo-pontifice_20050418_en.html.
12. "Gen Z and Morality: What Teens Believe (So Far)," Barna Group, October 9, 2018, https://www.barna.com/research/gen-z-morality/. According to the parameters of the studies described, people born 1999–2015 are Generation Z, people born 1984–1998 are millennials, and people born 1965–1983 are Generation X.
13. J. Budziszewski, *Written on the Heart: The Case for Natural Law* (Downers Grove, IL: InterVarsity Press, 1997), 60–61.

analogy to exemplify the relationship between the two laws. In that analogy, he invites his readers to imagine God is the sun and his eternal law is the sunlight. The former is necessary for life and the latter makes all life visible. The sunlight of eternal law is reflected in the rational mind and visible through human reason. That reflection is natural law.

Through natural law, man understands the following: "Human acts are good if they are directed to those purposes that are in harmony with our ultimate end of happiness in God . . . [and evil if] they are not in accordance with right reason and therefore detract us from our ultimate end in God."[14] Budziszewski writes that natural law is evident in three types of principles or precepts. They are primary, immediate, and common precepts. The primary precepts are what he refers to as "moral principles that we can't not know,"[15] such as do good, avoid evil, and love your neighbor. The immediate precepts flow from the morality of the primary precepts but are more specific; for example, do not murder. Finally, the common precepts are even more specific; for example, return what does not belong to you. Aquinas emphasizes the relationship between those precepts: "All precepts of the law of nature have the character of one natural law, inasmuch as they flow from one first precept," good is to be done and pursued, and evil is to be avoided.[16]

The Catholic bioethical tradition is teleological, because it recognizes the natural order of creation and the end or *telos* to which all human beings aim. The end of a human act is divided into three categories: proximate, intermediate, and ultimate. Proximate ends are immediate and terminate upon the commission of a single act. Intermediate ends also terminate upon the commission of a single act, but they are recognized as steps in a process that lead to a subsequent end. The ultimate end is the final, self-sufficient end that fulfills the person wholly and perfects his nature. Philosophers generally agree that happiness is the ultimate end of man. Aristotle claimed the ultimate end is happiness resulting from contemplation and excellence in the moral virtues.[17] Aquinas taught that man's ultimate end is God because God is the perfect good to which all men are ordered. The way by which

14. Austriaco, *Biomedicine & Beatitude,* 28–29.
15. Budziszewski, *Written on the Heart,* 61
16. Aquinas, *Summa theologiae* I-II.94.2.
17. Aristotle, *Nicomachean Ethics* I.10 and X.8.

God is apprehended (seen) is the beatific vision (a contemplative state), and that vision is perfect happiness. To that end, Aquinas writes:

> I answer that, happiness is the attainment of the Perfect Good. Whoever, therefore, is capable of the Perfect Good can attain happiness. Now, that man is capable of the Perfect Good, is proved both because his intellect can apprehend the universal and perfect good, and because his will can desire it. And therefore man can attain happiness. This can be proved again from the fact that man is capable of seeing God . . . in this vision . . . perfect happiness consists.[18]

An Act's Three Moral Determinants

Next, the Catholic bioethical tradition is set apart from its secular counterparts because of its evaluation of an act's three moral determinants or elements—that is, the object of the act, the pertinent circumstances, and the intention of the agent. The object is what is done. The circumstances are the conditions by and through which the object is done. The intention is why the object is done.[19] A practical way to identify those dimensions is to complete this exercise: I am choosing to do X (the object) because of Y (circumstances) so to do Z (intention). The following is an example relevant to bioethics: Brian is choosing to undergo a surgery whereby a testicle will be removed because he has been diagnosed with Stage 1A testicular cancer and other treatments are projected to be insufficient to prevent metastasis to surrounding tissue so to eliminate the presence of the cancer, prevent metastasis, and promote overall health and wellbeing. A second example is as follows: Megan is choosing to ingest a toxic amount of a barbiturate because she is experiencing intractable pain caused by an inoperable glioblastoma so to eliminate her pain and suffering as well as to release her loved ones from the burden of caring for her. Are these acts morally good or evil?

Some acts are objectively evil and therefore ought never to be committed, because their object is always contrary to the good—for example, murder, adultery, and lying. Even with a noble intention, those acts are

18. Aquinas, *Summa theologiae* I-II.5.1.
19. Austriaco, "Metaphysics and Catholic Biothics," 4; and *Catechism of the Catholic Church*, 2nd ed. (Washington, DC: United States Conference of Catholic Bishops / Libreria Editrice Vaticana, 2000, 2018 update) (*CCC*), nn. 1750–1754.

impermissible.[20] Aquinas makes this clear when he writes, "It may happen that an action which is good in its species or in its circumstances is ordained to an evil end, or vice versa. However, an action is not good simply, unless it is good in [its object, intention, and circumstances]."[21] The *Catechism of the Catholic Church* reinforces that in the following teaching: "A morally good act requires the goodness of its object, of its end, and of its circumstances."[22] Finally, the object of an act may be morally neutral. In those instances, the morality of the act hinges on the intention and circumstances. In the hypothetical examples above, it is moral for Brian to undergo an orchiectomy in response to testicular cancer, because the object of that act is good; the circumstances of his diagnosis, lack of treatment options, and prognosis if surgery is not undertaken are grave; and his intention to preserve his own health by removing pathological tissue is good and upright. Conversely, the object of Megan's act is suicide, and that is never moral, even when facing such grave circumstances and having the noblest of intentions.

Catholic Bioethical Principles

Sacredness of Human Life

The Catholic bioethical tradition is steadfast in its defense of human life through the employment of a number of principles, some of which are unique to the tradition. The first and most fundamental principle concerns the sacredness of human life. The *Catechism* teaches, "Human life is sacred because from its beginning it involves the creative action of God and it remains forever in a special relationship with the Creator, who is its sole end. God alone is the Lord of life from its beginning until its end."[23] Furthermore, "Human life must be respected and protected absolutely from the moment of conception. From the first moment of his existence, a human being must be recognized as having the rights of a person—among which is the inviolable right of every innocent being to life."[24]

While the Catholic bioethical tradition is not the only proponent of this principle, arguably it is the most resolute in its defense. Consider

20. *CCC,* nn. 1756 and 1759.
21. Aquinas, *Summa theologiae* I-II.18.4, obj. 3.
22. *CCC,* n. 1760.
23. *CCC,* n. 2258.
24. *CCC,* n. 2270.

the right claim in two historic documents, the US Declaration of Independence and the Universal Declaration of Human Rights. The Declaration of Independence states, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and pursuit of happiness." The Universal Declaration of Hunam Rights contains the following language: "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world. … All human beings are born free and equal in dignity and rights. … Everyone has the right to life, liberty, and security of persons."[25] While neither document has been executed perfectly, they both recognize an intrinsic dignity that is unconditional and of absolute value.

