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Send papers to the editor in electronic form if possible. Please use reference style used in News section, do not use automatic footnotes or endnotes. Papers are peer reviewed.

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Editorial: Science and Culture

- Darryl Macer, Ph.D.

One of the biggest stories of 2005 was an unfortunate case of scientific fraud connected to the publication of articles in the journal *Science* by the Korean stem cell scientist, professor Hwang. Scientific honesty is an ethical principle across all cultures, and the falsification of data in this case has led to the wastage of a large amount of scientific resources and financial resources, and human energy. There was already a serious ethical controversy over the donation of human eggs, and it now appears even more eggs were used that disclosed in that paper. Scams in science are not new, and will continue as Verma discusses in this issue, but we need to educate scientists to work honestly. As we learn more of the affair we will probably learn of more than just one involved in improper behaviour for not only scientists but any professional, and any citizen.

The Declaration of Gijón against biological weapons included in this issue is another reminder of the need for good standards of conduct in science.

The ancient history of medical ethics is explored with a book review of a work from the 11th century, which still points to basic responsibilities of physicians today. There is an extensive discussion of Confucian ethics by Cummiskey which explores some of the commonly discussed issues in Asian bioethics, such as whether there is a conflict between human rights and traditional Chinese values. We welcome papers to debate these issues, which have been a theme at many Asian Bioethics Conferences and other fora in the past.

There are two papers on issues of genetics, race, identity and discrimination from Brazil. These issues face many cultures, and especially in large urban areas that many persons live in today.

If you wish to continue receiving a hard copy of *EJAIB* please copy the last page and send back to me, or else email the important details. Happy New Year!

Declaration Of Gijón **Against The Use Of Biological Weapons**

Adopted by assent of the Plenary Assembly of the IV World Conference on Bioethics Gijón (SPAIN), 25th November 2005

The Plenary of the IV World Conference on Bioethics organised by the International Society of Bioethics (SIBI) which took place in Gijón (Spain) from the 21st to the 25th November 2005,

OBSERVING

– That human dignity is an attribute unique to all human beings and its recognition is a fundamental right and the foundation of all human rights and fundamental freedoms of each and every individual and of humanity as a whole which must be respected and protected,

– That violence of any kind - be it physical, psychological, emotional, moral, technical, environmental, social, economic or any other, is unacceptable behaviour which is anti-social and contrary to human dignity,

– That war, terrorism, violence and the abuse of power, and the misuse of science and technology are detrimental to Humankind and that such acts are increasing in number and intensity and are often carried out without any punishment,

– That the use of biological and chemical weapons is particularly cruel and affects indiscriminately civil populations and is forbidden in many international and regional documents such as:

- The Geneva Protocol dated 17th June 1925,
- The Convention on the banning on development, production and storage of bacteriological (biological) weapons and toxins and about their destruction, which was opened for signature in 1972 and which entered into force in 1975, Annex to the resolution of the General Assembly of United Nations No. 2826 (XXVI),
- The Universal Declaration on the Human Genome and Human Rights of 11 November 1997,
- The Declaration "Universal Commitment to the Dignity of the Human Being" II World Conference on Bioethics, Gijón, Spain, 2002,
- The Universal Declaration on Bioethics and Human Rights, 2005;

RECALLING the appeal of the International Committee of the Red Cross on Biotechnology, Weapons and Humanity;

AFFIRMING that individual and collective human dignity is denied

– If we remain indifferent to aggression by the strongest against the weakest countries.

– If we continue to resort to the use of force, including terror, to resolve our differences, instead of building bridges of tolerance, understanding and constructive communication.

CONVINCED that

– Every person has a moral obligation to promote Human Dignity and assume the defence of the dignity of the person and also the obligation to guard against and denounce any infringements of it.

– That Bioethics recognizes a specific obligation to denounce violations of human dignity and to promote the banning of the use of biological knowledge, techniques and means to destroy and annihilate human beings and their natural surroundings.

WE EXPRESS our firm commitment with regard to

– Progressing with determination towards a new world order that is based on justice, universal participation, mutual responsibility, co-operation, equity and solidarity so as to put an end to armed conflicts, wars and terrorism,

– Adopting and encouraging individual, social and political measures and attitudes in order to defeat intolerance and violence in all their forms and to impose the effective respect of human dignity,

– Advocating destruction of all existing biological weapon, and rejecting military strategies which summon biomedical professionals to cooperate in the procurement, use and encouragement of biological arsenals, as well as to publicly condemn non-compliance with international agreements,

– Requesting participation of bioethics advocates in the commissions that have a say in the drafting and control over such agreements,

– Condemning participation of experts, technicians and scientists in the development of biological weapons,

– Condemning participation of public health institutions in schemes that aim to develop programmes that may lead to the procurement of

biological weapons which, under the excuse of their being defensive strategies, might be applied in reprisal against others.

– Constructing coherent theoretical grounds against the arguments that provide support to religious wars, torture, and pro-war ethics.

– Demanding from all Governments that they promptly implement the measures and actions that are required to make the present Declaration effective.

– Widely publicising this Commitment through all the media of communication and demanding that it be urgently put into practice.

Scams in Science

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The great hoax of the Piltdown Man is still lingering in our memory. The hoax was a creation of Charles Dawson, who claimed to have found remains of a very primitive human in a gravel pit near Piltdown in Sussex, England through diggings in 1912 to 1914. The remains included some pieces of crania, a part of lower jaw with teeth and some flint and bone implements, supposed to be those of the primitive man. It was estimated that the remains were about 500,000 year old. The fossils were handed over to the British Museum. Associating the lower jaw with the reconstructed upper part of the skull, the entire skull of the primitive man was visualized. While the upper part of the skull was quite human, the lower jaw was ape like. The supposedly primitive man was named as *Eoanthropus dawsoni*, and was hailed as a great find, as it was taken as the "missing link" between apes and man. But subsequently through x-raying and radioactive dating the cranial parts were found to be only 50,000 year old, and the lower jaw fragment even younger. Similarly it was found that the bone implement, included in the find, had been stained with a chromium compound to make it look mineralized. Hence it was inferred that, while the cranium belonged to an ancient man, the jaw was of an ape, and that the two had been wrongly associated. Through efforts of Oakley, Weiner and other scientists the fraud was finally established. On 21st November 1953 in the Bulletin of the British Museum it was declared that the Piltdown Man was a hoax.

Scams in science have been sporadically, though rarely, appearing. A recent instance is about a stem cell research. A South Korean scientist, Hwang Woo-suk, of the Seoul National University, published the results of his researches on cloned human stem cells in the prestigious journal *Science* in May, 2004. The paper was coauthored by Gerald Schatten of the University of Pittsburg Medical Centre; in fact Schatten was the senior author in this publication. "Roh Sung-il, a hospital administrator and specialist in fertility who worked directly with Hwang, said his colleague had admitted there were fabrications in the second study on tailor-made human stem cells" (*Reuters news*, Dec. 16, 2005). Schatten, the senior author of the paper, has pointed to the possibility of fabrications in the study, and has asked to withdraw his name from the authorship of the paper. Hwang has defended his research, but still he says that he will ask the journal Science to withdraw the paper due to "fatal errors and loopholes in reporting the scientific accomplishment" (*AP news*, Dec. 17, 2005). Dean of the Medical Centre, where Schatten works, has ordered an enquiry in this case. A South Korean panel has conducted an enquiry into the work of Hwang and his team. Roe Jung-hye, the chief of the Seoul National University's research office has said, "It is the panel's judgment that Professor Hwang's team does not have the scientific data to prove that they (patient-specific stem cells) were made." (*Reuters news*, Dec. 29, 2005). Hwang now faces possible criminal charges.

A recent exposure of a scam is in a book, *"Birds of South Asia: The Ripley's Guide"* by Pamela C. Rasmussen and John C. Anderton (reviewed by Grimmett, 2005). Preparation of this book was initiated by the great ornithologist Dillon Ripley, and in this work he was assisted by Rasmussen and Anderton. Ripley died in 2001, and his two associates completed the book. Rasmussen did not take the data, available to Ripley, for granted, and worked "from scratch" (Grimmett, 2005), and reviewed such details as distribution, identification features, extinction/survival etc.. She visited different museums and examined various collections, using x-raying specimens and other forensic techniques, where she felt they were necessary. In this process she came to discover fraudulent work of two ornithologists of the first

half of the last century, T. C. Stuart Baker and Richard Meinertzhagen.

The British colonel Richard Meinertzhagen, primarily a soldier and a globe trotter, also tried to be an ornithologist, and in the last role he was fraudulent. In words of Rasmussen (as quoted by Barbara, 2005) "There are hundreds and probably thousands of fraudulently catalogued specimens. This was going on for the better part of his (Meinertzhagen's) life". "… Rasmussen and Prys-Jones found that, as early as 1914, Meinertzhagen was stealing specimens from the British Museum and other institutions, then retagging them with catalogue details of his own making" (Barbara, 2005). Meinertzhagen often changed the label of stolen specimens. "In one case, he took a specimen of the king-fisher *Alcedo hercules* that had been found on the island of Hainan off China, and listed it as being from Myanmar" (Barbara, 2005).

Such frauds definitely hamper progress of science. There are codes, guidelines and principles for scientific research. Religion may also help as a prophylaxis against the malady of such scams. A religion, any organized religion, has a strong ethical component, which teaches truthfulness and reliability.

Unfortunately of late a controversy has been spreading among people in some parts between science and religion. Theory of organic evolution has been challenged, and teaching of "intelligent design" side by side with evolution has been advocated. Intelligent Design is obviously based on creationism in *Genesis* in the *Bible*, As Dawkin and Coyne (2005) have pointed out, Intelligent Design is "simply creationism camouflaged". Almost all scientists do not approve this mix up of science and religion, which are two different approaches of human mind. The Rev. George Coyne, the Jesuit Director of the Vatican Observatory has categorically declared that "Intelligent Design isn't science, even though it pretends to be". He has also said that teaching of Intelligent Design along side evolution is "wrong", and is like mixing apples with oranges (*ANSA News Agency Report*, 2005).

But, in spite of this controversy, most scientists believe in religion (as pointed out by Francis S. Collins, the acknowledged leader in human genome study, cited by Deanin, 2005), though they take science and religion as non-overlapping areas. Some of them, due to their preoccupation with science, have not taken religion seriously. Even those, in the latter category, should have had some exposure to their respective religions, at least in their childhood, before getting involved in scientific pursuits. Let us hope that taking religion more seriously would help avoiding such scams. Those, having aversion to the adjective "religious" may realize that religious ethics are actually social laws, in absence of which the social structure cannot function smoothly. Even social bees have their own behavioral code.

