Dynamics of the Bioethics Dialogue in a Spain in Transition

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Serious work on bioethics at private Spanish institutions began in 1975, when the Spanish Government was in transition toward democracy. Since then the country has developed significant centers of bioethics study and a wide-ranging community of experts in this field. Reasons relating partly to Spain's recent history and partly to the nature of its health system have kept the discipline from attracting the support and collaboration of much of the nation's medical fraternity. This could change, however, in response to a changing legal picture, creation of hospital ethics committees, and a growing need for stronger ties between bioethicists and the medical community at large.

If one analyzes the evolution of the bioethics dialogue from its beginnings—in other words, from the time when an interdisciplinary dialogue was instituted to seek a working methodology for resolving conflicts produced by the clash between biomedical advances and ethics—it is possible to see that in Spain the greater part of this evolution has occurred since 1975. It is also true that a lot of ground remains to be covered, especially if we take participation by our citizens in the public debate to be one of the cornerstones of the bioethics dialogue, something that seems both advisable and necessary before legislation is promulgated on bioethical issues with far-reaching social repercussions.

This article will begin by defining how it employs the term bioethics. Next, it will describe the characteristics of Spanish society during the transition from national Catholicism to a secular government in a relatively short period of time. It will then go on to broadly describe the most important bioethics centers in Spain today. And it will conclude with some of the author's personal views about the circumstances confronted by Spain's medical schools, physicians, and nurses and the roles these parties are playing in the bioethics debate.

DEFINITION OF BIOETHICS

In order to avoid other possible interpretations, it is advisable to begin by defining bioethics as that term is used here. Although bioethics can be defined as a discipline concerned with health ethics and health care, I prefer to regard it as the interdisciplinary study of problems created by biological and medical advances (at both the microsocial and macrosocial levels) and their repercussions on society and its value system, both today and in the future. This helps to clarify bioethics' dynamics while bringing into focus certain features that I feel to be essential: namely, the use of dialogue as a working methodology and the need for an interdisciplinary and interfaith approach.

As a prerequisite to participating effec-
tively in such dialogue, one must receive training that fosters the ability to listen attentively, analytical rigor, and critical judgment. The difficulty that some persons perceive in accepting these elements while at the same time remaining faithful to their own principles and beliefs should not be an obstacle to dialogue. Indeed, for those coming to bioethics from a Christian perspective, it is inconceivable that one should fear either the truth or the unknown, or should fail to respect what is taught. This point deserves emphasis, because the individuals and centers pioneering the bioethics dialogue in Spain have been Catholic institutions working from a defined perspective, although not one that is monolithic. They have demonstrated a will to engage in dialogue with the health sciences and other ethical systems. Within these institutions today there is a clear perception of the need for dialogue and for a sharing of responsibilities in choosing the values that will help to guide the evolution of our society and all humanity.

SPANISH SOCIETY IN TRANSITION

The following is a brief historical account that will help orient the reader unfamiliar with Spain's history since the 1930s. This account is limited to describing the Catholic Church's role in the transformation process (1). The period covered (1939 to the present) can be effectively divided into four shorter periods, those of 1939–1953, 1953–1965, 1965–1975, and 1975 onward.

1939–1953

At the end of the Spanish Civil War, the task of rechristianizing Spain was carried out with such fervor that for many, if you were not a good Catholic, then you were not a good Spaniard. The Church identified itself with the political regime. There was no lack of critical outcry, such as that by the exiled Cardinal Vidal i Barraquer, who warned Pope Pius XII not to let himself be dazzled by the external manifestations of official Catholicism.

Deep mistrust and fundamental problems that went unresolved delayed the signing of the Concordat between the Holy See and the Government of Spain until 1953. By virtue of the Concordat, the Government's religious nature was recognized, as was the fact that Spain's cultural institutions, from schools to universities, were Catholic. Paradoxically, the Concordat did not mark the beginning of a new phase of national Catholicism, but rather the Church's initial awakening to the legitimate aspirations of workers, intellectuals, and marginal groups, as well as to the idea of political liberties.