Returning to the Catholic bioethical tradition, certain objective truths concerning human life can be gleaned from the two *Catechism* articles above. For example, human life is an undeserved gift that precedes any action on the part of the individual his or herself. Furthermore, human life is a great good because a human being is made in the *imago dei.* His form is spiritual, with activities that transcend the temporal—for example, intellection (self-knowledge) and volition (self-possession). The *Catechism* also emphasizes a third dimension of the *imago dei*, which is the uniquely human exercise of sacrificial love or self-giving.[26] Therefore, having been endowed with the great gift of life, a human being is a steward of this gift and is, therefore, duty bound to respect and protect it through the employment of all reasonable means of preservation.

Elective Extraordinary Means

The phrase "all reasonable means of preservation" points to another principle of that tradition, namely, the principle of elective extraordinary means. This principle is also called the principle of benefits and burdens or the principle of ordinary and extraordinary means. Cronin authored the definitive synthesis on a human being's duty to preserve his own life. This principle evaluates the benefits and burdens of a given treatment. For this and subsequent

25. UN General Assembly, Resolution 217A, Universal Declaration of Human Rights (May 24, 2020), introduction, article 1, article 3, https://www.un.org/en/universal-declaration-human-rights/index.html.

26. *CCC,* n. 357.

principles oriented to medicine, the term *human being* may at times be replaced by the term *patient*. The benefit, Cronin explains, is understood by asking four questions: What is the means' hope of benefit in quality, duration, and effort expended? Is the means in common use and recommended in customarily sufficient quantities? Is it in keeping with the patient's social and financial status? And what is the level of difficulty necessary to employ the means? Burdensomeness relies on five questions: Is the means impossible to employ? Does it involve a great effort or excessive hardship? Will it cause excruciating or excessive pain? Is it excessively expensive? And does its provision elicit intense fear or repugnance in the patient?[27]

The *Ethical and Religious Directives for Catholic Health Care Services* (*ERDs*), now in its sixth edition, is a document written by the United States Conference of Catholic Bishops (USCCB) that instructs Catholic laity, religious, and clergy and governs Catholic institutions on matters related to healthcare. Directives 56 and 57 of the *ERDs* are the modern instructions that reflect Cronin's synthesis. Those directives state,

> A person has a moral obligation to use ordinary or proportionate means of preserving his or her life. Proportionate means are those that in the judgment of the patient offer a reasonable hope of benefit and do not entail an excessive burden or impose excessive expense on the family or the community.
>
> A person may forgo extraordinary or disproportionate means of preserving life. Disproportionate means are those that in the patient's judgment do not offer a reasonable hope of benefit or entail an excessive burden, or impose excessive expense on the family or the community.[28]

In sum, ordinary means are obligatory if a patient is to discharge his duty to preserve his life. Extraordinary means are nonobligatory. He is permitted to accept, continue, reject, or discontinue extraordinary means without being morally negligent in the duty to preserve his life.

Physical Integrity and Totality

The next principle considers how a patient ought to approach a given means if it assaults his physical integrity, typically by way of body mutilation. As a

27. Cronin, *Ordinary and Extraordinary*, 122–156.
28. US Conference of Catholic Bishops (USCCB), *Ethical and Religious Directives for Catholic Health Care Services*, 6th ed. (Washington, DC: US Conference of Catholic Bishops, 2018)(*ERDs*), dirs. 56–57.

good steward, a person ought not to assault the integrity of the gift he has been given without a grave reason. Physical integrity is comprised of two types: anatomical integrity and functional integrity. Rev. Benedict Ashley, OP, and Rev. Kevin O'Rourke, OP, offer a concise definition of these types. Anatomical integrity is the "material or physical integrity of the human body," and functional integrity is the body's "systematic efficiency."[29] Whenever the body is assaulted by a means, it affects the patient's anatomical integrity, from the more common and simpler procedures including wisdom teeth extraction and tonsilectomy and adenoidectomy, to the less common and more complex splenectomy and mastectomy.

Kelly provides another distinction concerning mutilation, namely, noncontraceptive and contraceptive mutilation. He writes, "Non-contraceptive mutilation [is] any procedure, except direct sterilization, which interferes either temporarily or permanently with the natural and complete integrity of the human body."[30] Contraceptive mutilation entails a direct sterilization. He further distinguished noncontraceptive mutilation as major and minor, with the difference being that major mutilation involves the destruction or removal of an organ, permanent suppression of a bodily function, or the permanent impairment of a higher function dependent upon by the body. Minor mutilation is not permanent.

The principle of totality, also called the therapeutic principle, may uphold the morality of a given means in spite of its assault on the patient's anatomical integrity. However, the principle of totality is not blanket permission to proceed with any means proposed. As Pope Pius XII writes, "Neither parents, nor husband or wife, nor even the very person, can do with [his organs, members, or faculties] as he pleases."[31] The principle stipulates certain criteria must be met for the means to be determined as moral. Both Elio Cardinal Sgreccia and Austriaco provide summaries of those criteria. In their summaries, they agree the means must target a part of the

29. Benedict Ashley and Kevin O'Rourke, *Health Care Ethics: A Catholic Theological Analysis* (Washington, DC: Georgetown University Press, 2006), 104.
30. Gerald Kelly, "The Morality of Mutilation," *Theological Studies* 17.3 (September 1956): 328–329, doi: 10.1177/004056395601700302.
31. Austriaco, *Biomedicine & Beatitude,* 174; and Pius XII, Allocution to the Fourth International Congress of Surgeons (May 20, 1948), in *The Human Body*, ed. Monks of Solesmes (Boston: St. Paul Editions, 1960), 97.

