
Guest editorial

International bioethics? The role of the Council of Europe

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Ethical problems relating to medicine and biology cover a wide variety of issues including scientific research, diffusion of new technologies, the doctor/patient relationship, and the allocation of limited health care resources, to mention but a few.

Ethical problems are very similar in most countries in Europe. Actually, most health care is provided in similar ways across Europe and there are no important differences in the disease patterns or in their management. Furthermore medical knowledge and the practices related to it flow very fast across national borders. Research studies are often conducted in more than one country and multi-centre studies are very common.

There are still relevant differences in national health care systems but all of them share at least one common feature: in every country in Europe, every citizen has basic health care services provided either through a private or a public service.

It is unrealistic to push this homogeneity too far, for certain ethical problems are experienced differently according to the different cultural background. One example may be the issue of patient autonomy. In nordic countries, respect for patient autonomy has a relatively long tradition, whereas in mediterranean countries the family very often assumes decision-making on behalf of the patient.

However, given such limitations it can be assumed that on the whole ethical problems are similar in most European countries.

Disparities are more relevant in the way ethical problems are approached and solved. In the last decade, in many European countries, there has been a growing awareness of bioethical issues, and guidelines, laws, commissions of enquiry and ethics committees have been established in order to follow developments and to provide solutions in this field. Differences are important among different countries. European countries are pluralistic societies in which these questions are tackled very often after a fine tuning of the power-balance, which is different in each country. Forces in conflict include political parties, the medical profession, religious groups, and especially the weight of the Catholic Church, and significantly the media. The advice of a national ethics committee, when such a committee exists, is very relevant because it usually has both prestige and influence. Tradition also plays an

important role. Furthermore some bioethical problems, such as, for instance, those related to health care resource allocation decisions, are usually not explicitly approached, creating a complicated situation in which comparisons are made looking only at what is done in practice.

However, there is a need for harmonisation of national norms on bioethics. In fact when citizens can cross national borders very easily, any restriction on a medical activity in a single country may be overcome by crossing the border, and having it done in the next one. This is very easy, specially for the better-off citizens, not to speak of the multinational companies which can do research in a more permissive country, using its citizens as subjects of the research, but applying the results in the more restrictive one.

There are of course some obstacles to reaching such harmonisation on national regulations in this field. The main one is that for most countries, these are regarded as domestic matters. No country, up to now, has accepted supranational interference in the way its national health care system is organised. Health care systems learn from the experiences of each other but, unlike medical technologies, which spread and are adopted by others very rapidly, health care systems and health care reforms are not easily exportable. Issues of resource allocation and the related ethical problems may be common to many countries but they are considered as strictly national matters.

In fact the only bioethical problems that have been considered for international harmonisation are the ones related to scientific research and the application of medical technologies. In this field bioethics is mainly defensive, meaning that ethical restrictions are imposed on any research and medical practices that threaten human dignity or human rights. It has to be assumed that some of these restrictions may change over time, as scientific knowledge improves.

The Council of Europe has made great efforts towards achieving such harmonisation. For this purpose it created in 1985 a multidisciplinary body with experts appointed by each member country, the Ad Hoc Committee for Bioethics, the Comité Ad-Hoc de Bioéthique (CAHBI), now called the Steering Committee for Bioethics, the Comité Directeur de Bioéthique (CDBI). This committee has already produced documents on artificial reproduction,

research on human beings, prenatal diagnosis and screening, and genetic testing, to mention the more relevant. If these documents are approved by the Committee of Ministers they become recommendations for the national Parliaments, which may or may not decide to follow them.

The CDBI is not the only body of the Council of Europe producing texts on bioethics. The European Assembly has issued documents related to bioethical problems, and so have other committees.

In 1990 the Council of Europe thought the time was ripe to take a step forward and started working on a convention on biomedical ethics, a legally binding instrument for all the countries signing it. The CDBI is currently working on the text.

The convention will have a document giving general guidelines as well as protocols for specific ethical problems related to biomedical research and to certain areas of medical practice. Two protocols have been chosen to date. The first concerns ethical problems associated with transplantation and the second concerns research with human beings. There are two good reasons for making these choices. One is that in both cases it seems relatively easy to reach a consensus. The other is that international co-operation is fundamental both for transplants, with organs travelling across borders, and for research, with multicentre studies going on in many countries.

In spite of the need for an international agreement on bioethics and the deliberate exclusion, at least for the time being, of the more difficult ethical problems, putting forward such a convention is not without its problems. If the text is too vague it will easily permit a consensus but will add nothing to what already exists. If, on the other hand, the text is very specific, a consensus will not be possible. Given that the proposed convention will be legally binding all the usual obstacles faced in reaching consensus

for a recommendation on bioethics – a non-binding document – are greatly magnified.

Furthermore when confronting similar ethical problems, countries react in quite different ways. Tradition, as previously stated, plays a major role. Some countries are used to regulating everything very specifically, even foreseeing quite unusual situations. Such precision offends other countries who may resent it as a threat to their sovereignty and an imposition on their national will. Others already have legislation on these topics which may not fit exactly with the text proposed, particularly if the latter is very specific. A convention may not be regarded as a priority by some countries, and it may be feared by others for the additional structures and bureaucracy that they expect it might generate.

Certainly the task is not easy but, in spite of these difficulties, many countries support the initiative. A simple and flexible text is needed, clear but not constituting the lowest common denominator as to its content, and leaving not too much ground for national legislations to create their own provision. The text should be a compromise, not the lowest common denominator – which would have little effect – but on the other hand it should be tight enough not to permit individual countries to incorporate their own, perhaps widely differing, practices.

A special effort has to be made to gather the maximum number of signing countries, opening the right to sign to countries outside Europe, and especially to developing countries where bioethical problems are very relevant.

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