The precautionary principle – between European bioethical tradition and American pragmatism

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Summary

The presentation will depart from the analysis of differences between “European Bioethics” vs. “American Bioethics.” Stressed will be the discerning elements and aspects of traditional foundations, principles, and methods related to the two bioethical schools and trends. The attempt will be made to demonstrate the congruity of the precautionary principle with European bioethical tradition.

A history of bioethics: an American perspective

When the Madison biochemist-oncologist Van Rensselaer Potter appeared in 1970 with a new word, “bioethics,” he related it to a new discipline that was supposed to bring closer sciences and humanities and to ensure the survival of the jeopardised Planet. There is no doubt that Potter was the first to use the term “bioethics,” at least: the first in the US.¹ However, the catchiness and attractiveness of the new term, along with the always present competitiveness for financial resources and fame, resulted in claims for its invention by several other influential American personalities.²

One more “misunderstanding” occurred with Potter’s word: by using the abbreviation “bio-” for “biological sciences” (including medicine, but also a much broader spectrum of disciplines like evolutionary biology, ecology, etc.) and relating it to “ethics,” Potter, namely, mislead his own public. Those who took over the term, interpreted it as “biomedical ethics,” thus significantly narrowing down its contents, interests, and impacts. That is how seemingly new “bioethics” became obviously old “medical ethics.” It is true that, in addition to all unresolved old dilemmas – related to brain death, abortion, euthanasia, etc. – some new issues started to burden medical and research practice, like how to distribute the cure when insufficient for all in need. The Georgetown Kennedy Institute of Ethics responded by formulating a set of four “principles” – autonomy, nonmaleficence, beneficence, and justice.³ Combined with the dispersion of individual responsibility onto

ethical committees, the so-called “Georgetown Mantra” was expected to help solving practical problems faced primarily by physicians and hospital managers. However, since life is far from being simple, another scholar of the same Kennedy Institute, Robert Veatch, who even tried to expand the set to include six principles, had to recognise that “some case-by-case judgments of what is ethically required are necessary.” More problems appeared when the “Mantra” started to be exported to the rest of the world, revealing that some other values than the American ones do exist. For instance, while autonomy may be crucial for the Anglo-American culture since Independence, in Europe, more important is the principle of solidarity.

No wonder that some Europeans tried to adjust the set of American principles to a new set of the European ones. Diego Gracia Guillén of the Madrid Complutense University, the pioneer of „Mediterranean Bioethics” – being formally educated both in medicine and philosophy – started the „re-philosophisation” of the American Bioethics he had learned in the US and abandoned applied bioethics for the theoretical one. Gracia has promoted the virtues of amity and compassion, as well as the method of dialogue between the MacIntyreian North-European (and obviously American) ethics of duty, providing „solutions,” formalism, procedures, and principles on the one side, and the South-European ethics of virtues based much more upon Classical and Catholic legacy. A few years later, the Danes Jacob Dahl Rendtorff and Peter Kemp suggested by the end of the 1990s to use a set including autonomy, dignity, integrity, and vulnerability. The concept of „European principles” has never gained ground: it has been perceived correctly as just one of several variations of hyperpragmatic and therefore necessarily hypersimplicistic principism.

A history of bioethics: a European perspective

Today, we know that the author of the concept of the Bio-Ethik was the German theologian and teacher Fritz Jahr (1895-1953) from Halle in the Sachsen-Anhalt region, who exposed the idea of the new discipline first in a December 1926 paper published in the Mittelschule journal, and then, fifteen days later, in a far-more widely-read magazine Kosmos. Among several ideas worthy of re-examination, certainly Jahr’s major intellectual contribution has been his „Bioethical Imperative,” a broadening of Kant’s „Categorical Imperative,” suggesting „Respect every living being as an end in itself, and treat it, if possible, as such!” In some twenty-five years, 1924-1948, Fritz Jahr published alltogether only 22 short papers, out of which about 10 dealing with bioethical issues, and his modest silent

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6 Cf. Sandro Spinsanti, La bioetica: biografie per una disciplina (Milano: Franco Angeli, 1995), 100-110.
7 Jacob Dahl Rendtorff and Peter Kemp, Basic Ethical Principles in European Bioethics and Biolaw, Volume I (Copenhagen/Barcelona: Centre for Ethics and Law/Borja de Bioètica, 2000).
sessile life certainly could not have contributed to his reputation either. Jahr’s contemporaries do not quote him, and it was almost by chance that the Berlin Professor Rolf Löther re-discovered Jahr’s work from 1927 seventy years later (annoyed by the idea that „bioethics“ had been invented in the 1970s in America). During the next 10-12 years, however, mostly thanks to the work of Eve-Marie Engels, José-Roberto Goldim, and, in particular, Hans-Martin Sass, the ideas of Fritz Jahr have found a way to propagate all over the world.