body that is causing grave harm directly (or there is moral certainty that it will cause grave harm in the foreseeable future) with the aim of preserving the patient's health or saving his life. There must be a reasonably high hope of benefit that the harm is eliminated altogether or substantially lessened. Sgreccia emphasizes the alternatives to the means must be insufficient and the patient or his proxy must be adequately informed and provide consent. Austriaco emphasizes the benefit must be proportionately greater than the burdens associated with the means and the medical team providing the means must be efficient in such matters.[32]

As regards the *ERD*s, the USCCB instructs, "All persons served by Catholic health care have the right and duty to protect and preserve their bodily [anatomical] and functional integrity. The functional integrity of the person may be sacrificed to maintain the health or life of the person when no other moral means is available."[33]

Informed Consent

In his summary of the criteria above, Sgreccia emphasizes the patient or his proxy must be adequately informed and provide consent. The Catholic bioethical tradition shares the principle of informed consent with its secular counterparts. Notice how informed consent is directly associated with the powers of the rational soul. The patient must be given sufficient information so that he can know (intellect) the pertinent aspects of a means and be free to choose (will) what he determines to be good for himself. This notion of freedom is a matter of conscience and, therefore, predates modern medical ethics. It is founded in the seat of human dignity, the rational soul.

There are at least four documents worth referencing when discussing the principle of informed consent. In the early twentieth century, Germans developed the Guidelines for Human Experimentation of 1931. In those guidelines, article 5 states, "Innovative therapy may be carried out only after the subject or his legal representative has unambiguously consented to the procedure in the light of relevant information provided in advance. Where consent is refused, innovative therapy may be initiated only if it constitutes

32. Elio Sgreccia, *Personalist Bioethics: Foundations and Applications*, trans. John A. Di Camillo and Michael J. Miller (Philadelphia: National Catholic Bioethics Center, 2012), 181; and Austriaco, *Biomedicine & Beatitude*, 174.

33. USCCB, *ERDs*, dir. 29.

an urgent procedure to preserve life or prevent serious damage to health and prior consent could not be obtained under the circumstances."[34]

Tragically, those guidelines were not followed in Nazi Germany where mass atrocities were committed, including unethical experimentation on men, women, and children in the concentration camps. Those heinous acts were the subject of the Nuremberg Trials from 1945 to 1946. The Nuremberg Code of 1947 resulted from those trials. It reaffirms that "the voluntary consent of the human subject is absolutely necessary."[35]

The World Medical Association codified the principle of informed consent in its 1964 *Declaration of Helsinki*. The declaration states,

> In any research on human beings, each potential subject must be adequately informed of the aims, methods, sources of funding, any possible conflicts of interest, institutional affiliations of the researcher, the anticipated benefits and potential risks of the study and the discomfort it may entail. The subject should be informed of the right to abstain from participation in the study or to withdraw consent to participate at any time without reprisal. After ensuring that the subject has understood the information, the physician should then obtain the subject's freely-given informed consent, preferably in writing. If the consent cannot be obtained in writing, the non-written consent must be formally documented and witnessed.[36]

The declaration also affirms other important imperatives directing human experimentation. For example, the risks of the study must be well-established and manageable, the aim of the study must be proportionately greater that the risks the subject will endure, and the safety of the subject is paramount, among others.[37]

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34. Ravindra B. Ghooi, "The Nuremberg Code—A Critique," *Perspectives in Clinical Research* 2.2 (April–June 2011): 72–76, doi: 10.4103/2229-3485.80371.
35. "Nuremberg Code," United States Holocaust Memorial Museum, accessed May 24, 2020, https://www.ushmm.org/information/exhibitions/online-exhibitions/special-focus/doctors-trial/nuremberg-code.
36. World Medical Association (WMA), *WMA Declaration of Helsinki: Ethical Principles for Medical Research Involving Human Subjects*, (Fortaleza, Brazil: 64th WMA General Assembly, October 2013), n. 22, https://ww.wma.net/policies/wma-declaration-of-helsinki-ehtical-principles-for-medical-research-involving-human-subjects/.
37. WMA, *Declaration of Helsinki*, nn. 5, 16, 17, and 18.

The Belmont Report was released in 1979 by the US National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The report expounds three principles: respect for persons, beneficence, and justice. It is particularly in the first and third principles (respect for persons and justice) where informed consent is found. The report states, "Subjects, to the degree that they are capable, [must] be given the opportunity to choose what shall or shall not happen to them."[38] Benjamin Freedman provides a summary of the elements of informed consent. Those elements are information, responsibility, and voluntariness. The subject must be "informed enough to make a responsible decision, responsible enough to consent, and not under any coercion."[39]

The *ERDs* provide several articles concerning the principle of informed consent. For example, informed consent is required in all cases except in an emergency situation when the patient is unable to consent and there are no indications that he would refuse treatment if he were able to consent.[40] Moreover, the information provided to the patient must include "the essential nature of the proposed treatment and its benefits, its risks, side-effects, consequences, and cost, and any reasonable and morally legitimate alternatives, including no treatment at all."[41] Finally, therapeutic and nontherapeutic experimentation require informed consent of all subjects.[42]

Subsidiarity

The principles of elective extraordinary means and informed consent promote the principle of subsidiarity. Subsidiarity has a rich heritage in Catholic social teaching. Pope Leo XIII wrote about this principle in his encyclical *Rerum novarum.* Years later, Pope Pius XI provided a definition in the context of political philosophy: "The supreme authority of the State ought,

38. The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, *The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research*, (Washington, DC: US Department of Health, Education, and Welfare, April 18, 1978), https://www.hhs.gov/ohrp/regulations-and-policy/belmont-report/index.html.
39. Benjamin Freedman, "A Moral Theory of Informed Consent," *Hastings Center Report* 5.4 (August 1975): 32.
40. USCCB, *ERDs*, dir. 26.
41. USCCB, *ERDs*, dir. 27.
42. USCCB, *ERDs*, dir. 31.

therefore, to let subordinate groups handle matters and concerns of lesser importance, which would otherwise dissipate its efforts greatly."[43] In other words, problems ought to be solved by the parties most affected, moving from the individual, to the micro-community of the family, to the various communities that flow from the family, and finally arriving at the macro-community of the state. The implications of subsidiarity in bioethics is the presumption that a patient or his proxy ought to make his own decisions in matters concerning his health care, in consultation with his health care team. Likewise, the subject in human research ought to make his own decision whether to participate in or continue with a particular research study.