I believe that religious training or realization of need of social ethical norms will prevent workers in the field of science from allowing their personal ambitions to overpower their social obligations. But the caution, underlying this statement, is only poorly needed, as almost all scientists are ethical and honest in their approach, and scams are extremely rare.

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Multicultural medicine: ethical issues encountered when perspectives differ

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The popularity of therapies collectively known as Complimentary and Alternative Medicines, known by the acronym CAM, is increasing in the developed world. The use of CAM by terminal patients is particularly high (Chou, et al.). Moreover, the majority of patients using CAM do not inform their conventional doctor about their CAM use.

In this paper we explore the case of one patient that highlights the ethical problems of multicultural medicine that are infrequently acknowledged in the literature and discuss possible ways of resolving these.

The combined use of allopathic medicine and CAM by patients is paradoxical as the two systems are ontologically and epistemically incommensurable. It is our contention that this incompatibility is irrelevant to patients provided it causes no conflict between their orthodox and alternative practitioners. We recognise the philosophical incompatibility, but maintain this has little bearing on their treatment. However, the incommensurability does become salient under certain conditions. It is these conditions we wish to discuss in this paper.

Patients with a terminal disease use CAM for fairly specific reasons. These include wanting to try absolutely everything possible, dissatisfaction with conventional medicine including the impersonal nature of the patient-practitioner relationship, the lack of time practitioners spend with patients, to mitigate the side effects of conventional treatments particularly chemotherapy and radiotherapy and for cultural reasons.

And now for Norah's story.

"Norah is a young woman, married with two children. She lives in an extended family situation, congruent with her culturally Chinese background. Sadly, Norah has lymphoma. She has already undergone aggressive chemotherapy, and stem cell transplantation, which have failed. Throughout her illness, she has received traditional Chinese therapies, as well as conventional treatment, without any sense of conflict between the two systems.

She becomes progressively worse. Breathing becomes increasingly difficult because of the lymphoma in her neck, she is anorexic, and she feels permanently tired and listless. On meeting with her haematologist her treatment alternatives are discussed. The consultant recommends Norah have a donor stem cell transplant from her sister. After being given an anti-inflammatory medication to improve her breathing, she goes home to tell her family and to prepare for hospital."

At home, her family tell her they have found a Chinese practitioner visiting from Hong Kong. He consults with Norah and palpates her neck; he then recommends a regime of Chinese herbs and diet and tells her to be even and calm. From the information he gives her, she understands that she is sick through no fault of her own, she is sick because of the legacy of her ancestors. His explanation of why she, and no other member of her family, is sick, his theory of causation, is really important to Norah. Her Chinese practitioner also tells her he can cure her in three months, but only on the condition that she give up all western medicine. Norah cancels the impending stem cell transplant.

While the epistemological and philosophical incommensurability has not mattered until now – Norah has been using CAM for the last 12 months with no therapeutic problems – the decision by the Chinese practitioner to tell Norah to stop all Western treatment has made the incommensurability salient.

Ethically, Norah has been subjected to great pressure to forgo conventional treatment because the Chinese practitioner cannot cure her unless she abandons Western medicine. Norah has been losing faith with conventional medicine since the last stem cell transplant failed to cure her. Since then, she has been searching for answers to the question that so many people with potentially fatal diseases ask – "Why me?" Her new practitioner has now given an answer she can understand and moreover she can plan for her future.

The decision by the Chinese practitioner to tell Norah to put a halt to conventional medicine has also created ethical dilemmas for the treating oncologist and bone marrow transplant physician. The conventional practitioner's responses to the situation have been limited by the circumstances.

We suggest there are 3 responses open to the conventional practitioner, assuming he wants the best for Norah and assuming he maintains that her best option is to have a stem cell transplant in the near future. His first response is to objectively tell her the options and to let her know the implications of her choice. Ethically, this option emphasizes patient autonomy and the ability to make rational choices. The practitioner's responsibility is to provide the information on which the patient can base a rational choice. It ends if the patient's choice seems irrational to his judgment.

The second response is more paternalistic. The practitioner acts from the 'best interests' position. He informs the patient of her options then urges her, more of less strongly, given his personality and how far he believes he can push the relationship, to reject the Chinese practitioners treatment because it is harmful and to accept conventional medicine. He may even decide to

speak to her relatives and enlist their assistance to convince her of the error of her treatment ways.

The third possible response is from a broadly feminist understanding of the importance of maintaining relationships. Her conventional practitioner does all he can to convince her of the implications of her decision, but unlike the first response he does not sever the relationship when the patient chooses the alternative treatment, and unlike the second response he does not insist he knows what is in her best interests. Instead he attempts to maintain the relationship and to view the illness and treatment from Norah's perspective. By maintaining the relationship and not abandoning her, he ensures his presence for her if and when, in three months, she is not cured as promised by her CAM practitioner.

Each response has its problems. To privilege autonomy is to neglect the reality of dependency in illness (Campbell, 1994). To practice paternalistically is to privilege one world view in a pluralist society. The feminist approach can be seen as a means of opting out of personal judgment and responsibility for the welfare of the other in order to privilege continuing communication. Each option brings potential moral dilemmas to both practitioner and patient. Each exposes the importance of trust and continued negotiation, and the need for continuing re-examination of what counts as a good outcome for both patient and practitioner.

In our case the conventional practitioner responded to his patient from the feminist position. He saw Norah weekly and supported her decision. He also monitored the tumour and blood studies in the knowledge that this information was allowing her CAM practitioner to keep abreast of her situation from Hong Kong.

This response allowed for the ongoing development of his relationship with Norah. At the same time, it created a deep uncertainty for the physician as to the morality of endorsing an unproven treatment when a potentially effective one was available. Both other responses would have seen Norah break off the relationship and, we conjecture, dispense with conventional medicine altogether. Norah would be hard pressed to find another suitably qualified specialist who would be willing to see her without insisting on conventional treatment and a stem cell transplant.

In multicultural Australia, dilemmas such as this are becoming more common. CAM and conventional medicine usually coexist quite peacefully. Problems occur when a practitioner from one system forbids the other system, and threatens to withdraw from care unless the patient complies with his or her instructions. This places a moral burden on both the excluded practitioner and the patient. When the patient makes a choice for one system or the other, the excluded practitioner can respond by privileging the patient's autonomy, by offering paternalistic advice about perceived 'best interests', or by a feminist privileging of continued relationship. None of these alternatives provide completely satisfactory solutions in every case.

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A Book on Medical Ethics in Medieval Islam: *Al-Tashwîk Al-Tibbî (Encouraging Medicine)* of Abu'l-Alâ Sâid B. Al-Hasan Al-Tabîb (1009-1087 A.C)

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As it is known that "Medical Ethics" had gone through long process of development until it became a particular medical discipline with its own unique character in the Islamic medical tradition. One of the most prominent characteristics of this process that continued from 9th century up to the 16th century is that several works on medical ethics were produced.

In 1071, in a city called Rahbah situated between Baghdad and Raqqa**,** a book written by Abu'l-Alâ Sâid b. al-Hasan al-Tabîb with the title of *Tashwîk al-Tıbbî* was added to existing literature on Islamic Medical Ethics. Thus, this paper aims at first introducing the author who is not well recognized by many in the field, and then analysing the content and various aspects of the work itself.

1. Sâid b. al-Hasan al-Tabîb, the Author of *Al-Tashwîq al-Tıbbî*

Although we have some scanty information about his life, Abu'l-Alâ Sâid b. Al-Hasan, the writer of *al-Tashwîq al-Tıbbî*, was most probably born in Rahba in Iraq and might have lived some times both in his home town and as well as in Syria between 1009-1087 (A.C.). From the biographical sources and also from his own writings one would get the impression that he was well-educated in most of the philosophical sciences of the time and he seemed to be well-known physician with a mastery of other sciences such as astronomy, linguistics and literature. As testimony to his extended interest in and also to the depth of his knowledge in other sciences it suffices to mention another work of Sâid b. Hasan, *al-Tashwîq al-Ta'lîmî* (Encouraging Education), an introduction into astronomy for students. Sâid b. Hasan's scientific career resulted also in his manifest interest in various mechanical tools designing which might still very well capture our contemporaries' attention. The historian Ibn Asâkir (d. 1176 A.C.) records that he built a lifting device for heavy stones, and he also made iron ink-pens which could be used, when filled, a whole month before ink dries. We also learn that he received the protection from many Arab and Salcuqî rulers. In short, he seems to be a good representative of his era when the civilisation of Islam was at its apex. Many famous physicians, philosophers and scientists of this age such as Ibn Sînâ (d.1037 A.C.), al-Bîrûnî, Miskawayh (d.1030 A.C.), İbn al-Haytham (d.1040 A.C.), had lived within the same or close generations. It might be added that he was an intellectual sensitive to requirements of his age.

2. A General Overview of *al-Tashwîk al-Tıbbî*

Some thoughts on the implications of the title of the work, Encouraging Medicine

The first thing that draws our attention is the title of the work, which is both rare and interesting. The author's reasons for choosing such a title must relate to the aim he intends in writing it. Thus, in several places in the work the author indicates this purpose. On the one hand, he tells us, that he has taken notice of the many wrong medical practices and terrible effects of these kinds of practices suffered by people in Mesopotamia and Syria at the hands of under-instructed, uneducated physicians. On the other hand, we are told that he wrote this work in order not only to show what the real science of medicine is all about and what it means to be a real physician, but also to encourage eligible individuals with a quick wit**,** intelligence and good motivation into learning the science of medicine as well. Indeed, a general overview of the book reveals to us that the work was actually intended to be a voice encouraging the people to learn the authentic science of medicine and its proper practices.

The significance and place of the work in the Islamic literature on Medical Ethics

The second important point is how to determine the significance and position of the work within the Islamic literature on medical ethics. There are numbers of works known that are related to medical ethics beginning with those by Yuhanna b. Mâsavayh (d.857-58 A.C.), Hunayn b. Ishaq (d. 878 A.C.) and so on, continuing with a treatise called *Akhlâqu't-Tabîb* by Abû Bakr al-Râzî (d. 925 A.C.), which is available today. Finally, Ishaq b. Alî al-Ruhâwî, who lived between the second half of the ninth century and first quarter of the tenth century in Şanlıurfa, Turkey, wrote the first source book covering all important issue of medical ethics. Thank to this *magnum opus* of Islamic medical ethics, *"Adab al-Tabîb"* it was possible for scholars to determine the boundaries and subject matters. During the ages following this path-breaking work until the appearance of *al-Tashwîq*, even though there were several other important books in medical ethics also authored by well-known physicians, none of the these previous works reached the status of a standard book of medical ethics in terms of content, method, systematic and style. For this reason, *al-Tashwîq* deserves to be regarded as the most significant work seconded only by Ruhawi's work in the history of Islamic medical ethics until 12th century.