1953–1965

The intellectuals and the young clergy, receptive to the political currents in Europe and sensitive to social injustices, questioned the very foundations of the regime. The Spanish Civil War was reinterpreted, dispossessed of any messianic traits, and recharacterized as a fratricidal war. The crusading spirit began to be abandoned, and the young clergy confronted Franco's bishops who were more nostalgic for the past than they were able to take on the problems of social injustice.

The 1961 encyclical Mater et Magistra had a profound effect on the Spanish diocese, and there was gradual but unceasing evidence of a growing divergence between the diocese and the political regime. Agriculture, labor unrest, strikes, and the right of the Church to intervene in sociopolitical matters were the topics of numerous pastoral mes-
sages that infuriated a government unaccustomed to criticism.

1965–1975

During the years when political parties were prohibited, the Church, which had appropriate organizations, means, and opportunities, worked through select groups and followed the inspiration of its evangelical ideal to perform that function which, in other political situations, is performed by political parties and pressure groups: the promotion of human rights and liberties.

In 1966 the Spanish Episcopal Conference was established. Of the 77 bishops who made up this group, 83.1% had been named through prior presentation by the head of state, 10.1% predated Franco, and the rest had not passed through the formality of presentation because they were auxiliary bishops. Of the 77, 48 were over 60 years of age, 26 were between 45 and 60, and only three were under 45.

Around this time the Holy See encouraged resignation of older bishops, appointing young bishops and, above all, numerous auxiliary bishops in their stead. Because government approval was not necessary for the election of these latter bishops, the Holy See was able to choose them more freely, according to its own criteria. The spirit of Vatican Council II, especially the doctrinal decree Lumen Gentium, the pastoral letter Gaudium et Spes, and the decree on religious freedom Dignitatis Humanae, was received as a message of hope. As a result, by 1975 it could be said that the Spanish Church had an image that was new, bursting with life, and pluralistic.

1975 Onward

It was this Church which, after Franco’s death in 1975, undertook the progressive reinstatement of its religious, nonpolitical role. On 27 November 1975, in a solemn liturgical act that accompanied the succession of Juan Carlos I to the throne of Spain, Cardinal Tarancón, the principal architect of the renovation of the Spanish Church, spoke the following words to the King: “The Church neither favors nor imposes a specific social model. The Christian faith is not a political ideology, nor can it be identified with any such ideology, given that no socio-political system can exhaust the riches of the gospel, nor is it part of the Church’s mission to present specific government options. . . . The Church asks for no privileges. It asks for recognition of the freedom it proclaims for all; it asks for the right to preach the whole gospel, even when that preaching may be critical of the specific society in which it is spoken. . . . I ask, finally, Your Majesty, that we, as men of the Church, and you, as a man of government, may come together in a relationship of mutual respect for one another’s autonomy and freedom, without this ever impeding mutual and fruitful collaboration from our respective fields” (2).

At that time Spain was prepared to learn the lesson of democracy. The basis for the dialogue had been established, but not all the tensions between the various plans for democracy that existed within the country had yet been resolved. It was possible to distinguish three pairs of democratic plans (3), which revolved around three distinct points of reference: (1) a purely political democratic plan (which did not seek to make any change in the socioeconomic and cultural model) and a comprehensive democratic plan; (2) a unitary democratic plan (which took little account of Spain’s historically autonomous units or ‘nations’) and a profoundly decentralized plan (which acknowledged governmental unity but granted the various peoples a
native social sovereignty which transcended the sovereignty of the State); and (3) a secular plan (which advocated the separation of Church and State, secularization of the values that guide public life, civil tolerance, and full respect for freedom of conscience) and a religious plan (defended by the supporters of ethical hegemony for Christian values in civil society and of the ecclesiastical presence maintained through social institutions of a religious nature).

The 1978 Constitution contained a formula for reconciling these various plans, as follows: There would be a social and democratic State of law, which would leave the door open for establishment of an advanced democratic society or a comprehensive democracy; the State would be autonomous, dovetailing the government’s political unity with the right to self-government of nationalities and regions; and the State would be secular (but not laicist), granting religious freedom to individuals and communities.