Nonetheless, there are some caveats to this general enthusiasm. Beside the danger that someone interprets “European Bioethics” as a threat to other cultures, as aggressive as the “American Bioethics”, the major question is: Will it be possible to use Jahr’s work as a common ground for a “Universal Bioethics” or Tristram Engelhardt’s dire prognosis on the insurmountability of the moral relativism will prove true? Being a German Protestant – that is, close to Maclntyre’s North-European culture – but at the same time of Classical education and favouring virtue ethics (typical for South-European tradition); quoting English, French, Russian, and a broad range of other authors; introducing Far-Eastern perspectives like Yoga, Samkhya, and Buddhism; and, last but not least, being realistic (“if possible” in the Imperative), Fritz Jahr may have better chance than any other “bioethicist” to achieve reconciliation of various European and non-European value systems.

Diego Gracia used to view European Bioethics as a bioethics of a minimal consensus: Gracia’s (and later Sicilian) Mediterranean Bioethics started such an endeavour exploiting the long history of Mediterranean religious and cultural entwinings. Building a platform of “orientational knowledge,” without the pressure of producing immediate solutions, has been suggested also by the particular bioethics developing in Croatia, integrating scientific and non-scientific perspectives in the bioethical polilogue. Obviously, the broadest formula yet for mutual bioethical understanding seems to be the Integrative Bioethics based on Mediterranean and Jahr’s concepts. Now, let us examine more closely the very roots of the

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18 The major part of the ideas exposed so far, has been presented at Dubrovnik International Bioethics Summer School Conference „Price of Health“, Dubrovnik, August 12-14, 2016, under the title „European Bioethics: A new history guaranteeing a new future“ (now submitted to the *Socijalna ekologija* journal, Zagreb).
discrepancies between American and European bioethics, particularly between the philosophies standing behind them.

**Making all the difference: traditions, principles, methods, and mentalities**

In the 19th and the 20th centuries, with the advancements of science and industry, a logical and expected invigoration occurred of the positivist ideology of Auguste Comte, Rudolf Carnap, and others, but also with the very influential Marxist trust in the „man as a practical being.” As an extreme of a longer Anglo-Saxon empirist tradition (of J. S. Mill, H. Spencer, etc.) and positivism, the pragmatist philosophy was pioneered by the logician, chemist, and mathematician Charles Sanders Peirce, the psychologist and physician William James, and the psychologist and educational reformer John Dewey – all three born Americans believing that „an ounce of experience is better than a ton of theory.” In Europe, we all know, many have criticised pragmatism, making of it only one among the concepts – Max Horkheimer (pointing that „practice“ can be only aping), Ernst Bloch (re-establishing the cult of utopia), to mention only some of them. But in the US, pragmatism has remained the predominant view. Being fully conscious of the danger of such generalisation, one might say that the US were entered by the hungry, the expelled, and the ambitious, so it is no wonder that the US became the enterpreneurial filtrate of Europe: moreover, those who had emigrated to the US (and, more important, who stayed there!) mostly accepted the Darwinistic rhythm of competition and production (those who do not, remain eternal „Europeans in America“, which sounds and ends far less romantic than the „American in Paris”).

Among many other things, pragmatism might be blamed also for orienting American bioethics toward legal protection of medical practitioners (taking shape of the „informed consent”), toward dividing responsibility of making decisions (through „ethical committees”), and toward simplifying the process of making decisions (principism in the form of the „Georgetown Mantra”).

