

# Topics in Bioethics: Controversy and Politics

NYU Bioethics GPH-GU 1008-002  
Spring 2016 – Wednesdays 6:45-8:45  
Silver 504

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Bioethicists are centrally concerned with matters of public controversy and political debate. What difficulties and responsibilities does this fact entail for the practice of bioethics? In this seminar we will examine several controversial bioethical issues. Our focus will not be on the arguments themselves, but on what we should make of the fact that they are controversial. Should bioethical inquiry take account of intractable moral disagreement? What are the distinctive roles of religious and secular perspectives in public debate? Can bioethicists legitimately claim authoritative expertise in a democracy? We will address the questions by reading work from philosophy and political theory, and also through case study of historical and contemporary issues including: the removal of homosexuality from the DSM, the 'Philosophers' Brief' on assisted suicide, and the regulation of new gene-editing technology.

## 1. Case Study I: The Infanticide Papers, 1972-2013

27 January

*Why did a type of argument that was 40 years old suddenly lead to global media outrage in 2012? What is the relationship between academic ethical theory and public debate?*

- Michael Tooley 'Abortion and Infanticide'. 1972. *Philosophy and Public Affairs* 2(1): 37-65.
- Julian Savulescu, 'Abortion, infanticide and allowing babies to die, 40 years on'. 2013. *Journal of Medical Ethics* 39(5): 257-259
- Alberto Giubilini & Francesca Minerva, 'After-birth abortion: why should the baby live?' 2013. *Journal of Medical Ethics* 39(5): 261-263.
- Peter Singer, 'Discussing infanticide'. 2013. *Journal of Medical Ethics* 39(5): 260.
- *The Telegraph*, 'Killing babies no different from abortion, experts say'. Feb 29 2012. <http://www.telegraph.co.uk/news/health/news/9113394/Killing-babies-no-different-from-abortion-experts-say.html>
- Rep. Chris Smith (R-NJ), 'The premeditated murder of new-born babies justified as morally equivalent to abortion' (floor speech, US House of Representatives) *The Congressional Record* H1292 March 8, 2012.
- Ken Connor, 'Slippery Slope of Abortion Now Leading to OKing Infanticide' *Lifenews.com* Mar 6, 2012 <http://www.lifenews.com/2012/03/06/slippy-slope-of-abortion-now-leading-to-oking-infanticide/>

## 2. Moral disagreement

3 February

*If you discover that a peer disagrees with one of your moral beliefs, should you reduce confidence in your belief? How (if at all) does moral disagreement differ from other types of disagreement?*

- Sarah McGrath, 'Moral Disagreement and Moral Expertise' 2008. In Shafer-Landau (ed.) *Oxford Studies in Metaethics, Volume 3* (Oxford: Oxford University Press) 87-108.
- Kieran Setiya, 'Does Moral Theory Corrupt Youth?' 2010. *Philosophical Topics* 38(1): 205-222.
- Kate Manne & David Sobel, 'Disagreeing about how to disagree' 2014. *Philosophical Studies* 168(3): 823-834.

## 3. Other Moral Interactions: Testimony, Deference, Persuasion

10 February

*Does the moral domain have distinctive features with respect to how we share and receive evidence?*

- Alison Hills, 'Moral Testimony'. 2013. *Philosophy Compass* 8(6): 552-559.
- Laurence M. Thomas, 'Moral Deference' 1998. In Willet (ed.) *Theorizing Multiculturalism: A Guide to the Current Debate* (Wiley-Blackwell) 359-381.
- Regina Rini, 'Abortion, Ultrasound, and Moral Persuasion'. Unpublished manuscript

## 4. Case Study II: Homosexuality and psychiatry, 1973-1987

17 February

*In 1973 the American Psychiatric Association ceased classifying homosexuality per se as a mental illness, instead replacing it with a compromise diagnosis of 'ego dystonic' (unwanted) homosexuality. After further debate, this category was also removed in 1987. Was this a debate about science, values, or both? What role did non-experts have to play in the debate? Consider the following (from Bayer and Spitzer 1982): "There was a moment when some participants entertained the thought of broadening the dispute to the general APA membership and even the gay community. ... [T]he major proponents of this strategy sought to intimidate Robert Spitzer with such threats. Careful consideration of the potential impact of so politicizing the dispute resulted, however, in an explicit decision to confine the conflict to a narrow band of professionals." Was that a reasonable decision?*

- Lillian Faderman, 'How Gays and Lesbians Stopped Being Crazies'. 2015. Chapter 16 of her book, *The Gay Revolution* (New York: Simon and Schuster): 279-297.
- American Psychiatric Association, 'Homosexuality: Proposed Change in DSM-II, 6<sup>th</sup> Printing'. 1973. APA Document Reference No. 730008.
- Robert Bayer and Robert L. Spitzer, 'Edited correspondence on the status of homosexuality in DSM-III'. 1982 *Journal of the History of the Behavioral Sciences* 18(1): 32-52.
- Robert L. Spitzer, 'The Diagnostic Status of Homosexuality in DSM-III: A Reformulation of the Issues'. 1981. *American Journal of Psychiatry* 138(2): 210-215.