BIOETHICS ISSUES AND REGULATIONS

This is the framework within which Spain’s bioethics discussions must be viewed. It should also be noted that Spain’s most important bioethics centers have appeared within private institutions, while the Government has moved more hastily to create legislation modeled upon European legislation or draft laws considered progressive, rather than legislation derived from a more profound ethic and consultation pertinent to diverse sociocultural groups. This is apparent from the procedures followed to develop legislation on bioethical problems.

The Spanish law of 1979 on organ removal and transplants (6-XI-1979) drew its inspiration from the Council of Europe’s Resolution 29 on “Harmonization of Member State Legislation on Extrac-
Gradual awareness is growing that these surprising discoveries are a most intimate invasion of the world of the origins and continuation of human life, and that human beings have been given the resources to manipulate and influence their own heredity, and to make changes in it. There does not seem to be any doubt that scientific and technological research should continue to expand and to move forward; nor should it be limited unless this is done according to well-founded and reasonable criteria which prevent this research from clashing with human rights and with the dignity of individuals and the societies in which they live, for these are inalienable rights. For this reason there must be an open, rigorous, and dispassionate collaboration between society and science, in such a way that, based on respect for the fundamental rights and freedoms of human beings, science may proceed unimpeded within the limits, according to the priorities, and at the pace which society indicates, while in both the sciences and society there must be continued awareness that, strictly for the benefit of human beings it will not always be possible nor should it be attempted to do what it is within our power to do. These are matters of grave responsibility, which must not lapse or be left to the independent decisions of scientists, who in any case might refuse to decide them. In this order of things, the establishment of national multidisciplinary commissions—including broad social representation that encompasses the majority opinion of the population, together with experts in these techniques, and having the responsibility for follow-up and monitoring of assisted reproduction, as well as for providing information and advisory services on these techniques in collaboration with the corresponding public authorities—will facilitate definition of the limits of their application, as is occurring in other countries and as the Council of Europe recommended to its Member Governments in Recommendation 1046 of September 1986, thus helping in addition to supersede isolated national standards which, given the possibilities for further development of these techniques, will end by being ineffective or contradictory. From an ethical perspective, social pluralism and a divergence of opinion are frequently expressed with regard to the different uses that are made of assisted reproduction techniques. The acceptance or rejection of these techniques must be debated based on what is considered accurate information, and must not reflect either the motivations of special interests or any ideologic, religious, or partisan pressures, being founded only upon an ethics of a civic or civil nature that is not immune to practical considerations and whose validity is rooted in an acceptance of reality in which the criteria for rationality and justification in terms of serving the general good have been taken into account—an ethics that reflects the feelings of the majority and the content of the Constitution, and which may be adopted without social tensions and be of use to legislators in taking positions or setting standards.

On 11 April 1985, between promulgation of the law on organ removal and transplants and the law on assisted human reproduction, the Constitutional Tribunal issued a judgment declaring constitutional the decriminalization of abortion in the following three hypothetical cases: grave danger to the life or health of the pregnant woman; pregnancy resulting from the crime of rape; and the probable existence of serious hereditary physical or mental defects in the fetus.

Before this judgment was issued, highly subjective information was disseminated through the mass media, and a heated debate began which was quite similar to that found in other countries.

2The italics are the author's.
where this topic had been debated. The Royal Decree on health centers for voluntary termination of pregnancy (21-XI-1986) liberalized the performance of abortion, doing away with controls and setting minimal conditions for the accreditation of centers for legal voluntary termination of pregnancy. A majority of the medical schools were opposed to this last measure, but their opinion was ignored by the parliamentary majority.

Other bioethics problems related to research with human subjects, hospital ethics committees, patients' rights, etc., are still depending on development of the General Health Law of 25 April 1986.

**BIOETHICS CENTERS**

Spain's bioethics centers should be viewed not so much as structures or institutions but as focal points for reflection and exploration. Various specialists from these centers are regularly asked to serve as *ad hoc* members on various government or ecclesiastic commissions that discuss biomedical projects and examine ethical questions.