The principle, however, is not wholly independent from authority and it is not absolute. Here, Sgreccia explains, "The community on the one hand must help more where there is a greater need (caring more for those in greater need of care and spending more on those who are more ill), and on the other hand must not supplant or replace the free initiative of individuals and groups; rather it should guarantee that they can function."[44] Yet, the community (or those in authority) may intervene if the patient's decision, while self-determined, negatively affects the common good or results in a grave injustice against himself or someone else.

Charity and Solidarity

Regarding the topic of body mutilation and the principle of totality, a question may be raised about how it is moral to donate one's organ while alive if the physical integrity of the donor is assaulted without justification under the principle of totality, that is to say, the procured organ is not causing him harm. Another principle must be applied and will in fact assume the justification for donation when certain conditions are met. The principle of charity, that is, love of God and neighbor, affirms a donor's gift of life even while accepting an assault on his own physical integrity. With regard to the principle's application, William May writes, "We intuitively and instinctively judge that the giving of one's own body to help a gravely or even

43. Pius XI, *Quadragesimo anno* (May 15, 1931), n. 80.
44. Sgreccia, *Personalist Bioethics*, 182–183.

mortally ill fellow human person is not only morally justifiable but an act of heroic charity."[45]

The virtue of charity, which informs the bioethical principle under the same name, extends to our neighbors. In his *Summa theologiae*, Aquinas writes that man ought to love his neighbor for love of God so that his neighbor can be in God.[46] Charity drives self-giving and in doing so inspires man to make heroic decisions. The four criteria required when applying the principle of charity to living donation, first proposed by Ashley and O'Rourke and summarized by Susan Nolan, are as follows: a "serious need on the part of the recipient cannot be fulfilled in any other way; the functional integrity of the donor as a human person will not be impaired, even though the anatomical integrity may suffer; the risk taken by the donor as an act of charity is proportionate to the good resulting for the recipient; and the donor's consent is free and informed."[47]

A human being's self-giving is cultivated in community—that is to say, in his relationships with his brothers and sisters, because a gift requires one who gives and one who receives. The principle of solidarity, which the *Catechism* calls "friendship,"[48] unites all individuals in fraternal love founded on the equality of persons, all of whom are made in the *imago dei.* It unites the rich and the poor, the healthy and the infirmed, the young and the elderly.

Double Effect

The second to last principle to note is the principle of double effect. This principle is credited to Aquinas who, in his reflection on murder, considers acts of self-defense. He acknowledges that some acts have two effects: one good and one evil. An agent who commits one of those acts may intend the good effect but not intend the evil effect. It may be possible in such a case

45. William E. May, *Catholic Bioethics and the Gift of Human Life*, 2nd ed. (Huntington, IN: Our Sunday Visitor, 2008), 353.
46. Aquinas, *Summa theologiae* II-II.25.1.
47. Marie Nolan, "Ethical Issues in Organ Donation and Transplantation," in *Catholic Health Care Ethics: A Manual for Practitioners*, 2nd ed., ed. Edward J. Furton, Peter J. Cataldo, and Albert Moraczewski (Philadlephia: National Catholic Bioethics Center, 2009), 224; citing Benedict M. Ashley and Kevin D. O'Rourke, *Health Care Ethics: A Catholic Theological Analysis*, 4th ed. (Washington, DC: Georgetown University Press, 2006), 334.
48. *CCC,* nn. 1939, 1940–1942.

to tolerate the evil effect, should certain conditions be met. The morality of an act with two effects depends on the object of the act being committed, the intention of the agent, that which brings about the good, and the proportionality between effects. To that end, Aquinas considers an act of self-defense lawful (moral) if the agent strikes the aggressor with the intention of protecting his own life and the lives of those whom he is charged to protect while not exceeding the minimum amount of force necessary to stop the aggressor.[49]

The principle of double effect extends to the discipline of bioethics where it justifies an act when four specific conditions are met. The first condition is the object of the act must be morally good or indifferent—that is to say, morally neutral. The second condition is the intention of the agent must be oriented to the good effect only. Simply tolerating the evil effect is insufficient if it can be eliminated or lessened through further action. Consider here someone administering morphine to manage the pain of a terminally ill patient, knowing that the narcotic may hasten his death. It is unethical to simply tolerate the hastening of the patient's death if the hastening of death can be reasonably avoided through the management of the adverse effects of morphine. The third condition insists the good effect must not be brought about by the evil effect. The end cannot justify the means. Finally, the fourth condition is the good effect must be greater than the evil effect, or equal at the very least. All four conditions must be satisfied for the principle of double effect to permit the act.[50]

Inseparability

If human life is a great good with absolute value, then the act through which life is transmitted must also be sacred. That leads to the final principle: the principle of inseparability. The principle of inseparability follows the human inclination to procreate and finds its voice in Pope St. Paul VI's encyclical letter *Humanae vitae.* Aquinas recognizes the natural inclination of all animals to preserve life, reproduce, and educate offspring. And, by virtue of his natural reason, a human being is uniquely inclined to know the truth (especially as it regards God), to live and work in community with other

49. Aquinas, *Summa theologiae* II-II.64.7.

50. Austriaco, *Biomedicine & Beatitude*, 37–39; and Sgreccia, *Personalist Bioethics*, 191.

people, to shun ignorance, and to not offend others.[51] It should be noted that human beings do not reproduce; rather, they procreate. The former involves the complete transmission of life from parents to offspring, including the transmission of the sensitive soul through the sperm. Similarly, human beings are only capable of transmitting a sensitive soul. It is God alone who creates and breathes an immaterial soul into human offspring. Thus, a man and woman cooperate with God when they procreate.