- Michael Levin, 'Why Homosexuality is Abnormal'. 1984. *The Monist* 67(2): 251-283
- *Washington Post*, 'Man sues doctor for listing homosexuality as "chronic condition" in his medical records'. Aug 14 2014. <https://www.washingtonpost.com/news/morning-mix/wp/2014/08/14/man-sues-doctor-for-listing-homosexuality-as-chronic-condition-in-his-medical-records/>

## 5. Public reason: ethical debate in a democracy

24 February

*In democratic debate, are there limits on whether citizens may appeal to ethical considerations that are not widely shared?? How do we determine the line between 'private' and 'public' reason?*

- Kevin Vallier and Fred D'Agostino, 'Public Justification'. 2013. *Stanford Encyclopedia of Philosophy*. <http://plato.stanford.edu/entries/justification-public/>
- Michael J. Sandel, 'Moral Argument and Liberal Toleration: Abortion and Homosexuality'. 1989. *California Law Review* 77(3): 521-538.
- John Rawls, 'The Idea of Public Reason Revisited'. 1997. *University of Chicago Law Review* 64(3): 765-807.

## 6. Case Study III: Assisted Suicide and the Philosophers' Brief, 1997

2 March

*In 1997 a group of six extremely influential moral philosophers filed an amicus brief attempting to persuade the Supreme Court to find an individual right to assistance in dying. The Court ruled against this view, unanimously. Is there evidence in the Court's written opinion that the philosophers' intervention made any difference? Should bioethicists try to influence constitutional court proceedings?*

- Ronald Dworkin, et al., 'Assisted Suicide: The Philosophers' Brief'. 1997. *New York Review of Books* March 27. <http://www.nybooks.com/articles/1997/03/27/assisted-suicide-the-philosophers-brief/>
- United States Supreme Court, *Washington v. Glucksberg*. 1997. 521 U.S. 702. **[Read the Court's decision (pp. 705-736), Justice O'Connor's concurring opinion (736-738) and through part A of Justice Souter's concurring opinion (752-782).]**
- Stanley Fish, 'Does Philosophy Matter? (Part Two)'. 2011. *New York Times* August 8. <http://opinionator.blogs.nytimes.com/2011/08/08/does-philosophy-matter-part-two/>

## 7. Religion and tradition in bioethics

### 9 March

*Must explicitly religious perspectives be excluded from the public reason of democratic debate? Do religious ideals have a distinctive role to play in bioethics?*

- Leon R. Kass, 'Defending Human Dignity'. 2008. In Schulman (ed). *Human Dignity and Bioethics: Essays Commissioned by the President's Council on Bioethics* 297-332.
- Charles Taylor, 'Why We Need a Radical Redefinition of Secularism'. 2011. In *The Power of Religion in the Public Sphere* (ed. Mendieta and VanAntwerpen. New York: Columbia University Press).
- Kevin Vallier, 'Liberalism, Religion and Integrity'. 2012. *Australasian Journal of Philosophy* 90(1): 149-165.

**(no class Wed 16 March – NYU spring break)**

## 8. Case Study IV: The Embryonic Stem Cell Research Ban, 2001

### 23 March

*In 2001 the Bush administration banned the use of federal funds to support research that involved the destruction of fertilized human embryos, including the promising field of stem cell research. (The decision was later reversed by the Obama administration.) What role did the religious convictions of President Bush and his advisors play in this policy? What was the role of the President's Council on Bioethics? What responsibilities do professional bioethicists have amid such deep public moral disagreement?*

- George W. Bush, 'Stem Cell Science and the Preservation of Life'. 2001. *New York Times* August 12. <http://www.nytimes.com/2001/08/12/opinion/stem-cell-science-and-the-preservation-of-life.html>
- The President's Council on Bioethics, 'Current Federal Law and Policy'. 2004. Chapter 2 of its *Monitoring Stem Cell Research*: 21-51.
- Lawrence J. Nelson & Michael J. Meyer, 'Confronting Deep Moral Disagreement: The President's Council on Bioethics, Moral Status, and Human Embryos'. 2005. *American Journal of Bioethics* 5(6): 33-42.
- Elysa Koppelman-White, 'On the Nature and Purpose of Public Discourse'. 2005. *American Journal of Bioethics* 5(6): 48-51.
- Angela White & Chris MacDonald, 'Deep Disagreement and Rawlsian "Public Reasons"'. 2005. *American Journal of Bioethics* 5(6): 62-63.
- Kelly Fryer-Edwards & Carla Calogero, 'The Challenge of the Other'. 2005. *American Journal of Bioethics* 5(6): 65-66.