The bioethics dialogue, as defined here, began in Spain in 1975, the year the Borja Institute on Bioethics was founded as an autonomous institute attached to the School of Theology of Barcelona. Nearly a decade later, in 1984, this institute became independent of the school and began operating as a private foundation recognized by the Autonomous Government of Catalonia.

From 1975 until 1985, bioethics leadership in Spain was exercised from this institute, which collaborated in establishment of the European Association of Centers on Medical Ethics and the International Study Group on Bioethics within the International Federation of Catholic Universities.

The so-called interdisciplinary dialogues organized by the institute have dealt with topics on the frontiers between the medical and biological sciences and ethics. The methodology used at these meetings has been as follows: Invitations are issued to a limited number of scientists, philosophers, and theologians, some 40 to 50 people in all. They share knowledge and weigh values from their distinct points of view. An attempt is made to clarify their differences, since it is felt that the interdisciplinary dialogue presupposes that the participants are competent within their own disciplines, and that their objective is less to convince than to suggest ways of focusing on issues.

Topics covered thus far in these dialogues have related principally to scientific and ethical aspects of the state of the human embryo, genetic engineering, the use of human embryos in research, natural law concepts, prenatal diagnosis, death with dignity, and euthanasia. Most of those involved have been interested largely in exploring more deeply, from a rational perspective, the arguments of Catholic morality presented by the Church in its doctrinal positions on biomedical advances.

The Pontifical University of Comillas, Madrid, has used a similar methodology to conduct bioethics dialogues at meetings on assisted fertilization, AIDS, and euthanasia that it has organized since 1985. The university's bioethics department, directed by Javier Gafo, and the Department of the History of Medicine at the Complutense University, directed by Diego Gracia, are the most important university-based bioethics centers in Spain.

In recent years important teaching and research in bioethics has also been accomplished by the University of Salamanca and the Higher Institute of Philosophy (Friedrich Ebert Foundation) of Valladolid, the latter institution having
organized the I National Congress on Bioethics in 1986.

Nevertheless, it would be inaccurate to give the impression that bioethics is centered only in certain universities. The professors of biology and ethics who have joined in the above-mentioned interdisciplinary dialogues serve as focal points for bioethics at their respective universities (Oviedo, Málaga, Córdoba, Granada, Bilbao, Lérida, etc.). Other institutes, such as the Institute of Ethical Sciences of Madrid, have also made excellent contributions to the current bioethics dialogue. At the same time, scientific and cultural foundations like the Valencia Foundation for Advanced Studies, have revealed the vitality and progress of bioethics through conventions and conferences.

Other important interdisciplinary dialogues have been organized by Professor Alberto Dou. In 1984 those participating in these dialogues established the José de Acosta Interdisciplinary Association, whose purpose is to "promote intellectual exchange between persons dedicated to the human sciences and those from the theological and philosophical disciplines, in order to promote a clarification of human problems and expressions of the message of Christianity which will encourage a dialogue between contemporary faith and culture on behalf of mankind in our time" (5).

Another bioethics focal point is the San Juan de Dios Maternal and Infant Hospital of Barcelona, where in 1974 the first hospital ethics committee, properly speaking, was established. This committee has served as its own model through a process of reflecting upon and adapting to new demands that continue to arise as a consequence of biomedical progress and social pluralism in making ethical choices.

Finally, important meetings on bioethics and the law have been organized by the departments of criminal law of the Complutense University of Madrid and the University of Barcelona, in collaboration with professors from German universities; and important contributions in this same area have been made by the Vasco Criminology Institute of San Sebastián, as well as by the various university departments of civil and criminal law throughout Spain.

Unfortunately, our official medical organizations have hardly participated at all in the bioethics dialogue. Indeed, the medical profession has not yet perceived that, with rare exceptions, medical school training provides no special guidance for resolving the ethical problems that underlie medical decisions.