Content and method of the work:

The third important point to be noted is the extent and method of the work. Covering almost all major issues of classical Islamic medical ethics, *al-Tashwiq* was written in a style and method that even a modern scholar might find at the least unfamiliar. Briefly, the work is divided into thirteen chapters, an introduction and a conclusion included. Each chapter linked with the others in terms of logical order and content. Furthermore, any attentive reader cannot fail to observe the objectivity, rationality and persuasiveness of the arguments developed in the work.

Language and the style of al-Tashwîq:

The work is also important in its linguistic and stylistic features. One of the easily and distinctively

recognizable features of the work is that it is written with a fluent and captivating language and manner. In other words, the work testifies its author's literary prowess and competence.

Its sources:

Regarded from another angle, the work also proves that the author has at his disposal a variety of sources ranging from Greek medical authorities such as Hippocrates and Galen, and to texts of Quran and Hadiths related to medicine, to historical narratives of medical importance, and most significant of all, from his own observations and experiments to the cases reported by others in the field. We can also note that to certain extent the author makes references to his sources, but other times sometimes he fails to do so, leaving the reader at a lost about possible sources.

A Short summary of the content

After the general evaluations of various aspects of *al-Taswiq*, I may now briefly describe its content. Following the first chapter serving as a preface, the second chapter begins with an explanation of the importance of science of medicine and its high value among other sciences. The subject matter is further established with rational, experimental, social, religious-cultural and natural proofs.

The third chapter draws a list that includes mental, physiological, moral, religious, scientific and professional qualifications required of a successful physician. These qualifications can be described as follows. A physician must have a high intellectual capacity and perception, powerful mind and memory, devotion, good temperament, good-heartedness, honesty and reliability, compassion and modesty; avoid indulgence in wealth, lust and intoxication; must also have adequate formation in sciences, be able to unite theoretical knowledge with practical and have clinical education in the hospitals, to continue in scientific and medical research, and atone himself to the medical purposes.

In chapter four, the author surveys basic medical sciences and auxiliary sciences that a physician should learn. He regards the following sciences as complimentary to medicine: logic, arithmetic (hisâb), geometry, optics, astronomy, music and geographical medicine. The basic medicine sciences included are as follows: schools of medicine (fıraq al-tıbb), science of elements (ustukussât: soil, water, air, fire), humeral pathology (ahlât), science of temperaments, anatomy, illnesses, diagnostics and treatment (ilm al-amrâz), taqdima al-ma'rifa (development of illnesses in time) and pharmacology. In this chapter, the writer also emphasizes that the physician should practice both the method of analogical reasoning and the experimental method in diagnosing and treating illnesses. These two methods were defended by two classical schools of medicine independently from each other.

The fifth chapter deals with guidelines followed by a physician both in his private and professional life. Here the author engages in a long discussion about these rules of conduct that physicians must adapt. Some of guidelines that were treated in detail are: First of all, the physician should comfort his patient before asking some information about the developments of his illness. He should try advice the patient a food and vitamins diet first, before making his decision for treatments with medicines and with medical operation. Furthermore, in order for a physician to become an expert in his profession, to get good medical education, to acquire knowledge about new and unknown illnesses and to continue his career he must be related to, or work in, hospitals. The privacy of patient must observed and secrets of patient related to his illnesses must be kept confidential. He must abstain from preparing poisonous and fatal substance.

The sixth and seventh chapters are devoted to malpractices of so-called physicians who are either under-educated or hoaxers. Thus, here people are averted against receiving treatment from such insufficient practitioners. The chapter eight entitled "examining physicians" contains several questions in order to test aptitude of physicians in various medical subjects and to determine whether he is real doctor. The content of the ninth chapter consists of the factors that affect diagnostic failures and liabilities of physicians. In this chapter, the writer enumerates and examines the following causes for possible failures: faults due to physician, patient, person accompanying a patient or nurse, and external conditions.

The writer, in the tenth chapter draws attention to false conceptions of medicine perpetuated by ill-educated physicians among the credulous public. In the eleventh chapter, some practical information on protecting health (preventive medicine) and diagnosing common and simple illnesses (qânûn hıfz al-sıhha) is given. It is clear that the writer's aim here is to contribute to the education of society in protective measures and

in avoiding wrongful practices or in getting self-assistance for those who live in places where there are no physicians. The twelfth chapter narrates various stories. These are generally related to some unusual medical case stories or incidents he has personally witnessed, read, heard from others. The book ends with a call inviting able persons to get an education in medicine and with an emphasis on the significance of medical science for human life.

As a conclusion, although the work may have lost some of its value under the passing history, both in content and effectiveness of proposed solutions of some medical problems, today it still remains a relevant guide for us in medical ethics. It is absolutely clear that as modern readers, if we are open enough to its deeper voice, we can still easily understand his book and we can find the author as one of our contemporaries who shares his precious insights on ethical issues with us.

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Confucian Ethics: Responsibilities, Rights, and Relationships

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Confucian ethics focuses on the structure of human relationships, and in particular on the core relationship of the family. Indeed, the family is supposed to provide an idealized model for all other relationships. The classical Confucian conception of social and political philosophy is also more hierarchical and paternalistic than modern western approaches. As a result, there has been significant contemporary Asian opposition to the individualism of Western rights-based approaches to ethics and political philosophy. Indeed, some argue that the "rights pollution" of Western moral and political philosophy fundamentally distorts and destroys naturally harmonious human relationships.

In this article, we will evaluate these aspects of Confucian ethics, carefully consider the Confucian objections to rights theory, and develop a model of the Patient-Physician Relationship that is reflects the best of Confucian ideals. We will first discuss the basic ethical principles of Confucian thought, including the "five basic relationships" that are at the core of day to day moral life.(1) We will then turn to issues in moral psychology and the contemporary Confucian critique of rights theory. Although, the critique of rights theory is mistaken in important ways, it is also the case that the Confucian emphasis on the centrality of relationships is often missed by recent rights theory. We thus conclude by developing a more relationship-based, family-centered, and egalitarian model of the "Physician-Patient" Relationship.

1. The Five Basic Relationships

Confucian ethics includes all of the customs, manners, habits, conventions, and indeed all of the ordinary behavior of daily life. In Confucian philosophy this is characterized as the following of *Li,* which is protocol, etiquette, propriety, and ritual. The principle of *Li* is simply acting in accordance with conventionally recognized right behavior. *Li,* of course, also includes the appropriate behaviors of rulers and subjects, and thus the principles of good government and citizenship. The other Prime Virtue of Confucian thought is *Ren (*or *Jen)*, which is benevolence and humaneness. The cultivation of *Ren* is essential to human virtue and excellence. *Ren* and *Li* are intimately connected: *Ren* as humanness and benevolence guide and shape social conventions and the principles of *Li* (Propriety); and, on the other hand, *Ren,* which is humanness and benevolence in one's dealings with others, is only realized through all of the daily practices and rituals of life. *Li* is blind without *Ren*, and *Ren* is empty without Li.

Closely related to *Ren* (Humanness/benevolence) is the Confucian principle of Reciprocity. All natural social relations involve mutual benefit. Indeed, like all of the major religious traditions, Confucians have a version of the "golden rule" : "What you do not want done to others, do not do to others." It is interesting that the principle is not focused on one's

self but on what one does not want done to others, and here we perhaps see a deeply relational, non-individualistic element in Confucian thought – treat others, as you would want them to treat others – which we will discuss below.

Within the context of the broad principles of *Li* and prime virtue of *Ren*, the ideal Confucian person (Jun-zi) is further defined in terms of idealized social relationships that include a "natural" hierarchy that is assumed to be part of all social relations. The most basic of all social relationships is the family, and thus the central of all Confucian virtues is Filial Piety: respect for ancestors, parents, and elders generally. There are, however, Five Basic Relationships, each with its distinctive role related virtues:

Relationship: *Distinctive Virtues:*

- Father and son (Parent and child) – affection, filial respect
- Husband and wife – separate gendered roles
- Elder brother/sibling and younger – order, propriety
- Ruler and minister/subject – righteousness, justice, loyalty
- Friend and friend – faithfulness, fidelity

These five basic relationships are the natural social relationships that essentially constitute human social life. In there classical formulation, the Five Basic Relationships are strongly gendered leaving out daughters and sisters, and including only wives. The first relationship can be expanded to Parent-Child and third can be recast as Siblings, but the husband-wife relationship is clearly conceived as defined in gendered terms. Altering it to Spouse-Spouse is a substantial change, and thus it will receive a more substantial discussion below. Internal to each relationship are specific roles, responsibilities and virtues that are based directly on the nature of the particular relationship:

• *Parent and Child*: A parent owes a child affection and care, an education that promotes intellectual and moral development; a child owes a parent obedience, respect, and care in old age and after death. The parent-child relationship naturally and spontaneously includes an emotional bond of love. The authority of the parent is rooted in wisdom and aimed at the good of the child. A child's respect for parents, and family elders, is essential to social order and virtue. Filial Piety is thus the core virtue that defines and shapes most of one's life. (Filial piety includes respect for one's ancestors and is clearly related to ancient ancestor worship.)

• *Husband and Wife:* The husband is to lead, provide for, and protect the family; and the wife is to maintain the household and defer to her husband. The family is lead by the father. Gender relations involved ritualized and clearly defined female subordination, and this leads to a cultural preference for sons over daughters. The ideal Confucian woman is deferential, silent, and, of course, fertile. Her virtues are inner strength, forbearance, and a calm restraint.

• *Siblings*: The older brother/sibling is to look after the younger and to help the younger to obey and internalize his social roles and to fit well into the overall life of the community. The younger supports, shows deference, and respects the older.

• *Ruler and Subject*: The ruler is like a benevolent parent and the subjects owe obedience and loyalty. Unlike the parent-child relation, the natural bond is not affection and love; instead, it is a sense of justice and righteousness. Since the Rule of Law cannot be arbitrary or lawless, the subject should be able to respectful express dissent when appropriate. Ideally the Ruler should command obedience by example rather than by coercion and force. The resort to force always signifies failure. If the state is well ordered and the ruler is upright, obedience is natural. "Lead the people with administrative injunctions and put them in their place with penal law, and they will avoid punishments but will be without a sense of shame. Lead them with excellence and put them in their place through roles and ritual practices, and in addition to developing a sense of shame, they will order themselves harmoniously." (*Analects*) Rulers should always pick the most able, virtuous and qualified to succeed them, and not their own eldest sons or family members. In this case, State piety is higher than any filial obligation.