## 9. Is there such a thing as ethical expertise?

30 March

*Is it possible for someone to be an expert on ethical matters? Is this compatible with moral equality? Does training in academic moral philosophy or bioethics reliably lead one to ethical expertise? If there are ethical experts, how do we identify them?*

- Peter Singer, 'Moral Experts'. 1972. *Analysis* 32(4): 115-117
- Michael Cholbi, 'Moral expertise and the credentials problem'. 2007. *Ethical Theory and Moral Practice* 10(4): 323-334.
- David Archard, 'Why moral philosophers are not and should not be moral experts'. 2011. *Bioethics* 25(3): 119-127.
- Julia Driver, 'Moral expertise: judgment, practice, and analysis'. 2013. *Social Philosophy and Policy* 30(1-2): 280-296.

## 10. The role of (ethical) experts in a democracy

6 April

*Democratic government requires that citizens recognize one another as equals. Is this compatible with unequal distribution of competence? Are scientists experts on any or all public policy questions related to their scientific work? Can an average democratic citizen reasonably defer to scientific experts without breaching her democratic responsibilities? Can we trust experts to avoid biasing information so as to favor their own privileges?*

- Philip Kitcher, 'Well-Ordered Science'. 2001. Chapter 10 of his *Science, Truth, and Democracy*. (Oxford University Press). 117-136.
- Elizabeth Anderson, 'Democracy, Public Policy, and Lay Assessments of Scientific Testimony'. 2011. *Episteme* 8(2): 144-164.
- Jason Stanley, 'The Ideology of Elites: A Case Study'. 2015. Chapter 7 of his *How Propaganda Works* (Princeton University Press). 269-291.

## 11. Case Study V: 'Death Panels' and 'if you like your insurance you can keep it', 2009-2010

13 April

*The Affordable Care Act was an extraordinarily complicated piece of legislation. It also addressed crucial ethical issues of distributive justice. There is evidence that politicians of all stripes made false claims about the law's impact (deliberately or not). Given the law's complexity and the additional problem of misleading politicians, was it reasonable to think that ordinary citizens could make informed choices about the law? Did ethicists have any relevant expertise to offer?*

- Peter Singer, 'Why We Must Ration Health Care' *New York Times Magazine* July 15 2009.  
[www.nytimes.com/2009/07/19/magazine/19healthcare-t.html](http://www.nytimes.com/2009/07/19/magazine/19healthcare-t.html)

- Mark A. Hall, 'The Sausage-Making of Insurance Reform'. 2012. *Hastings Center Report* 41(1): 9-10.
- PolitiFact, 'Lie of the Year: "Death panels"'. 2009. <http://www.politifact.com/truth-o-meter/article/2009/dec/18/politifact-lie-year-death-panels/>
- Stephen Wear, 'Sense and Nonsense in the Conservative Critique of Obamacare'. 2011. *American Journal of Bioethics* 11(1): 17-20.
- PolitiFact, 'Lie of the Year: "If you like your health insurance plan, you can keep it"'. 2013. <http://www.politifact.com/truth-o-meter/article/2013/dec/12/lie-year-if-you-like-your-health-care-plan-keep-it/>
- Jason Linkins, 'What Obama Really Meant When He Said "If You Like Your Plan, You Can Keep It"'. 2013. *Huffington Post*. [http://www.huffingtonpost.com/2013/10/30/if-you-like-your-plan-you-can-keep-it- n\\_4175715.html](http://www.huffingtonpost.com/2013/10/30/if-you-like-your-plan-you-can-keep-it- n_4175715.html)
- CNN, 'Obamacare architect discussed misleading public in 4<sup>th</sup> newly uncovered video'. 2014. <http://www.cnn.com/2014/11/13/politics/tapper-gruber/>
- Sarah Kliff, 'The Jon Gruber controversy and what it means for Obamacare'. 2014. *Vox*. <http://www.vox.com/2014/11/13/7211279/obamacare-jon-gruber-controversy>

## 12. The professional responsibilities of a bioethicist

20 April

*Is there such a thing as bioethics as a profession? If so, what are its professional duties and privileges? Should it be understood as a public office, with particular responsibilities to the voting public? Could the controversial nature of bioethical topics justify deviation from standard academic practice – such as anonymous publication?*

- Mairi Levitt, 'Public Consultation in Bioethics: What's the Point of Asking the Public When They Have Neither Scientific nor Ethical Expertise?' 2003. *Health Care Analysis* 11(1): 15-25.
- Nicky Priaulx, 'The Troubled Identity of the Bioethicist'. 2013. *Health Care Analysis* 21(1): 6-19.
- Francesca Minerva, 'New Threats to Academic Freedom'. 2014. *Bioethics* 28(4): 157-162.
- Robert Baker, 'Against Anonymity'. 2014. *Bioethics* 28(4): 166-169.
- Angus Dawson and Jonathan Herington, 'Academic Freedom and the Professional Responsibilities of Applied Ethicists: A comment on Minerva'. 2014. *Bioethics* 28(4): 174-177.