Reflecting upon the human inclination to procreate and the subsequent inclination to educate offspring, the Holy Father writes in *Humanae vitae*,

> This particular doctrine . . . is based on the inseparable connection, established by God, which man on his own initiative may not break, between the unitive significance and the procreative significance which are both inherent to the marriage act. The reason is that the fundamental nature of the marriage act, while uniting husband and wife in the closest intimacy, also renders them capable of generating new life—and this as a result of laws written into the actual nature of man and of woman. And if each of these essential qualities, the unitive and the procreative, is preserved, the use of marriage fully retains its sense of true mutual love and its ordination to the supreme responsibility of parenthood to which man is called.[52]

That is reaffirmed in several articles in the *ERDs*. For example, infertile Catholics may accept means that assist them in conceiving a child when the conjugal act is not interrupted. That assistance is the subject of NaProTechnology and natural family planning. Conversely, means that interrupt the conjugal act and disrespect its unitive and procreative significances must be rejected. IVF is one example of an immoral means of achieving pregnancy.

Now that the principles of Catholic bioethics have been discussed, a deeper analysis of Brian and Megan's cases can commence. Brian's orchiectomy is moral, because it meets the conditions of the principle of totality. If both testicles are removed resulting in infertility, then Brian may also appeal to the principle of double effect. Both principles defend the morality of the surgery. Megan's decision, on the other hand, is immoral, because the object of the act she is committing is antithetical to the foundational principle of the sacredness of human life. While the circumstances surrounding her case are tragic and her intention to eliminate pain is understandable (even noble

51. Aquinas, *Summa theologiae* I-II.94.2.

52. Paul VI, *Humanae vitae* (July 25, 1968), n. 12.

when the pain is eliminated morally), the object of the act is suicide, which is never permissible.[53]

Secular Bioethics

It is important to affirm from the onset that the four principles of North American bioethics, as Sgreccia refers to them, have existed in one fashion or another, or even by other names, prior to the publication of Tom Beauchamp and James Childress's first edition of *Principles of Biomedical Ethics* in 1977.[54] For example, *primum non nocere*—that is, first, do no harm (the axiom associated with the principle of nonmaleficence)—is often attributed to the Greek physician Hippocrates. Hippocrates writes in *Epidemics*, "As to diseases, make a habit of two things—to help, or at least to do no harm."[55] Or the axiom may be found loosely in the oath that bears his name. That oath forbids the physician from engaging in a number of actions that may harm or injure his patients, stating outright, "I will do no harm or injustice."[56] Others have discounted any ancient origin; rather, they attribute it to the nineteenth century when Thomas Sydenham first used it both in English and in its Latin translation.[57] Regardless of origin, the four principles of North American bioethics are hardly a modern concept.

Following the moral outrage caused by the unethical nature of the Tuskegee Syphilis Experiment, Congress passed the 1974 National Research Act. That act established a committee to formulate principles to guide future research, paying special attention to the rights of participants. Beauchamp was selected by the committee to serve as an author of what would

53. See *CCC,* nn. 2280–2283.
54. Sgreccia, *Personalist Bioethics*, 183–188.
55. Ray W. Gifford, "Primum Non Nocere," *JAMA* 238.7 (August 1977): 589–590, abstract, doi: 10.1001/jama.1977.03280070029018. Gifford writes that if the axiom is attributed to Hippocrates, then the imperative is "undoubtedly taken out of context."
56. Michael North, trans., "The Hippocratic Oath," Greek Medicine (website) National Institutes of Health, National Library of Medicine, September 16, 2002, updated February 7, 2012, https://www.nlm.nih.gov/hmd/greek/greek_oath.html.
57. See Cedric M. Smith, "Origin and Uses of Primum Non Nocere—Above All, Do No Harm!," *Journal of Clinical Pharmacology* 45.4 (May 2005): 371–377, doi: 10.1177/0091270004273680.

become *The Belmont Report*. Interestingly, Beauchamp and Childress published the first edition of their book the same year the report was released. *Principles of Biomedical Ethics* discusses four principles, namely, autonomy, nonmaleficence, beneficence, and justice.[58] *The Belmont Report* discusses respect for persons (with an emphasis on autonomy), beneficence (including several references to harm and risk), and justice.[59] Given the influence of principlism, the following survey is necessary in order to better understand the thought processes of the people who work in medicine and scientific research who subscribe to it, including those who are designing, executing, and promoting UTx.

As Austriaco notes, principlism presupposes a common morality.[60] Beauchamp and Childress summarize the concept of a common morality, defining it in a manner akin to natural moral law. For example, the authors say it is "applicable to all persons in all places, and we rightly judge all human conduct by its standards," with rules such as "do not kill" and "tell the truth." Principlism also recognizes positive and negative traits akin to virtues and vices. While the common morality is universal, particular morality is culture-specific and, therefore, relativistic. The authors write, "Particular moralities are distinguished by their particular norms … including the many responsibilities, aspirations, ideals, sympathies, attitudes, and sensitivities found in diverse cultural traditions, religious traditions, professional practice standards, institutional expectations, and the like."[61] The landscape of today's particular moralities is very pluralistic.

Beauchamp and Childress's four principles flow from common morality to inform biomedical ethics, promoting professional practice standards for people who work in health care and medical research.[62] Rev. Joseph Tham, LC, describes the principles as a framework that is "practical, simple,

58. Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, 6th ed. (New York: Oxford University Press, 2009), 99–287.
59. National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, *The Belmont Report*. Sgreccia also discusses this same comparison of principlism and *The Belmont Report*. See Sgreccia, *Personalist Bioethics*, 183–184.
60. Austriaco, *Biomedicine & Beatitude*, 251.
61. Beauchamp and Childress, *Principles of Biomedical Ethics,* 3–5.
62. Beauchamp and Childress, *Principles of Biomedical Ethics,* 12–13.

and direct"[63] while at the same time broad enough to "leave considerable room for judgment in specific cases and provide substantive guidance for the development of more detailed rules and policies."[64]

Principle of Autonomy

First, the authors consider the principle of autonomy. They write, "[Autonomy] is not excessively individualistic, not excessively focused on reason, and not unduly legalistic."[65] In other words, its strength may be found in its simplicity. Autonomy, from the perspective of the health care professional, involves a passive participation that allows human beings to make autonomous decisions and an active participation that requires sufficient information is provided and understood and any interference or coercion is curtailed. The two philosophers who directly influenced the principle are John Stuart Mill and Immanuel Kant. The influence of Mill's work is considered at length under the principle of beneficence. But as regards autonomy, suffice it to say that he took the position that individuals should be free to self-govern provided their actions are not a source of harm for others or infringe upon others' exercise of self-government. The authors note Mill also recognized the occasional duty to "persuade others when they have false or ill-conceived views"[66] thus illustrating the responsibility of health care providers or principal investigators to dialogue with patients or participants before treatments commence.