Benevolent paternalism, combined with occasional tyranny, has reigned for years over the physician-patient relationship in Spain. Physicians have been educated to believe that their duty is to "do good" for the patient, and that the patient's duty is to accept this. The ethic of the physician-patient relationship is thus converted into a characteristic "ethic of beneficence." The physician is a moral as well as a technical agent, while the sick person is a patient in need of both technical and ethical help. Being convinced of this, few physicians over the age of 50 have been willing to concede autonomy to their patients, while an ever more popular patient rights movement has been issuing magnificent declarations that, for lack of adequate official support by the pertinent administrative and legal bodies, remain mere good intentions.

THE HEALTH SYSTEM AND MEDICAL SCHOOLS

Certain limitations and deficiencies within Spain's health sector pose serious obstacles for those seeking to evolve away from paternalism and toward recognition of patients as autonomous
moral agents. Unless one recognizes these circumstances, it is hard to understand why the country's medical schools have played such a small role in the bioethics debate. Nonetheless, some attempt to increase that role was made in 1978 through revision and updating of deontologic codes, a process which was repeated in April 1990.

Almost the entire Spanish population is covered by the Social Security system, and thus is subject to that system's regimen—which does not allow patients to choose their physicians and is plagued by bureaucratic excess, patient backlogs at outpatient centers, and lack of time for developing the physician-patient relationship. Among other things, this has led to indirect pressure on the emergency care centers, where the patients are well cared for.

Within this context, it should be noted that the technical level and quality of care for inpatients at teaching hospitals are generally good and show a very high level of competence. Opportunities for specialization and use of highly sophisticated techniques by the most highly qualified professors attract both physicians and students. The result is a high concentration of physicians at a few hospitals located in major urban centers, combined with serious resource deficiencies and distribution problems in the rural areas. Not surprisingly, while inpatients tend to be highly satisfied with care received at the teaching hospitals and those administered by the Social Security system, they tend to be highly dissatisfied with care provided at the outpatient centers.

At the same time, physicians are generally dissatisfied. They feel that the Government places more responsibilities on their shoulders than they can handle. They are forced to listen to the patients' complaints, both founded and unfounded, about the limitations and deficiencies of the health care system. They have little time to care for patients at the outpatient facilities. And they feel discriminated against compared to other professionals in terms of salary.

Meanwhile, the Government seems unable to resolve the problem of growing health care costs, a problem sharpened by political and economic debate between political parties. What appears to be lacking is the courage, resolve, and political opportunity to embark on far-reaching reforms, the need for which is being articulated almost continuously.

The schools of medicine have experienced a weakening of their position with respect to government power. There are also signs of a split within them caused by lack of achievement and by the political interests of members of the profession. At the same time, an ongoing fight with the Government has developed—in an attempt to defend professional and economic interests and to reduce layoffs which have affected 20% of those in the profession.

The deontology committees at the medical schools perform a purely advisory function, and attempts to unite the professionals involved have been doomed to failure. On the one hand, there are certain reservations about "medical ethics" in view of the long tradition of trying to adapt them to Catholic morality—a morality associated with a social and political class inexorably tied to the Franco regime. At the same time, there tends to be more fear of legal problems than actual concern for professional ethics. Therefore, efforts by the medical schools' governing tribunals to contain abusive government interference in health matters have been checked by the interests of the same physicians at these institutions, who have demanded more legal protection and thus indirectly more legislation.

In contrast to the medical schools, the schools of nursing have organized and promoted debates on bioethics, and have
shown positive interest in having nurses take part in discussions on bioethical topics. It is expected that nurses will have an important role to play on hospital ethics committees in the future—if, as anticipated, these committees are set up on an ongoing basis to protect the interests of patients and of the physicians themselves, who are increasingly threatened by lawsuits.

In this latter regard, the unhappy example of the United States and its malpractice suits, with all of their conceptual, ethical, and legal ambiguities, hangs like a sword of Damocles over the increasingly beleaguered physician-patient relationship. The hope, therefore, is that these hospital ethics committees can ward off many of the potential distortions and abuses inherent in such lawsuits, while at the same time correcting the defects and abuses of medical paternalism.

REFERENCES