• *Friendship*: Mutual loyalty aimed at mutual virtue is the essential virtue of friendship. Friendship is based in virtue and contributes to self-development. Friends are akin to brothers: "When at home, you have your brothers; when abroad, you have your friends" "For men with no brothers, there are none who have established themselves who have not had friends to help them." "True friendship is a plant of slow growth, and must undergo and withstand the shocks of adversity" (Analects)

Friendship is the anomaly here. The central place of *filial piety or respect*, honoring and deferring to paternal authority, is the central and distinctive virtue of Confucian thought and, it clearly provides the hierarchical model for the other relationships. In addition to husband and wife, and ruler and subject, other basic social relationships like employer-employee or teacher-student, are understood to have a similar hierarchical, paternalistic but benevolent structure. In addition, the deference to elders and superiors is recognized in all relations through a respect for a hierarchy of age and accomplishment that are always shown respect.

Although the emotional bond and mutual commitment of friendship is essential to it, in later neo-Confucian thought the pure reciprocity and equality of friendship is often minimized, and indeed a hierarchical element is added or emphasized. The neo-Confucian Wang Youliang (1742-1797), for example, in "Correct Friendship" claims that brothers, like a family of geese, naturally fly one behind the other, and so too the same hierarchical harmony should apply in the case of friends. Friends are also thought of as akin to teacher and student: "When three people move together, surely there is one who can teach" (Analects). These points, however, are not inconsistent with an egalitarian conception of friendship: friendships founded on equality and reciprocity are fully compatible with the fact that friends often learn from each other (as teacher and student) and that it is often best for one friend to lead the others (breaking the way like a family of geese one behind the other). In a friendship of equality it is simply the case that the roles of teacher and student are fluid and changing with circumstance. I may teach you philosophy and you may teach me art history. I may teach you to sail a boat and you may teach me how to fly fish. You may teach me patience and I may teach you courage. Similarly, like geese or bike teams, we may alternate leaders of the flock thereby taking turns breaking the wind for the mutual benefit of all (2).

Friendship seems to stand out from the other relationship because it is a voluntary relationship, and unlike filial bonds, particular friendships do not seem to be "decreed by heaven." The relationship of children and parents, and siblings are largely unchosen roles that come with responsibilities. The relationship of husband and wife also seems to have clear elements of a "natural" relationship, and there is a "natural" basis in child bearing and nursing for a division of social roles and responsibilities. The hierarchy of authority and deference, emphasized in traditional conceptions of marriage, however is not a necessary aspect of gendered parenting. In addition, particular spouses are no more decreed by heaven than are friendships. Of course traditional arranged marriages are often decreed by parents, and thus are also unchosen relationships with responsibilities. But conventional social practices, however common, are not in any normative sense part of the natural order of things.

The reciprocity and equality of friendship strikes many as an inherent and natural reflection of the nature of the friendship relation. Furthermore, friendship is essential to a flourishing human life; it is a truly deep and essential aspect of human existence. More generally, it is in the nature of things for equals to treat each other with mutual respect, not asymmetrical deference – an attitude of deference to one's equal is itself unnatural. Friendship, with its robust equality, mutuality, and reciprocity, is a core and natural human relationship that lacks the characteristic paternalistic authority of the parent-child "Paternal Relationship." For lack of a better term, let us call the core elements of the friendship relation an "Egalitarian Relationship."

2. The Psychology of Moral Development

Let us grant that paternal authority, paternalism and deference, is natural and appropriate to the Paternal Relationship. We have seen that equality, reciprocity, and mutual respect are natural and appropriate to the Egalitarian Relationship. The question is thus whether a paternal model is also appropriate to the Spousal Relationship and the Political Relationship? Or do they instead naturally partake of core elements of the equally natural model of the Egalitarian Relationship, or some model particularly suitable to their particular nature?

Why think that the hierarchical Paternal Relationship is the paradigm for all relationships (so that the friendship relation is the anomaly)? Here is the most common argument for the primacy of the parent-child relationship:

"for Confucians, only through the establishing, nurturing, and developing of the parent-child love in the family and gradually extending it to other people outside the family can a good society be possible. Hence, love must begin from the parent-

child tie inside of the family. If it cannot begin from the family, it will begin from nowhere." (3)

This argument begins by quite rightly emphasizing the importance of the parent-child relationship to psychology of moral development. The argument further assumes, however, that if moral development begins with familial love, then this model of love must also be the basis of all social relations, and thus the inequality of status and the hierarchical paternalism definitive of parental love must also characterize all other social relations. But this does not follow at all. It is clearly the case that moral development begins in the unequal and hierarchical relation of parent and child, but it does not follow that moral development also ends here; and it also does not follow that this distinctive primary inequality characterizes ideal social relationships. Indeed, the parent-child hierarchy and inequality is most obviously based on the lack of capacity of infants, children, and adolescents. Similarly, as people develop from children to adults, the relations change to reflect the increased capacity and realization of human potential. Without the actual distinction in realized capacity, and the original need to nurture moral development, the paternalistic hierarchy would not be justified at all. So from the inequality at the start of moral development, a presumption in favor of an inequality of citizenship *status,* between mature and competent adults, simply does not follow. What could be clearer?

The Confucian, and also traditionally Western, modeling of ruler-subject relations on the model of hierarchical relationships essentially involves the false infantilization of adult citizens. In the contexts of widespread illiteracy that has existed for most of human history, perhaps the assumption of the greater competence and wisdom of the educated ruling classes may have been justified. Indeed the examination system provided a clear basis for deference based on education, training, and expertise. But in a modern society with a widely literate or otherwise well informed public, this model distorts reality by treating adults of roughly equal capacity as unequals.

The model of paternal, hierarchical, political authority is thus often no longer justified, however deeply rooted in ancient traditions it may be. The contrast here importantly is not one of Eastern and Western thought. The West also has a long tradition of political authoritarianism combined with class inequality and aristocracy. The western philosophical tradition was rooted in Plato's idealized Republic of Philosopher-Kings ("Sage Kings"), Aristotelian Aristocracy, and the Divine Right of Kings. Even the West more recent recognition of the "Natural Rights" long coexisted with slavery, paternalistic colonialism, racial segregation, a landed gentry, and the legal subordination of all women. The doctrine of universal human rights marks a break from the classical past and a distinctly modern conception of the nature of citizenship. The difference in the classical and modern models is a clear issue of substance to be settled by reasoned analysis. This is not simple cultural difference; it is an objective philosophical issue to be settled by the strength of reasons.

Returning to the issue of substance, what is the relationship between the initial morality rooted in paternal love and the moral relations of mature and competent adults? Contemporary psychology has posited clear stages of intellectual and moral development. The principles of moral psychology suggest that we go through an initial stage characterized by a morality of authority, next this develops into a morality of associations, which in turn is transformed into a morality of principles(4). Here is a brief summary of this model of moral development:

The Morality of Authority: in a context in which parents treat children fairly and the parents love the child and manifestly express their love by taking care of the child and protecting the child, then the child will recognize the parent's love and will love and trust the parents and also will look up to the parent as source of comfort and safety. The child thus recognizes the authority of the parent and will generally obey their rules or percepts that otherwise constrain the unbridled will of the child. The morality of authority is manifest in the acquired internalized disposition to follow the precepts of a more powerful person that has one's love, trust, and respect. The motivation is one of obedience to command, and not an independent recognition of the rightness or appropriateness of the commands in questions. The prized virtues are thus obedience and deference; the leading vices are disobedience and audacity.

The Morality of Associations: in cooperative associations with others, a person who has developed the capacities for love and trust in the family will also develop friendly feelings toward others in shared associations. If the association is just and fair, and others intentionally comply with their responsibilities and duties, a person who has

developed an initial disposition of obedience to authority will naturally develop a disposition to want to do one's fair share in the cooperative scheme too, and will thus be disposed to take on a fair share of responsibilities. We naturally care about the approval and disapproval of others with whom we are associated, and are thus motivated to earn the approval of others. In associations, including the original association of the family, the members have different roles with distinct responsibilities. From our role in the family we are already familiar with the nature of role-specific responsibilities. As we grow we learn the specific chores of the child, and next the responsibilities of a student. This sense of one's place in a cooperative association involves understanding the distinct responsibilities and perspectives of the different roles, and this essentially includes the ability to see a situation from multiple perspectives. It also involves recognition that the benefits of social life require cooperation, mutual sacrifice, and mutual responsibility. The morality of association is rooted in an original motivation to please others and to fulfill one's distinctive role; it develops, however, into a nascent sense of fairness, reciprocity, and equity.

The Morality of Principles: The last stage of moral development involves a fuller recognition of basic principles of justice and morality. In the final stage of moral development, a commitment to reciprocity itself and to the good of others supersedes both the original morality of authority and the morality of association based as it is originally is on the desire to please others. The basis of authority is now clearly recognized to be justified by the good served to those who are subject to it, or as a source of impartiality, or by simple organizational utility; and not as reflecting a hierarchy of worth or rank of persons. Similarly the original simple acceptance of role-based responsibilities is superseded by a recognition that associations must be just and fair, if they are to obligate us, and thus they must work to serve the interest of all and respect the equal status of all.

We thus have a natural and progressive development from the emergence of morality in the context of the love and paternal authority of the family to an egalitarian morality of mutual respect and mutual concern. The model of friendship should thus serve as the ideal moral relation. For human relations in general, where familial love or the affection of friendship is out of place, an ethic of equal concern and mutual respect naturally replaces familial love and mutual affection. An ethic of care draws us together and makes us responsive to the interests of others. An ethic of respect recognizes the equal status and the autonomy of others and makes us responsive to their point of view and the interest each has in leading his or her own life. Care motivates helping and preventing harm to others (that is, principles of beneficence and non-malificence); Respect balances this with a recognition of the value of self-determination (that is, respect for autonomy).

Thus when it comes to children, it is indeed fitting that the older sibling should look out for the younger. As adults, however, although some of the hierarchy of the original relationship may play an interpersonal role, equality and mutual care and mutual respect will replace the once natural inequality. The Husband-Wife relationship with its traditional gender relations raises more controversial issues. It is important to divide two issues: the gendered division of labor and the hierarchy of authority. Whether the traditional division of labor surrounding childcare and domestic life is originally and naturally rooted in the biology of child birth, and breast-feeding, or arises from socialization and patriarchic power raises much controversy. The inequality of authority, however, is less complicated. The ideology and rationalization of male authority is inevitably linked to empirical beliefs about female inequality, and indeed the infantilization of women, that are now widely recognized in the East and the West to be empirically baseless. Whenever, and wherever, the legal and social barriers to women's education and self-development are removed, we see clearly that the ideology of inequality is patently false and indeed it was only the elaborate barriers to women self-development that limited the potential and possibilities of women. It is clear that past claims of a natural female intellectual inferiority were baseless.