The Anglo-American pragmatist worldview has always preferred „practical ethics,” addressing „everyday issues” and „ordinary people.”¹⁹ The way those „practical ethicists” have treated their chosen topics has mostly been limited to the methodology of analytical philosophy, that is, to provoking reactions by launching radical views, and to eristically discussing the topics following patterns of (mathematical) logics. As we know, Singer's provocative views resulted in the banishing of his lectures from German universities. In our parts of the world, the circles and groups promoting pragmatism and Singerianism do not only translate and publish books on that matter, but also quite vehemently campaign against the non-analytical approach of the integrative bioethicists, „charging” them with „pseudoscientific features,” „conceptual confusion,” „inconsistency,” and, of course, with „squandering the tax-payers' money.”²⁰

¹⁹ Cf. Peter Singer, *Praktična etika*, transl. by Tomislav Bracanović (Zagreb: KruZak, 2003), VII.
On the other hand, in his *Science* paper from 1964, Van Rensselaer Potter (whose bioethics, as we have seen, has not been recognised in the US) expresses concern for the «dangerous knowledge» which can result in affairs like the ones with talidomide or pesticide poisoning. According to Potter, «science is not wisdom, but scientific method can help the search for wisdom»: new science would have to be combined with old wisdom (humanities), and wisdom is to be defined as «knowledge on how to use knowledge». As soon as in February 1965, a similar and more popularising essay was published by Potter in *Nation*, entitled »A council on future«. Here, Potter focused onto the responsibility of scientists toward society and the gap between those who know (scientists) and those who use (technologists, as Potter calls them). Criticising the relying of American culture upon pragmatism («if something is feasible and brings profit, let’s do it »), Potter, actually, speaks of the pressure upon the scientists and calls for something that later will be known as precautionary principle. For Potter, namely, the danger of new knowledge lies in its application, and the task of the politicians is to act strongly to secure monitoring over technology. Potter even suggests establishing a fourth branch of the federal government – »Council on future«, which would gather scientists and philosophers and would have counselling role and legislative initiative. For Potter, the existing dualist system in America is not recommendable, oscillating between conservatives – »pragmatists thinking only of present«, and liberals – »pragmatists thinking only of future«.

As one might expect, British bioethicists and policy makers have always stood much closer to American views than to those of the majority of European continent. Not only United Kingdom has considered the Oviedo Convention of Human Rights and Biomedicine too restrictive, but it authorised the genetic modification of human embryos by using CRISPR/Cas9 and related techniques (February 2016) and the creation of three-parent embryos to combat mitochondrial disease (December 2016). It seems that a bioethical Brexit occurred before the political one...

**The precautionary principle: so European, so bioethical**

Burdened or blessed (depends on how one looks at) by the abundant tradition of disquisition between so many variations of idealisms and pragmatisms, Europe adopted the doctrine of the „precautionary principle“ (stating that „regulation is required whenever there is a possible risk to health, safety, or the environment, even if the supporting evidence is speculative,”23 as formulated in the 1980s), first by the „Communication on the precautionary principle,” issued by the European Commission in 2000, and later becoming even more strongly integrated into European laws, limited not only to environmental issues. A few American university professors have launched attacks against the „paralysing principle,” as they have called it, claiming that „the problem with the Precautionary Principle is not that it leads in the wrong direction, but that – if taken for all it is worth – it leads in no
direction at all.”

However (and here we do not only take over Jeremy Rifkin’s attitude for granted), the European way seems more acceptable for one biological reason: one is expected to insert an estimation „pause” between „observing” (theoria) and „acting” (praxis), namely, unless one reacts reflexly. Acting based on pure vision vs. acting involving memory, morality, and other higher functions, reflects the difference between the so-called „dorsal and ventral streams” of elaborating informations within the brain cortex, the former being quicker and the latter being evolutionally younger and more complex.

Concluding remarks

Precautionary principle can certainly be improved as a general and specific strategy of thinking and acting: for instance, a better guiding principle to be applied would be that the potential benefit has to be less clear than potential harm (if a new procedure or substance unambiguously saves lives, this should be a «counter-indication» for applying precautionary principle). In addition, regular and more frequent re-evaluation of any current precautionary-principle application should be performed.

Obviously, European bioethics (that is, Jahr’s ideas, Gracia’s ideas, integrative bioethics and their traditional fundaments and methods) and precautionary principle have a lot in common: one might go even further and proclaim them a sort of synonyms. Not only the two notions were conceived first in Europe (Bio-Ethik in the 1920s and Vorsorgeprinzip in the 1980s), but, in our time, they both have focused on climate change, extinction of species, biosafety, introduction of new and potentially harmful products and long-term effects of new technologies. Like bioethics, precautionary principle tends to be codified and enter legislation. Like bioethics, it has been criticised to function as a «brake» and a «slow-down» to the progress. Thinking bioethically or applying precautionary principle seems like buying time: but, are we, actually, sometimes not afraid of the pace our intellect and creativity are ready to impose us? And indeed, being prudent may seem being slower. But let us, Europeans, not be ashamed of it: at stake are decisions of a much longer significance, reach, and term.