

BIOETHICS : between UNIVERSALISM and GLOBALISATION

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For a long time, “the majestic and rather distant figure” of people’s law did not appear to be in contradiction with the positive laws of States because, as it inspired them all, it did not, therefore, create any constraints for them. The writers of the Civil code were able to proclaim, “There is a universal, immutable law, source of all positive laws: it is only natural reason insofar as it governs all men”.

This is the paradox today of the debate between universality and particularism in law. The acceleration that has been evident since the late 1990s in the process of international standardisation in the field of life sciences does not allow us to evade a concrete question. What is the point of drawing up an international code of bioethics if we remain convinced that the diversity of cultures gives a different and even divergent meaning and scope to ethical principles?

Under the title “Bioethics and culture, new diplomatic areas”, J-Y Nau and C. Tréan commented on President J. Chirac’s initiative at the 2003 UNESCO General Conference. President Chirac wanted to promote both a Universal Declaration on Cultural Diversity and a convention on bioethics. Nau and Tréan emphasised, “With bioethics the difficulties are of a different and even more complex order. It is not a question of preserving diversity but on the contrary...of tending towards universality in a field that is characterised by the multiplicity of religious convictions, historical references, philosophical systems and medical practices”.

So the success of a text depends on the political and diplomatic weight of the arguments and interests that might be mobilised to allow it to see the light of day.

In the absence of any counterarguments about equitable access to healthcare and health technology or about the conservation of the environment and biological diversity, some people will see the hold of the huge wave of globalisation on the most fragile societies. Conversely, under cover of respecting cultural diversity, others will content themselves with rules that are so unrestrictive and imprecise that there is no risk that they will change a course of events that is profitable to them.

For all of them, such a Universal Declaration is only the corollary of globalisation.

Can one, nevertheless, find a response other than scepticism or nihilism to the issue of the universality of human rights with regard to cultural diversity? First of all, we would like to point out that the foundations of the universalism of human rights have evolved from an “ethics of non-differentiation” which “deifies reason”, which is egocentric, which is the ethics of the 1789 Declaration of Rights of Men and Citizens, towards an “ethics of others”, built on human dignity, an ethics which is part of history, which looks on the face of the wounded man; it is the ethics of the 1948 Universal Declaration of Human Rights.

The international law of human rights today addresses concrete people, “dependent on cultural specificities”, whose dignity is in the order of its actions and it implies not only the claiming of subjective rights but also the claiming of duties that the owner of this dignity has towards others”.

This philosophy of human rights claims to be a new humanism which takes into account the fact that individual humanity without the acknowledgement of others can lead to horror and oblivion.

Furthermore, the contribution of anthropology and ethnography to such delicate issues as the decision process in the realm of healthcare, death or individual autonomy shows “that a dose of social relativism” is required to avoid the excesses of “ethical imperialism”.

Taking into account “the cultural presuppositions and the microsocial dynamics on which our behaviour is based is not a dimension specific to developing countries.

Analysing the background of French bioethics, “Zimmermann suggests that the primacy of a certain legalism, accompanied by a positivism centred on values and rules conceived as being objective, has delayed the taking into consideration of experience, suffering and work in the culture on the construction and application of ethical standards”.

It is precisely from this permeability, this boundary between the social and cultural field and the field of the ethical and legal standard that we expect to go beyond the terms of the debate between universality of the law and particularism of cultures.

Thus any monistic conception of history that might impose the idea that in the “universalism-particularism [couple], plural subjects might be gradually organised like so many particularities subject to the unique centre of universalism”, must be cut short.

The interest and pertinence of bioethics are precisely that they “reopen the debate on the relative and the universal, but in new conditions because globalisation upsets reality in the realm of human rights. For example, how can patients’ protection against certain harmful substances be guaranteed if their sale on the electronic web is subject to no restraint?

Once a question of bioethics acquires an international dimension, why resign ourselves to letting internal law decline instead of giving it the extension that is necessary for the vitality of the principles that it promotes?

How then, to pass from the sphere of national law to the sphere of international law, can we legitimately refuse to use the logic and the tool of the international law of human rights on the pretext that it would have historic and geopolitical connotations?

Ideologies and nationalisms know how to be pragmatic in economic affairs when they expect increased power from technological development. They would not be able then to draw from the new balance of power, that they intend to institute in this way, any particular legitimacy to contest the faculty of human rights, this law of people of modern times, to spread to the world and to compensate for the injustices, factors of instability.

If one acknowledges that a new international order is necessary to guarantee a fair balance in the world, it has then to be acknowledged that the international law of life sciences, like the law of humanitarian action and the international law of the environment, contributes just as decisively as the law of international trade to defining its contours.

Legal and detailed, universalism in bioethics is opposed neither really to globalisation nor to cultures. It complements them and offers them anchor points, the famous universal principles, but above all methods for rebalancing the pernicious effects of the absolutism of economic neo-liberalism and cultural communitarianism.

Human rights confronted with the progress of life sciences should not be taken as the “rolling mill of culture”.

Those with a taste for Manichean visions are sure to see in the situation of these two phenomena, bioethics and globalisation, the certainty of a confrontation promised to Mankind.

On the one hand, bioethics, the refuge of values and human identity, might be our only hope to save our civilisation’s humanism, even its “humanitude”.

On the other hand, globalisation, like a devastating comet, might attack both cultural diversity, by promoting standardisation, and science, by slotting science into a market logic which has become the sole driving force of the world.

Faced with this vision of the World, doesn’t the importance of the stakes raised by the relationship between life sciences and social organisation deserve, on the contrary, our giving some consideration to the meaning and scope of the links between universalism and globalisation?

Indeed, it is not just a question of fixing social and legal limits for techniques that have applications which are (judged to be) excessive. It is also necessary to draw the consequences of the appearance of new spheres of power which have a hold on the running and the structures of Society and its institutions.

It is also an opportunity to perceive the conflicts and convergences that model our era and open the way to new balances, dooming it temporarily to imbalances which are so liable to trigger social unrest.

The World, as we experience it and make it, cannot be thought of as an end of History; and bioethics, because it applies to one of these new spheres offered to man to conquer in society, could then be the prism that reveals the transformations, destructions and reconstructions which give globalisation its true face: the re-configuration of the international political order.