We have seen above, in discussing the friendship relation, that mutual respect and reciprocity is a natural and indeed an ideal relationship between equals. This is true for friendship and it is also true for the relationship of citizenship. Similarly, in the Marriage Relationship, even if there is a gendered division of domestic roles, Confucian naturalism simply does not lend any support to patriarchy with its relationship of domination and submission. This is not to deny the strongly gendered conception of marriage that is accepted in Confucian culture. The

point is first to emphasize that patriarchy characterizes many traditional cultures, and that it was just as dominant in Western culture. We have not explored the basis of traditional gender inequality. We have instead emphasized that if one rejects arguments based on a supposed natural female inequality, then a more egalitarian conception of the marriage relationship naturally follows. There is nothing inherent in Confucian naturalism with its specific emphasis on roles and relationships that implies that all relationships should be hierarchical. This is a cultural tradition yes, but it is not rooted in any deeper philosophical insights of Confucian thought.

To sum up, we have seen that Confucian ethics rightly emphasizes that healthy moral development depends on the family in particular and of relationships in general. Confucian ethics, however, has also embraced hierarchy and inequality, including the subordination of women, and here we have seen that this is mistaken as an ideal of human relationships, and that it is also inconsistent with the naturalistic basis of Confucianism itself. Contemporary Confucian ethics is thus right to continue to emphasize the centrality of relationships to ethics, but it should also embrace a more egalitarian moral ideal of these relationships.

3. Responsibilities and Human Rights

Confucian ethics rightly emphasizes relationships. Contemporary Western ethical theory and medical ethics, on the other hand, is focused on individual rights. Rights theory is intimately linked with individualism and the priority of liberty over other social goods. Indeed, western liberal theories often define themselves in terms of the priority of the right, which means the priority of individual rights, over considerations of value and the overall social good. Without diminishing the importance of claims for the equal dignity and humanity of all persons, the alleged universality (and superiority) of a fundamentally rights-based conception of morality appears to be a contemporary liberal conceit. Human rights claims clearly have their proper place in moral and political philosophy, but it is noteworthy that even Kant, the patron saint of liberal rights theorists, focuses on *our duties* before our rights. In is in our sense of duty and moral responsibility that we become conscious of the dignity of humanity, he argues.

Confucian ethical theory, with its emphasis on relationships and responsibilities, provides a striking counterpoint to contemporary rights theory. In particular, it helps us see clearly the point and place of rights claims. The five basic relationships clearly involve responsibilities and duties, and we have seen that ideal human relationships are characterized by mutual care and mutual respect. When these relationships are functioning properly the individuals will naturally make claims on each other and have legitimate expectations about how they will be treated, but they need not appeal to individual rights in pressing these moral demands. Indeed, in many normal social contexts, rights claims seem out of place because of their individualistic emphasis.

For example, rights-claims are particularly out of place in certain social contexts like team sports and dance troupes (5). In these contexts, participants have roles that are typically assigned on the basis of talents and abilities, and they must coordinate their behavior in order to accomplish a shared goal or activity. On a basketball team players have roles and specific tasks, and clear grounds for complaint when a player does not act appropriately. The point guard may be responsible for getting the ball inside to the center, and the other players may be critical if the guard keeps shooting from outside, but it would be mistake for the center to object that she is being denied her right to the ball. The failure here does not involve the violation of individual rights. The responsibility is to the team as a whole and the violation involves not doing one's role specific part. Since the failure may also undermine the center's ability to successfully do her task, she indeed may have special motivation to complain. She might also feel slighted and insulted if another player routinely ignores clear opportunities to pass her the ball. But none of these is naturally thought of as a violation of her individual rights. To conceptualize the failure in terms of rights, actually fundamentally mischaracterizes the activity so as to make the individual basic, rather than the team.

Similarly, if a member of a dance troupe forgets his part or otherwise fails to perform adequately, there is grounds for criticism, but it is inappropriate and out of place to apply the language of rights violations. Here to each member has a specialized role in a coordinated and shared activity, and this gives rise to distinct individual responsibilities and legitimate expectations of others. If a dancer is lifted awkwardly or if a partner is out of step, then

there is grounds for complaint and criticism, but the language of rights would again misconstrue the complaint by treating a shared activity in individualistic terms. In coordinated, shared, communal activities, rights talk is typically out of place. Success in dance and team sports depends on a coordinated effort, and importantly individual success is essentially dependent on the success of the group as a whole.

Another context where we find rules and legitimate expectations but no rights, are in ceremonies and rituals. Here too we find specific rules and distinct roles and responsibilities that give rise to legitimate expectations from others. Indeed etiquette and protocol generally specify symbolic ritualized actions with social meanings that convey respect, and can result in shame, without any thought of rights. Of course here it does make sense to say, for example, that parents have a right to be treated with respect by their children. Yet when children are disrespectful, it would be strange to say that they had violated their parent's rights. They clearly acted wrongly, but the wrong involves a fracture in relationships and a failure of responsibility. So although parents have a "right" (in the sense of a legitimate expectation) to expect better of their children, this epistemic right, this legitimate expectation, is not based on a prior conception of individual human rights that must be respected. It is based instead on the basic (unchosen) relationships and responsibilities that constitute much of human life.

Rights however have their proper place too. If a responsibility-based ethic is embedded in a network of interconnected relationships, and presuppose a common commitment to a shared ends, or a shared conception of the good, it in turn will itself be out of place in contexts that markedly lack these characteristics. One clear case, recognized by proponents of Confucian ethics is that "when a community breaks down, when there is no common goal, and when the desire for individual advancement or other forms of competition dominate, then each person will want and need individual safeguards or rights."(6) In addition, within the framework of Confucian ethics, the Natural Law conception of government authority, explained above, implies that the Law is to serve the good of the subjects. Even authoritarian government, which is not government by the people, is still for the people. This constraint on legitimate power gives rise to an institutional requirement for a consultation system; that is some mechanism for the government to hear from the people. You cannot hear the voice of the people if they cannot speak freely. It should be clear that an open and candid consultation of the people is advanced by freedom of political speech and the right of dissent (7). Even an authoritarian system of government that is truly dedicated to the people, and not to the mere preservation of its own power, should accept Kant's conservative maxim of political obligation: "criticize freely and openly, but obey promptly."

We have also seen, however, that the strongly paternal authoritarian ethic of classical Confucian thought should be replaced by the more egalitarian ethic of contemporary political philosophy. In the context of a more egalitarian conception of society, human rights express the equality status and dignity of all persons. These rights include:

- rights to basic goods, including adequate nutrition, clothing, shelter, and public health and basic health care services;
- basic security rights and protection from assault and intimidation, including freedom from arbitrary arrest and seizure as defined by the rule of law;
- the right to education and to equal status in the economic and civic life of one's society;
- freedom of conscience, of religion, and of thought;
- freedom of speech and expression, including freedom of association, and assembly;
- rights of political participation, including a system of political representation (usually a system of voting rights), the right to peacefully petition one's government, and the eligibility of all citizens for public offices.

To say that these are rights is simply to say that these are basic goods and that society should protect, provide, and secure for its citizens in so far as it is able. The first three classes of basic rights are comparatively uncontroversial. Of course, there is indeed widespread and serious poverty and deprivations in the world. But it is not controversial that these are basic goods that society should strive to provide for its citizens in so far as it is able.

Freedom of conscience and expression are more controversial, and in many cultures these rights are subject to significant restrictions. Contemporary societies are characterized by deep and unresolvable disagreements about religious, spiritual, and philosophical conceptions of the good. These disagreements are rooted in the fact

that modern nations are composed of many minority communities. It is also rooted in the disagreements that are the inevitable result of education and the irrepressible human quality of free thought and reflection. Respect for the equal status and dignity of persons requires that we recognize that reasonable people can disagree on these fundamental issues of conscience. There should be no coercion in matters of religion. Freedom of thought and liberty of conscience thus show respect for the reasonable disagreements that are characteristic of modern pluralistic societies.

The extent and nature of the rights of political participation are even more complex in their specification. John Rawls has argued that non democratic states must at a minimum have a "consultation hierarchy" that provides a reasonable means for the subjects to express their interests to the state (8). Even a hierarchical paternalistic state, if it is to truly serve the interest of its people, must have a system for hearing the voice of the people. We cannot here work out the difficult details involved in resolving conflicting rights claims and the full specification of these rights. These details are important matters of concrete political theory, but the basic idea is to respect the equal status and dignity of persons as subjects of political authority. These rights also make explicit that political authority must aim at the common good of the people.

4. Confucian Opposition to Human Rights

Let us now turn now to contemporary Confucian opposition to human rights. Sakamoto, Tao, Hui, and Fan have argued forcefully against "Western" conceptions of human rights (9). "Rights pollution" they argue has soiled the moral landscape and undermines human relationships. Although the Confucian emphasis on relationships and responsibilities is central to a proper understanding of morality, rights also have their proper place, especially when individual interests come apart or when power needs restraint. By considering and responding to their objections to rights theory, we shall see more clearly the proper balance of rights and responsibilities.

First objection: Tao and Fan claim that "the language of rights cannot provide the resources for building mutual concern and cooperative relationships between opposing parties in a situation of competing interests … What becomes clear is that the language of rights and the legal system based on it tend often to exaggerate rather than reduce the division between different parties involved" (Fan 58-59; Tao 15).

Response: We have seen that individual rights are appropriate in contexts where there is *not* a shared end between parties. A respect for rights reflects an acceptance of the equal status of all the participants. A system of rights provides a social guarantee protecting the interest of each person. Rights thus do provide a shared starting point, a background of agreement and mutual respect, in a context where there is not a shared conception of the good. Rights also provide clear procedural and substantive constraints on outcomes, and thus they clearly do provide the resources for resolving conflict when there is not an antecedent basis of mutual concern or agreement on outcomes.

Of course, asserting one's rights can be indeed emphasize the divisions within society and thus be socially disruptive. Indeed that is often the point of asserting one's rights. The appeal to rights is most common and most appropriate when pushing the claims of the oppressed, and of disenfranchised groups, who are resisting institutionalized injustice: women's rights, the rights of workers, the rights of the Dalits (untouchables), equal rights for oppressed racial or ethnic groups, these are all disruptive of "social harmonies" that are built on systems of inequality. When rights are used to undermine inequality and oppression, they are indeed viewed by the powerful as disruptive. So as a progressive tool, they do emphasize the division between the parties that has been previously masked and hidden by a false ideology of natural differences that supported the previously unequal but harmonious social roles. It is a mistake, however, to argue that rights undermine cooperative relationships. Rights undermine relationships of oppression and thereby set out the ground rules for truly cooperative relationships of mutual concern and mutual respect.