Kant's deontology, a moral philosophy toward which Childress tended according to Tham, had considerable influence on the principle.[67] Kant writes, "Autonomy is the ground of the dignity of human nature and of

63. S. Joseph Tham, "The Secularization of Bioethics: A Critical History," (PhD diss., Ateneo Pontificio Regina Apostolorum, 2007), 153.
64. Tham, "The Secularization of Bioethics," quoting Beauchamp and Childress, *Principles of Biomedical Ethics,* 38.
65. Beauchamp and Childress, *Principles of Biomedical Ethics*, 99.
66. Beauchamp and Childress, *Principles of Biomedical Ethics*, 103; quoting John Stuart Mill, *On Liberty,* in *Collected Works of John Stuart Mill,* vol. 18, (Toronto: University of Toronto Press, 1977), chap. 1 and 3.
67. Tham, *The Secularization of Bioethics*, 275.

every rational nature."[68] He makes that claim because he views all rational beings as ends unto themselves who legislate laws that they ought to follow provided those laws conform to the categorical imperative of universality, that is, "Act according to that maxim which can at the same time make itself a universal law."[69] Therefore, it may be argued, if autonomy is intrinsic to human nature, then outweighing the principle of autonomy has profound implications and may only be tolerated in certain circumstances.

Regarding Beauchamp and Childress, the authors give examples of moral rules that flow from the principle of autonomy. They are "tell the truth, respect the privacy of others, protect confidential information, obtain consent for interventions with patients, and, when asked, help others make important decisions." Among the instances when autonomy may be outweighed is when a patient requests a "scarce resource."[70] Additionally, immaturity, coercion, or exploitation may undermine an individual's exercise of autonomy and, therefore, require prompt and thorough investigating.

Finally, *The Belmont Report*, under respect for autonomy, recognized the autonomous decisions of individuals who are capable of self-governance and the protection of individuals who are incapable of self-governance. The National Commission writes, "To show lack of respect for an autonomous agent is to repudiate that person's considered judgements, to deny an individual the freedom to act on those considered judgments, or to withhold information necessary to make a considered judgment, when there are no compelling reasons to do so."

Principle of Nonmaleficence

Next, Beauchamp and Childress consider the principle of nonmaleficence. *Nonmaleficence* is a rather simple term that refers to the duty to do no harm. The principle has tremendous weight amongst the other principles. With regard to the conflict between nonmaleficence and beneficence, the authors caution, "Generally, obligations of nonmaleficence are more stringent than obligations of beneficence, and, in some cases, nonmaleficence overrides beneficence, even if the best utilitarian outcome would be obtained by

68. Immanuel Kant, *Grounding for the Metaphysics of Morals* with *On a Supposed Right to Lie because of Philanthropic Concerns*, trans. James W. Wellington (Indianapolis: Hackett, 1993), 436.

69. Kant, *Grounding for the Metaphysics of Morals*, 437.

70. Beauchamp and Childress, *Principles of Biomedical Ethics*, 104–105.

acting beneficently."[71] However, the quality or duration of the harm may be outweighed by the benefit in some cases. In other words, foreseeable harms may be tolerated if the benefit is sufficient.

Quoting Bernard Gert, the authors writes the following specific rules: "Do not kill, do not cause pain or suffering, do not incapacitate, do not cause offense, and do not deprive others of a good life."[72] Beauchamp and Childress consider the provision of due care to be an element of nonmaleficence. Due care is the "sufficient and appropriate care to avoid causing harm, as the circumstances demand of a reasonable and prudent person."[73] Neglecting the provision of due care is a subversion of the principle. Similarly, the provision of a futile treatment or a medical treatment in which the benefit is outweighed by the burdens is not obligatory on account of this principle.

Principle of Beneficence

The Belmont Report follows nonmaleficence with beneficence. Sgreccia calls that principle the "summit [and] ultimate reference" of all of the principles.[74] It is oriented toward the primary goal of medicine, that is, to heal. For Beauchamp and Childress, *beneficence* refers to the duty to act in a way that benefits others. The authors write that some acts are obligatory, while others are not. They distinguish between obligatory and non-obligatory acts, with the former exemplified in the following: "Protect and defend the rights of others, prevent harm from occurring to others, remove conditions that will cause harm to others, help persons with disabilities, and rescue persons in danger." The latter, on the other hand, is exemplified in acts of "severe sacrifice and extreme altruism."[75]

Beauchamp and Childress continue with reflections on paternalism and utilitarianism. With regard to utilitarianism, a brief commentary on Mill's work is necessary because of the predominant role that moral philosophy has played in modern medical ethics, especially as it informs principlism.

71. Beauchamp and Childress, *Principles of Biomedical Ethics*, 150.
72. Beauchamp and Childress, *Principles of Biomedical Ethics*, 153; quoting Bernard Gert, *Morality: A New Justification of the Moral Rules* (New York: Oxford University Press, 1988), chaps. 6–7.
73. Beauchamp and Childress, *Principles of Biomedical Ethics*, 153–169.
74. Sgreccia, *Personalist Bioethics*, 185.
75. Beauchamp and Childress, *Principles of Biomedical Ethics*, 197–199.

In response to Kant's categorical imperative, Mill proposed the nuanced greatest happiness or maximizing principle in its place. For Mill, utilitarianism is concerned with happiness. Happiness is pleasure and the absence of pain and suffering. In that regard, utilitarianism is hedonistic.[76] Consequently, the principle of utility states, "Actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness."[77] Happiness (when considered in light of the greatest happiness, that is, the greatest happiness for the greatest number of people) is the aim of the maximizing principle and the benefit to which the principle of beneficence is directed.