## 13. Case Study VI: CRISPR and the international gene editing summit, 2015

27 April

*In December 2015, researchers from around the world gathered to discuss important recent developments in gene-editing technology, including ethical implications and regulatory oversight. Before and during the summit, there was debate on whether bioethicists had anything to contribute to these issues, or should 'get out of the way' of scientific progress. What should we make of that debate? Is there evidence that the scientist participants at the International Summit made reasonable ethical distinctions*

*on their own? Ultimately, who should decide the use of gene-editing technology: governments, scientists, or someone else?*

- Steven Pinker, 'The moral imperative for bioethics'. Aug 1 2015. *Boston Globe* <https://www.bostonglobe.com/opinion/2015/07/31/the-moral-imperative-for-bioethics/JmEkoyzITAu9oQV76Jrk9N/story.html>
- Susan Dwyer, 'The moral naivete of ethics by numbers'. Aug 13 2015. *Al Jazeera America*. <http://america.aljazeera.com/opinions/2015/8/the-moral-naivete-of-ethics-by-numbers.html>
- Sally Satel, 'The Bioethics Dilemma'. Sep 15 2015. *Pacific Standard* <http://www.psmag.com/books-and-culture/steven-pinker-and-the-real-value-of-bioethicists>
- Sarah Zhang, 'CRISPR is getting better. Now it's time to ask the hard ethical questions'. Dec 1 2015. *Wired*. <http://www.wired.com/2015/12/stop-dancing-around-real-ethical-problem-crispr/>
- Jennifer Doudna, 'Embryo editing needs scrutiny'. Dec 3 2015. *Nature* 528: S6. [http://www.nature.com/nature/journal/v528/n7580\\_supp/pdf/528S6a.pdf](http://www.nature.com/nature/journal/v528/n7580_supp/pdf/528S6a.pdf)
- Sara Reardon, 'Global summit reveals divergent views on human gene editing'. Dec 8 2015. *Nature*. <http://www.nature.com/news/global-summit-reveals-divergent-views-on-human-gene-editing-1.18971>
- Steven Olson et al., 'International Summit on Gene Editing: A Global Discussion'. 2016. The National Academies Press. <http://www.nap.edu/catalog/21913/international-summit-on-human-gene-editing-a-global-discussion>
- Arthur Caplan, 'Congress's disdain of CRISPR and the shattering of future generations'. Dec 22 2015. *Chicago Tribune*. <http://www.chicagotribune.com/news/opinion/commentary/ct-crispr-embryos-genes-eugenics-congress-perspec-1223-20151222-story.html>

## 14. Case Study VII: Planned Parenthood, fetal tissue, and the federal budget, 2016

4 May

*In 2015, an anti-abortion group released a set of heavily edited videos seemingly showing Planned Parenthood executives discussing the 'sale' of fetal tissue samples obtained during abortion. Despite subsequent evidence that the videos were dishonestly produced, they have led to immense public controversy, including legal proceedings, congressional hearings, and legislative threats to shut down the federal government rather than continue any funding for Planned Parenthood.*

- Readings for this week will be *chosen by students*.
- By April 20 (two weeks before this class) you must post at least 2 relevant things to our NYU Classes forum. They can be newspaper articles, court documents, congressional hearing transcripts, speeches by politicians, policy documents from Planned Parenthood, etc. Try to make sure no one else has already posted your items. Also, in the body of your post, include a few open discussion questions – see the italicized entries for every previous week on this syllabus for examples.
- To prepare for this class session, choose and read at least 6 items posted by other students.

## Assessment

Students enrolled for credit will be graded on four items:

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|---|------------|
| (a) participation, including weekly questions posted on our NYU Classes site                | <b>10%</b> |
| (b) contributing to readings for week 14  | <b>10%</b> |
| (c) a factual research paper in which you choose and analyze a new case study (3,000 words) | <b>40%</b> |
| (d) an argumentative paper regarding any philosophical topic from the course (3,000 words)  | <b>40%</b> |

## Deadlines

Apr 20 – post readings for week 14 to NYU Classes

Apr 27 (or earlier) – send me an email with your topic selection for each of the two papers. You should do this at least a week before you will submit each paper.

May 4 – absolute last day to submit either paper. I **strongly** encourage you not to wait until the end to do both. You may turn in either paper any time before this date. Papers turned in after May 4 will be penalized a one-third-letter-grade per calendar day.