Second Objection: Tao and Fan argue that "the primacy of rights tends to obscure the appropriate relation between individuals and society. It tends to overemphasize concerns with individual liberty and self interest, seeing the self as essentially separate from others" (Fan 59; Tao 16)

Response: Even if Confucian models are appropriate for teams, dance troupes, and the loving relationship of parents and children, the paternalistic, communalistic model is especially inappropriate for the relationship between bureaucratic officials and citizens. Indeed, individual rights are especially important in

securing cultural and religious identities in the context of pluralistic societies. Freedom of conscience, religious freedom, and freedom of association actually secure and protect one's social identity from State tyranny and oppression. Rarely are individuals targeted for repression except in association with a group with which they identify. Freedom of conscience protects minority and group rights; but it does so through the protection of the particular individuals who collectively constitute the social groups. The primacy of the individual is only truly central in the individual's right to endorse or reject a social, group, or religious identity. The right of exit is really the only right that puts the individuals prior to their social identity. Rights theory does emphasize that mature persons have a fundamental right of individual autonomy and self determination, and thus a right to escape from identities that they find oppressive or inauthentic.

Third Objection: Tao and Fan argue that "a major difficulty of such an emphasis [on individual autonomy and self-determination] lies in its underlying notion that individuals can be abstracted from relationships, social contexts, and even qualities of human agency that are vital to human life, namely the capacity and need for connectedness, relationships and mutual care. It tends to reinforce separation and isolation, marginalizing family involvement and shared family determination." (Fan 59; Tao 19)

Response: This recurrent theme is puzzling. There is nothing in rights theory that denies or minimizes the importance of community, connectedness, and relationships. The right of autonomy actually emphasizes the centrality of the need for connectedness by freeing individuals from relationships that are oppressive and exploitive. Such relationships do not reflect a shared and mutual interdependence based on mutual care. Furthermore, in so far as rights theory encourages mutual respect and not simply mutual care; it redefines, rather than denies, the importance of relationships and community. It is in large part because our identities are largely constituted by our social relationships that inequality and oppression are internalized in psychologically debilitating ways. The background of individual and group rights (including the right to education and rights of access to the civil society) in fact functions to undermine systematic inequality and social oppression. Civil rights clearly express that all subjects are equal citizens in our society and this is a mark of inclusion and connection. It is the violation of rights that reinforces separation and isolation. The right of self determination is a right to endorse or reject social identities, and as such it in no ways denies or diminishes the importance of one's social identity.

As mentioned above, human rights protect communal groups, including religious groups and ethnic minorities. They also reinforce the right to form economic and social associations, like guilds, labor unions, farmers' cooperatives, which act for a shared set of ends or goals. Human rights provide the essential social guarantees that lead to a vibrant civil society of distinct social groups. Indeed, here we see that background rights enable the formation of communities that truly reflect shared goals, and thus they do contribute to the building of cooperative relationships and that they are often based on the essentially connected nature of human beings. This is why John Rawls defends his ideal of social justice as embodying the ideal of a "social union of social unions." Modern states are made up of many communities and associations. The challenge is thus to describe a basic structure of social, economic, and political institutions that embody fair terms of social cooperation between groups that do not all share a common way of life and conception of the good. The principles of justice, if they are to win the allegiance of all, must provide a framework for a "social union" of groups that do not share the same ethnic and cultural identity, religious beliefs, philosophical worldview, or class identity. All of these smaller social unions must be brought together into a larger shared social union. Since this larger union cannot simply assume a common identity, set of ends, or conception of the good, it must provide social guarantees for the basic rights of its members. It is only the background of civil, economic, and political rights that provides the framework for trust, a shared sense of social justice, and a national identity to take root and grow.

In response to western communitarian critics, pressing the same objections as the Confucian critics, Rawls has emphasized that his liberal egalitarian theory of justice is a "political ideal" and not a comprehensive moral outlook. It is to provide a shared basis for political life for disparate communities (and thus individuals) with distinct comprehensive conceptions of the good. The social circumstances of justice in modern pluralistic societies involve deep and irreconcilable differences in comprehensive religious and moral

outlooks, and thus the goal is to construct a shared civil life that takes seriously these differences. Despite deep and unresolvable differences with other groups of people, we share with them the goal of living together in peace and mutual respect. It is this shared commitment by people with otherwise diverse conceptions of the good that is the basis of fundamental rights and liberties, including liberty of conscience, political rights, and of the basic rights of persons to security and welfare (10).

Fourth Objection: Hui, Sakamoto, and Fan have suggested that "the rights-based notion of personhood is developed from the long-standing Western view of substance. A human person is primarily a rational individual substance. This assumption of rational substance contributed to contemporary bioethics the narrow psychological and individualistic understanding of personhood and the rights-based ethic." (Fan 59; Hui 31; Sakamoto 46)

Response: This objection is more abstract in that it claims that the difference between Confucian relational ethics and individualistic rights theory is found in philosophical metaphysics. In order to avoid a lengthy excursion into metaphysics, we will address this objection only briefly. It should be enough to note that we have already seen that an emphasis on individual rights need not include a radical (or methodological) individualism, and that it need not deny the centrality to our identity of community or relationships. We have also seen, in the previous section, that Western moral psychology also emphasizes the centrality of our primary family relationships to our moral (and intellectual) development. These points alone suggest that a concern for basic human rights is not based on a radical individualism that is rooted in metaphysics of substance.

On the other hand for those readers interested in a more direct response to this objection: The substance view (however this is understood) is neither necessary nor sufficient for a rights based ethic. It is not sufficient because it was Aristotle's view, and he famously developed a naturalistic teleological virtue ethic (with well known similarities to Confucian ethics). It is also not sufficient because, as the argument alleges the "Western view of substance" was a common view in the West for a thousand years before the rights view emerged in the West. More importantly, there is no clear shared Western view of substance. (It is not as if Heraclites, Parmenides, Plato, Aristotle, Descartes, Leibniz, Locke, Hume, Kant, Nietzsche, and Mill all shared the same metaphysics of substance and conception of the self.) In addition, the two most important western philosophers for modern moral and political theory are Kant and Mill, and both reject the metaphysical idea of rational substance. It thus seems that this view of substance is not a necessary condition for a rights-based ethic. Finally, the true paradigm case of a methodological individualism and rational egoism, the only figure to truly subordinate even the family to the sovereignty of the individual, is Thomas Hobbes. Yet Hobbes completely rejected the idea of a person as a rational substance, and thoroughly rejected the idea of human dignity as the basis of rights. Of course, ironically, Hobbes was the greatest competitive individualist and also the strongest defender of social order and paternalistic sovereign authority (11). We conclude that there is no simple relationship between the metaphysics of the person, especially the metaphysic of rational substance, and individualist liberal rights theory.

We have seen that there is no fundamental or deep opposition between the Confucian naturalistic, relationship-centered, ethic and contemporary rights theory. The points of opposition are over the justification of paternalistic and authoritarian conceptions of society, and over the idealization of hierarchical relationships in general. We have suggested instead that a more egalitarian Confucian ethic, modeled on the relationship of friendship, provides the more apt ideal of human relationships. On the other hand, Western rights theorists are well served by recognizing the primacy of relationships and also the importance of the family to the psychology of moral development. Relationships are at the heart of our moral life, and they are constituted by a focus on responsibilities not rights. Basic human rights, however, provide the background conditions limiting and defining the nature of basic social relationships and social roles so that embody mutual respect and reciprocal benefit. Rights talk also expresses a shared end, a shared commitment to oppose socially reinforced inequality and oppression. Rights define the basic shape of social unions, and also the larger political association that is a "social union of social unions," but in a just society relationships are indeed the source of the responsibilities that constitute the bulk of our moral lives.

5. The Patient-Physician Relationship

East Asian medical ethics, with its foundations in Confucian Ethics, is family-centered and tends to

be paternalistic. As a result, it is claimed, Asian models of the patient-physician relationship conflict with the Western autonomy-centered model of informed consent. There are two issues here: one is medical paternalism and the other is the role of family. First paternalism: it is noteworthy that the arguments for medical paternalism are no different from the arguments for paternalism that, until quite recently - as recently as 1970, were widely accepted in the West too. The difference here is more one of a substantive disagreement than a cultural difference. For example, whether or not the disclosure of a diagnosis of cancer is directly harmful to the prognosis of the patient and thus contrary to medical benevolence is a substantive matter. Many factors and reasons contributed to the move away from the paternalistic approach to medicine. Some of the more important reasons were (i) the need for informed consent for cancer research on human subjects, (ii) the improved prognosis for the successful treatment of cancer, (iii) a better understanding of the dying process, and (iv) the empirical evidence that disclosure does not affect morbidity and mortality outcomes. In light of these factors (and others) the argument, from patient-harm for paternalistic non-disclosure, simply was not sustainable.

However, even with the recognition of an individual right to informed consent (and thus disclosure), the physician-patient relationship is not best understood on a narrow rights-based, autonomy model. We have seen that even when rights provide background conditions specifying the basic conditions of a relationship, a focus on rights often mischaracterizes the cooperative nature of the relationship. Patient and physician share a common goal: maintaining or restoring the patient's health, if possible, and, when the patient cannot be cured, the relief of suffering and a good death. In addition to a shared goal, like other relationships, the patient-physician relationship is one of distinct roles and responsibilities. The physicians bring to the relationship medical expertise and much experience with disease, healing, and death. The patients bring a personal awareness of their symptoms, important information about their past, their medical and family history, their personal habits, and of course their values and preferences.

The patient depends on the physician as a medical expert, an authority, and this requires both knowledge (including continuing education) and the virtue of discernment in daily practice. In Asian bioethics, the art of medicine is often referred to as the "art of compassion." Compassion and care for patients is the core virtue of medicine. Patients, however, must trust physicians with their lives, and with deeply personal information. We expose ourselves to our physicians like no other person, and we do so because we trust them to respect our privacy by honoring the principle of confidentiality. To maintain this trust, physician must scrupulously and conscientiously maintain their professional integrity. Most obviously, physicians should avoid conflicts of interest based either in economic incentives or professional ambitions. Knowledge and Discernment, Compassion, Trustworthiness, and Integrity are the core virtues of physicians, which we simply take for granted when we hand ourselves into their care (12).