The morality of the action per se may be discerned through the lens of its consequence or consequences in a single event or juxtaposed with an established rule. The former is act utilitarianism; the latter is rule utilitarianism.[78]

While Mill emphasizes the nobility of forfeiting one's own happiness in order to secure the happiness of others (like a hero or martyr), he acknowledges that an agent may act for his own private utility but warns the agent against violating the rights of others when doing so. There he gives a very Kantian formula: "In the case of abstinences of things which people forbear to do for moral considerations, though the consequences in the particular case might be beneficial, it would be unworthy of an intelligent agent not to be consciously aware that the action is of a class which, if practiced generally,

76. Rev. William Wallace, OP, refers to utilitarianism as a "generalized form of hedonism." William A. Wallace, *The Elements of Philosophy: A Compendium for Philosophers and Theologians* (Eugene, OR: Wipf & Stock, 1977), 274. Further, Peter Singer uses the term *human interests* rather than *pleasure* and identifies those interests as "avoiding pain, developing one's abilities, satisfying basic needs for food and shelter, enjoying warm personal relationships, and being free to pursue one's projects without interference." Austriaco, *Biomedicine & Beatitude*, 251; citing Peter Singer, *Practical Ethics*, 2nd ed. (Cambridge: Cambridge University Press, 1999).

77. John Stuart Mill, *Utilitarianism*, in *The Utilitarians: An Introduction to the Principles of Morals and Legislation, Utilitarianism, and On Liberty* (Garden City, NY: Dolphin Books, 1961), 407.

78. For more information on act and rule utilitarianism, see Stephen Nathanson, s.v. "Act and Rule Utilitarianism," Internet Encyclopedia of Philosophy, accessed November 8, 2023, https://www.iep.utm.edu/util-a-r/.

would be generally injurious, and that this is the ground of the obligation to abstain from it."[79] In those instances, Mill advises that an agent's action be "strictly impartial as a disinterested and benevolent spectator" in order to overcome the desire for private benefit in favor of the general welfare.

Mill notes that not all pleasures are the same. Some pleasures are higher in degree than others.[80] He thinks intellectual and moral pleasures are more valuable than bodily pleasures. He understands, however, there may be cases when bodily pleasure is sought without a net gain in intellectual or moral pleasure or even in circumstances when higher pleasure is lost. One example is when the desire for bodily pleasure is extreme. There, the agent is convinced that the benefit of bodily pleasure far exceeds any associated cost or consequent injury. Mill reasons why an agent would make that decision. He thinks it may be due to several factors: there may be a defect in the agent's character, the bodily pleasure may be more easily attainable or readily available, or the agent may think it is the only pleasure that is satisfying. In the event an agent must choose between conflicting pleasures that are seemingly equal in value, Mill recommends the agent make the same decision that all agents or the majority of agents make when faced with the same dilemma.

Mill also speaks about the rule of action versus the motive of action. There he dismisses the motive or intention of the agent by drawing upon a number of analogies. Ultimately, he maintains a morally right act is an act with good consequences, regardless of the agent's intention, and a morally evil act is an act with evil consequences, regardless of the agent's intention. There, the end can very well justifies the means.

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79. Mill, *Utilitarianism*, 418, 420.

80. James E. Crimmins, "Jeremy Bentham," Stanford Encyclopedia of Philosophy, Stanford University, summer 2019, https://plato.stanford.edu/archives/sum2019/entries/bentham/#FelCal, accessed October 26, 2023: One model for distinguishing between pleasures of varying degrees is Jeremy Bentham's felicific calculus. Regarding that model, James Crimmins writes that it "describes the elements or dimensions of the value of a pain or pleasure" by way of the following qualities: intensity, duration, certainty or uncertainty, proximity or remoteness, and the ability to produce subsequent pleasure and inability to produce future pain.

Finally, Mill discusses the ultimate sanction of the principle of utility. By sanction, he meant both the motive to obey and the obligation to follow the principle. Interestingly, he begins with customary morality. As mentioned above, customary morality is an attempt to recognize the natural law without referencing it by name. He refers to concepts akin to the negative and positive precepts of natural law. The former prohibit man from killing or stealing and the latter oblige him to promote the general happiness. Mill thought the binding nature of the negative precepts is recognizable, whereas the binding nature of the positive precepts is more subtle and therefore more difficult to recognize.

In summary, utilitarians may justify the search for pleasure in the face of extreme unhappiness, even at the risk of injury. Bodily pleasure may be thought of as an upright end if the agent thinks that pleasure is the only thing that will satisfy him. Utilitarians think escaping evil—that is, physical and mental suffering (such as disease)—is "enviable."[81] The moral philosophy is "beneficence-based," thereby seeking the promotion of the general welfare and the broadening of the sphere of personal freedoms for the greatest number of people.[82]

Regarding principlism, once the benefit or benefits are identified, then a thorough analysis may commence in which that benefit is weighed in light of the risks, harms, and cost of treatment. It is upon that scale where the application of the general principles of nonmaleficence and beneficence occurs as described in *The Belmont Report*.[83]

Principle of Justice

Finally, Beauchamp and Childress consider the principle of justice. Some philosophers have defined justice as "fair, equitable, and appropriate treatment in light of what is due or owed to persons." While they certainly emphasize distributive justice (defined as "fair, equitable, and appropriate distribution determined by justified norms that structure the terms of social cooperation),"[84] formal and material justice are also emphasized.

81. Mill, *Utilitarianism*, 415.
82. Beauchamp and Childress, *Principles of Biomedical Ethics*, 343; see also Sgreccia, *Personalist Bioethics*, 53.
83. National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, *The Belmont Report*.
84. Beauchamp and Childress, *Principles of Biomedical Ethics*, 241.

The former is oriented to people, affirming equal treatment among them. The latter is oriented to that which is due, specifically, fundamental needs "without which a person will be harmed or at least detrimentally affected in a fundamental way if the need is not fulfilled." With regard to material justice, the following has been proposed: each person is due "an equal share, according to need, to effort, to contribution, to merit, and/or to free-market exchanges."[85] A single element of the aforementioned proposal can be adopted or all of the elements together.