Patients also must be honest with their physicians. It is imperative to fully disclose everything that may be relevant to one's condition. It is for the physician, and not the patient, to decide what is and what is not relevant, and thus all questions should be answered as fully as possible. The second responsibility of patients is compliance with the course of treatment. Physicians cannot help patients if patients are not willing to help themselves. Non-compliance of course hurts the patient most, but it also wastes precious medical resources, including the time of physicians that could have spent caring for others. The patient should conscientiously follow the treatment decision, but the patient's preferences and values must also shape the treatment recommendation.

Assuming that we have a competent patient, the "deliberative model" of the patient-physician relationship is clearly the most appropriate (13). This is a model of shared decision making, which is increasingly popular with medical ethicists. Most models of shared medical decision making emphasize the "fact-value division of labor between the physician and patient." We turn to physicians for medical advice, and it is thus obvious that the physician is the source of medical information – the facts. But it is the patient's own values that must direct and determine the decision about the course of treatment. There is clearly something to this idea for it is the distinct values and principles that undermine the objectivity of medical decision making. Still this division between facts and values is really quite artificial. First, if one has turned to medical expertise, it is clear that the value of health and avoiding suffering are obviously shared values.

In practice, doctors routinely make recommendations based on straight-forward consideration about medical outcomes and the obvious goal of not being sick (or avoiding suffering). It is only in the more difficult cases, with differential treatment options each with distinct risks of side-effects, that more subtle value considerations are necessary. Second, ideally physicians do know their patients basic values, and thus they can still make recommendations that are most likely to reflect their particular values. Physicians do not, and should not, just give medical facts and let patients decide. They make specific recommendations and patients would be surprised if they did not. Third, physicians should help guide patients in thinking through the medical options and thereby form their distinctly medical values. It is not as if we come to a serious medical decision with clear pre-formed preferences about medical outcomes and risks. We don't know what it is like to endure various types of available treatments, we don't know how to weigh the risks, and we don't know how we will react to various forms of treatment and disability. Furthermore, it is a commonplace that how alternatives are presented (framing) shapes judgments of risk and benefit; that even competent people have irrational fears of surgery and post surgical pain. In general, people are poor predictors of what will make them happy or cause suffering. Especially in novel situations, we are not good judges of how we will respond to things that we think we want or even that we are sure that we could not bear. Physicians will inevitably frame choices in ways that they believe are in the best interest of patients. Nothing is gained by denying this, and it is in fact much better to face these obvious facts head on. Of course, physician should not force patients to endure treatments that they steadfastly reject. When the deliberation has come to an end, they ought to defer to the patient's judgment. But doctors will, and they should, share the wisdom of their experience -- especially when it involves their judgments of our best interests. What they should conscientiously avoid is imposing their own preferences, and especially their moral or religious values on to their patients. Although this is sometime a fine and difficult line to draw, it is the ideal and it is indeed involves nothing less than the art of compassion.

The ideology of autonomy, understood as radical individualism and independent self-determination is unrealistic, and it does not reflect medical practice in the East or West. The ideology of the authoritarian paternalistic physician dispensing medical orders to passive and uninformed patients is equally misguided. The medical relationship should reflect the nature of the relationship itself and to do so is to recognize and embrace a deliberative model of shared decision making. Patients should respect physician medical authority and experience. Physicians should be responsive to the values of the individual patient, but should also help them choose sensibly when faced with novel and difficult decisions of life, death, and disability. Respect for autonomy does not mean simply deferring to superficial initial preference. If autonomy is worthy of respect it requires at least a rational, informed and reasoned, self-determination. When facing illness, disability, and mortality, a patient may needs a caring physician to guide them through. The ideal physician does much more than provide the medical facts and leave the decision to be made by a scared and vulnerable patient.

The second element of Confucian bioethics is its family-centered conception of informed consent. One of the problems with Western medical ethics is the absence of the family from the center of the discussion. We have the individual patient, the physician, and society as the prime players. In reality, we have the patient and family, the physician and medical team, and an extending web of social relations that includes day to day associates, the insurance pool and distant strangers. The individualized model of physician and patient bears little resemblance to the medical reality with its interdependent and interconnected web of relationships. The Confucian relational model more accurately reflects the complex social dynamic of medical ethics. On the medical team side we have the attending physician, nursing staff, consulting physicians, medical specialists, psychiatric consultants, social workers, staff clergy, risk management staff, and perhaps medical ethics. On the patient side we have, most importantly, the central role of the family in medical decision-making. In theory, the role of the family is most clear in surrogate decision making for incompetent patients. In practice, the family is always part of the daily dynamic of medical practice. If a family member is at hand, they are inevitably and naturally part of the medical discussion and decision making. We have husbands and wives and domestic partners, the parents of an adult son or daughter, the adult son or daughter of a parent, as well as siblings, cousins, and even close friends, filling the waiting rooms and sitting with patients.

The real difference is that in countries like China this reality is more clearly acknowledged, and more importantly the families themselves are more clearly structured and defined. It is common in China, for example, to inform the family of the patient's condition prior to informing the patient. The family will then inform the patient, ideally with the physician standing by to answer question or clarify any misunderstanding. How and when information is disclosed, and how much bad news is disclosed, is left to the discretion of the family, not the physician. The physician may discuss difficult medical decisions with the family rather than the patient. Patients, however, are aware of these practices and tacitly consent to them. Indeed, in the case of a close family it clearly would be disruptive to treat the family as if they were mere outsiders. In the West too we adjust and respond to the clear expectations of patients. A husband or wife is fully included in medical discussions with patients, and is often informed first of the patients condition. This is taken for granted and not even much noticed. The difference is not one of basic principle. It is simply a matter of different family structures and differential patient expectations. Given the cultural expectations, we would not have a disagreement of principle unless the patient objected to the common practice and requested privacy or confidentiality. The autonomy model of informed consent can fully accommodate a family-centered culture, as long as the individual family members accept their particular roles in the family.

Some might object that given the cultural expectations, there is no real opportunity to dissent and thus there is not really meaningful tacit consent. Whether patients truly accept, rather than simply, acquiesce in their family roles is hard to know. But this is equally true of family dynamics everywhere. The more important question is whether the dynamic of family-based decision-making indeed helps the patient who is facing serious illness and perhaps death. Informed consent is supposed to protect the interests and values of patients. As long as family-based medical decision-making respects the patient's interests and deeper values, it is indeed only a misguided individualism that would reject the aid and comfort of loved ones.

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1) For a basic introduction to Confucian thought, see Jennifer Oldstone- Moore, *Confucianism* (Oxford, 2002). Also see *A Source Book in Chinese Philosophy* translated and compiled by Wing-Tsit Chan (Princeton, 1963)

2) See Norman Kutcher "The Fifth Relationship: Dangerous Friendships in the Confucian Context." *The American Historical Review* 105.5 (2000); August 9 2005. http://www.historycooperative.org/journals/ahr/105.5/ah001615.html

3) Ruiping Fan "Rights or Virtues? Towards a Reconstructionist Confucian Bioethics," p. 61, in *Bioethics: Asian Perspectives*, edited by Ren-Zong Qui (Kluwer, 2004).

4) The discussion that follows is based on John Rawls' account of moral psychology in part III of *A Theory of Justice* (Harvard, 1973). Rawls' account is based on Lawrence Kohlberg's stages of moral development.

5) Craig Ihara, "Are Individual Rights Necessary?" in *Confucian Ethics*, ed. Shun & Wong (Cambridge, 2004).

6) Ihara p. 27.

7) For a discussion of freedom of expression in Confucian ethics, see David Wong, "Rights and Community in Confucianism" in *Confucian Ethics*, ed. Shun & Wong (Cambridge, 2004)

8) See John Rawls, *The Law of Peoples* (Harvard, 1991).

9) Sakamoto, "The Foundations of a Possible Asian Bioethics," Tao, "Confucian and Western Notions of Human Nature and Agency," Hui, "Personhood and Bioethics: Chinese Perspectives," and Fan "Rights or Virtues? Towards a Reconstructionist Confucian Bioethics," in *Bioethics: Asian Perspectives*, edited by Ren-Zong Qui (Kluwer, 2004).

10) Here we also need to avoid a very basic confusion about the motivational postulates defining Rawls famous hypothetical contract device, the Original Position, as opposed to the moral psychology of citizens of a well ordered society. Contrary to the claim of Fan, and others, Rawls has never argued that actual people or ideal citizens are "mutually disinterested" (Fan 64). The Original Position is simply a hypothetical choice situation, an imaginary device, and it is not an idealization of human nature. Rawls also stipulates that we set aside all knowledge of our conception of the good, status in society, age, and natural abilities under a "veil of ignorance." It is surely clear that Rawls is not suggesting that people do not know these things. So too he is not suggesting that people are or even should be mutually disinterested.

11) Hobbes argument here mirrors the argument of Hsun Tzu, and his account of how ethics (the rites) must transform the original fundamentally "evil" human nature. See *A Source Book in Chinese Philosophy* translated and compiled by Wing-Tsit Chan (Princeton, 1963).

12) See, for example, Beauchamp and Childress, *Principles of Biomedical Ethics*, 4th edition (Oxford, 1994); chapter 8 on "Virtues and Ideals in Professional Life."

13) Ezekiel J. and Linda L Emanuel, "Four Models of the Physician Patient Relationship" in the *Journal of the American Medical Association* 267, no 16, April 1992: 2221-26.

Black identity and registries in Brazil: a question of rights and justice

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Brazil has a unique human genetic history. Initially, only native Indians inhabited the land. At the beginning of the XVI century, the native population was estimated in two million souls. The first Blacks arrived around the year 1520, at the same time of the arrival of larger groups of White explorers. An extraordinary process of racial intercrosses occurred among native Indians, Black Africans and European Whites, mostly Portuguese. Two and half centuries later the population of Brazil was described as being made up of 20% Mulattoes (persons of mixed ancestry). The first demographic census, dated 1872, pointed that 32% of the slaves and 78% of the free Blacks were Mulattoes [1, 2].

The main point is: for some cultural reasons, the Brazilians always considered the Mulattoes as a group, neither Black nor White. On the other hand, the North American did the opposite: the smallest evident of Black ancestries would let the person to be seen as Black. Not only that, but the use of terms such as Mulatto, miscigenated or mixed, became socially unaccepted among the north-Americans people, but not in Brazil. Thus, since the seventeenth century the Brazilians see themselves as Black, Mulatto or White. After many generations of racial intercrosses the present estimates are that we are reaching total panmixia. So, even those more Black carries about 18% of genes from White ancestries, as those more Whites has about 7% of genes from the Blacks [3, 4, 5].