Beauchamp and Childress provide a summary of various theories of justice. Utilitarian, libertarian, communitarian, and egalitarian are four examples. They write, "Utilitarian theories emphasize a mixture of criteria for the purpose of maximizing public utility [i.e., happiness]; libertarian theories emphasize rights to social and economic liberties, invoking fair procedures rather than substantive outcomes; communitarian theories stress the principles and practices of justice that evolve through traditions and practices in a community; and egalitarian theories emphasize equal access to the goods in life that every rational person values, often invoking material criteria of need and equality."[86]

Beauchamp and Childress also considered what they call "life's lottery." The fair-opportunity rule prohibits discrimination based on "the lotteries of social and biological life." According to that rule, people with undeserved disadvantages in health, for example, should not be denied social benefits, including the opportunity to access health care. It is a matter of justice. Disease is among the negative areas of life's lottery, or what John Rawls calls the "natural lottery."[87]

Finally, the authors consider a right to health care and challenge allocation, prioritization, and rationing under such a right. Suffice it to say, they propose "that society recognize global rights to health and enforceable rights

85. Beauchamp and Childress, *Principles of Biomedical Ethics*, 243; citing Nicholas Rescher, *Distributive Justice: A Constructive Critique of the Utilitarian Theory of Distribution* (Indianapolis: Bobbs-Merrill, 1966), chap. 4; indebted to John Ryan, *Distributive Justice: The Right and Wrong of Our Present Distribution of Wealth* (New York: Macmillan, 1922).

86. Beauchamp and Childress, *Principles of Biomedical Ethics*, 244.

87. Beauchamp and Childress, *Principles of Biomedical Ethics*, 248–249; see John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Harvard University Press, 1999), 63–65.

to a decent minimum of health care within a framework for allocation that incorporates both utilitarian and egalitarian standards."[88]

The Belmont Report asks this simple question with regard to the application of justice to research: "Who ought to receive the benefits of research and bear its burdens?" The implications of that question extend to candidate selection, equipoise, and public access to therapeutics resulting from that research. Sgreccia says, "The principle of justice refers to the duty of equal treatment and equitable distribution of funds for health care, research, and so forth at the state level. While it certainly doesn't mean treating everyone in the same way, because there are different clinical and social situations, it should nevertheless entail adherence to certain objective facts, such as the value of life and respect for proportionality in interventions."[89]

While the four North American principles are designed to be broadly adopted and culturally neutral, certain challenges do arise when they are applied. One problem attributed to principlism is the attempt to arrange the principles in a hierarchy.[90] For example, the principle of autonomy is considered by some people to be morally superior to nonmaleficence, beneficence, and justice. Yet, Beauchamp and Childress emphasize that it is a principle weighed equally to the others.[91]

Autonomy is not absolute. Case in point, circumstances may necessitate the temporary or indefinite suspension of a patient's autonomy in an emergency situation when consent cannot be ascertained, when a patient is judged incompetent or is unconsciousness, or when the patient's demands conflict with the values of the health care professional or institution.[92]

There may also be instances when there is tension between the principles and an individual's intuition. In those instances, Rawl's reflective equilibrium is proposed as a useful tool. John Arras describes reflective equilibrium as a method that "involves the attempt to bring our most confident ethical judgments, our ethical principles, and our background social, psychological, and philosophical theories into a state of harmony or

88. Beauchamp and Childress, *Principles of Biomedical Ethics*, 280–281.
89. Sgreccia, *Personalist Bioethics*, 188.
90. Tham, "The Secularization of Bioethics," 276–277.
91. Beauchamp and Childress, *Principles of Biomedical Ethics*, 140.
92. Sgreccia, *Personalist Bioethics*, 185.

equilibrium."[93] Tham describes it as "a state of balance or coherence among a set of beliefs arrived by a process of deliberative mutual adjustment among principles and particular judgments."[94]

An example of reflective equilibrium applicable to UTx is the ethical consideration of quality-of-life transplants in general through the lens of principlism. An agent's moral intuition tells him that a quality-of-life transplant from a deceased donor is moral, because it is usually praiseworthy to positively affect another's quality of life. However, the act is not universally agreed upon by ethicists, because the graft recipient is undergoing a surgery that carries with it significant risks for a reason other than the preservation of life. The agent turns to the four North American principles to justify his intuition. The transplant is sought by an informed individual who consents to the surgery (autonomy). The risks associated with the surgery and requisite immunosuppression fail to surpass the likely benefit in the mind of the patient (nonmaleficence and beneficence). Finally, the patient is selected through a just process that prioritizes all vital organs before the graft is procured. Moreover, the entire procedure is subsidized by his private insurance, thereby avoiding any undue financial burden on the general public (justice). The four principles are employed to promote the agent's considered judgment that the quality-of-life transplant ought to be performed.

That example appears to follow the "bottom-up model" described by Beauchamp and Childress. The bottom-up model refers to deliberations where the considered judgment is favored and the principles are shaped and re-shaped in order to justify that judgment by way of equilibrium. The four North American principles can also be used to sharpen or change the considered judgment, referred to as the "top-down model."[95] The authors conclude, "The goal of reflective equilibrium is to match, prune, and adjust considered judgments and their specifications to render them coherent with the premises of our most general moral commitments."[96]

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93. Austriaco, *Biomedicine & Beatitude*, 251 note 13, citing John D. Arras, "The Way We Reason Now: Reflective Equilibrium in Bioethics," in *The Oxford Handbook of Bioethics*, ed. Bonnie Steinbock (New York: Oxford University Press, 2007), 47.
94. Tham, "The Secularization of Bioethics," 403.
95. Beauchamp and Childress, *Principles of Biomedical Ethics*, 381.
96. Beauchamp and Childress, *Principles of Biomedical Ethics*, 140.

Summary

This chapter summarized two predominant moral philosophies that guide modern medical ethics. Catholic bioethics was reviewed first because of its rich history and voluminous reflections. Its development continues even to today. Austriaco gives three examples of how Catholic bioethics differs from its secular counterparts: the embrace of objective truths and moral absolutes, the novel approach to determining the morality of an act, and the application of principles to resolve moral dilemmas, specifically the principles that are embraced and often exclusive to the Catholic bioethical tradition.

Secular bioethics in the United States primarily focus on the application of principlism to resolve moral dilemmas. Principlism is a repackaging of four enduring principles by Beauchamp and Childress. Those principles are autonomy, nonmaleficence, beneficence, and justice. They are also articulated in *The Belmont Report*, which was released the same year that Beauchamp and Childress published their influential text on the subject. Resting under those principles is a foundation of moral theories that date back centuries. For example, autonomy is founded on Kant's deontology and beneficence on Mill's utilitarianism. Together, those principles are employed by many health care professionals and researchers to ethically resolve medical dilemmas.