The Brazilian cultural identity is essentially mixed. We are mixed not only in our genetics heritage but also in our souls: we are mostly Roman Catholic but we also praise our syncretism mixing religious traditions and faith from Black Africans, White Portuguese and native Indians. The intercrosses among Blacks, Whites and Indians are deeply craved in our cultural roots as well as in our genetic make up. There is no way to dismiss our three ethnic heritages either in healthy or in diseases situations.

Recently, the Black-descendents in Brazil achieved some steps ahead on their social conquests. The public Universities created a new system of admission aiming to desblock the access of poor Black students to university courses. The prevailing poverty among the Black descendents always impaired them to afford privates schools, making the competitive access to the University nearly impossible. Now, the new system reserves some percentage of the university vacancies for students having both; Black ancestries and basic education in public schools. Thus, presently, the self-identification of Black ancestries is, in many public institutions, a requirement to compete to public University vacancies in Brazil.

Also, recently, in Brazil, the Ministry of Health and the National Research Council are investing special budget to foment research on special health problems of the Blacks. Consequently, the research on this subject has improved in number and quality which may well give a good return in health public measures to benefit the health quality of the Blacks ancestries Brazilians.

Poverty, Black ancestries and health

As seen, our social history can not be praised as our genetic heritage. If, special measures are needed to be taken by the Brazilian Government, in the beginning of the 21st century, to improve the higher education and health of the Blacks, is because they had been neglected for five centuries. Unfortunately, the dreadful injustices of slavery remain present in Brazilian society allowing all kind of social blockages for Blacks. The prejudice in Brazil is dismissed, but effective, in spite the high levels of intercrosses. An example of prejudice comes from a brief inquiry made by our nursing students in Bahia State, at one of our public hospital. The results of the interview showed that all doctors admitted that, in their own practice, they make no difference in the quality of attention given to Black patients. However, 100% of them assured that their colleagues do act differently if the patient is Black.

As was seen, our social heritage is maculated by the slavery of Blacks, exploitation of the Native Indians and unlimited domination of the Whites. Presently, we share genes from Black Africans, Native Indians and European Whites but we do not share properties, richness, welfare, education,

health care and many other goods of life. Social inequality linked to ethnic ancestrality became our mark. Those having more Black ancestries remain being the poorest, having the fewest opportunities for social improvement, education and health care [6, 7].

Studies carried out by the Research Institute of Applied Economics (IPEA), a Brazilian governmental institution, showed, based on census data, that Whites and Blacks descendents live in entirely different realities [8, 9]. In spite of some governmental efforts inspired on the International Work Organization (1968), the improvement of Black person's social conditions had been below expectations and unable to break down the existing apartheid [9].

In 2001, Henriques [8] showed that, in the overall, 45% of the Brazilians are afro-descendents, but 68.8% of the indigent and 63.6% of the poor, are Blacks. In addition, on the two tails of the wealth distribution, among the richest 10%, only 15% are Blacks, but among the poorest 10%, 70% are Blacks. Henriques [8] extends his studies showing that between Blacks and Whites the dissimilarities are also on education levels, housing, health care and income.

If the official data on these various types of registries did not informed the ethnic groups of the persons, there will be no way to show this shamed reality. In the case of medical records, for example, in the absence of racial registries there will be no means to observe and denounce that Black women have greater risk of maternal death than Whites [10]. Not only that, but in the city Rio de Janeiro, a study on normal delivery conditions disclosed that the frequency of anesthesia applications is higher for White females (11.1%) than for Blacks (5.1%) [10].

Thus, facing such inhumane tragedy, some Brazilians still nourish the illusion that, by omitting the registry of Black ancestries, either on official census, documents or medical records, they will impair prejudices and improve social opportunities and medical assistance. The problem is not on the registry itself but on the register's minds. The registry we need to erase is not in the records but in people's heart. Blacks have their own ethnic identity which must be registered, preserved and respected [11].

The importance of ethnic identity in the medical records has not only medical importance but also ethical value. If there is any concern that the ethnic registry would mislead a diagnose, the same kind of concern would holds true for sex and age registries. The medical doctors must have open minds, not myopia, regarding biological characteristics and diseases. The interrelationship between nature and nurture in medicine must be viewed from both sides: susceptibility and resistance. In respect to Black ancestries and medicine, Brazil, for its unique genetics history, is full of good lessons. Let us take the example of schistosomiasis.

As reported by Silva in 1908 [12], infections with *Schistosoma mansoni* has been documented in Brazil since the beginning of the 20th century. The various clinical manifestations of the disease have been well characterized by many Brazilians´ investigators [13, 14, 15]. Until the middle of the 20th century it was generally believed that the severity of the disease was solely related to the intensity of the parasitic infection. In 1953, Cardoso [16] called the attention to the fact that the Blacks did not have the severe form of schistosomiasis in spite of their poverty. In the 1970s, various investigators came to the same conclusion by studying groups of patients [17, 18]. In 1978, Bina et al. [19] published two studies comparing the distribution of Blacks, Mulattoes and Whites patients with schistosomiasis and controls verifying the effect of Black ancestries on the progression of the disease. The results showed that the Blacks have individual resistance for developing severe schistosomiasis. In addition, this resistance is observed regarding the clinical progression of the disease, not to the infection rate by the parasites [20]. Later, Tavares-Neto & Prata [21] and Tavares-Neto [22] confirmed these previous findings by showing greater frequencies of severe schistosomiasis among White patients compared to the Blacks ones, plus the new observation of better regression of the disease among treated Mulattoes patients than among treated Whites.

In spite of not being specific of Black populations, the Hemoglobin S (HbS) gene deserves some comments. When in homozygosity the Hb S gene causes sickle-cell anemia, a severe inherited disease, but when in heterozygosity the same gene plays a well known protection against severe form of falciparum malaria [23]. This protective mechanism is the best example of the Darwinian natural selection in humans. Consequently, the high prevalence of falciparum malaria in equatorial Africa, protected the HbS carriers from death due to malaria thus increasing the gene frequencies on native populations as well

as in their descendents [24]. This example makes clear that, regarding gene action; there is no way to claim a gene as bad or good. In a malaria area, it is good to have a single dose of the Hb S gene, but at any other place in the world it is bad to have the double dose of this same gene.

Other diseases had also been related to Black ancestries regardless of geographic regions or countries [25]. Some of these diseases, such as Chagas´ disease in Brazil, are so deeply related to poverty that makes the association with Black ancestries is likely social in origin than biologically determined [26, 27].

Cardiac diseases related to high blood pressure also are more frequent in the Blacks either from developed countries [28] or from undeveloped ones. In Brazil, even among the poorest people the association between severe hypertension and Black ancestries is observed [29].

Finally, in Brazil, especially in the past, the White explorers used racial identification to strengthen their power and privileges, facilitating labour exploitation [30]. In our days, however, the ethnic identification of Blacks in demographic census, public documents, medical records, research data, etc., became of major importance to allows estimates of social inequalities, to declare such injustices, and to force public measures towards the construction of social justice for every Brazilian.

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Population genetics and the power of discrimination

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Human diversity is well evident and the attempts to describe it have been the objective of research of different areas of knowledge. One of these areas is population genetics. It can be described as the study of the distribution of the allele (any one of the different forms of the same gene) frequencies in a population. The verification of the variations in populations can relate to discrimination.

Since the decade of the 1950s there is the possibility to detect different shapes of a same protein. Since 1980, with the development of more sophisticated techniques capable of studying genes, it was verified that diversity is much higher than that observed by the proteins or described by external morphological criteria. The ever increasing ability of researchers to examine larger numbers of genetic variations in humans and to draw conclusions of anthropological, historical and medical interest with them, has increased public knowledge of this kind of research, and also raised new ethical problems.[1]

The majority of the alleles are present in the great part of the population, but in varied frequencies.[2] Even though the differences observed among populations are more quantitative than qualitative, because of the common origin and short divergence time among human groups, there are differences in the frequency which some alleles are present in the population.

The designation of genetic variant as "private" was first given to ten variants of proteins found in Amerindians.[3] After that, expression of a "unique allele" was utilized to describe the presence of alleles in just one population.[4] Nevertheless, even the markers formerly considered "private" or "unique", are not exclusive or restricted to only one population. Because of that, in 1997, the designation "population specific alleles" was used to describe markers with great differential frequencies, arbitrarily defined as > 50% between at least the greater geographical population - Africans, Europeans, Asiatic and Amerindians.[5] More recently, these alleles with great differential frequency were denominated "ancestry informative markers."

It is important to say that these markers are indicators of biogeographical ancestry and not of "human races". From the biological point of view, the concept of race has been abandoned because it is vague and imprecise,[6] arbitrary and typological[7], it does not distinguish human populations,[8] it is unable to explain the complex biological human changes[9] and it does not represent the evolutional history of humans.[10]

Even though the concept of race is equivocated, there are little genetical variations among the human groups that can define the biogeographical ancestry, or the geographical origin of individuals. Among the alterations that can help in the differentiation of human populations are those present in the mitochondrial DNA (mtDNA). This type of DNA is present in mitochondria (organelle responsible for the production of energy in the cell), it possesses few more than 16.500 pairs of nucleotides and it is inherited only from women (mother inheritance).

Alterations have been accumulated in this type of DNA through dispersion of maternal lineage in different geographical regions,[11] resulting in its specificity in some populations.[12] Therefore, the presence of the base thymine (T) in the position 3594 of mtDNA, virtually absent in non Africans can be considered specific from Sub-Saharian Africa, being present in 60-100% of the individuals from this region.[13] The absence of the base adenine (A) in the position 7025 is characteristic of Europeans[14] and the presence of the base guanine (G) in the position 663 of Amerindians and Asiatics.[15] Several other alterations of mtDNA and nuclear DNA may be considered informative markers of biogeographical ancestry.[16]

Several laboratories all over the world are already capable of identifying African, Amerindian, Asiatic and European biogeographical ancestry for people that wish to know their genetical origin. This separation of populations goes beyond these large human groups. As long as the knowledge of the distribution of several markers increases, several ethnic groups can also be differentiated with distinct grades of specificity.

In spite of that, it is needed to remember that these markers represent a small part of all human DNA. Because of this small difference, we see that the presence of a base in the position 3954 of mitochondrial DNA, specific of Africans, represents only an alteration in the more of 3 billion of pairs of bases in the human genome.

Even though the differences among human groups are small, they can be detected genetically. A great problem that can resurge from this knowledge is the belief in the existence of human races. Even being a old-fashioned concept, this is not enough to abandon this classification with severe ethical repercussions. Racism is deeply embedded in the assumptions of biologists and social scientists in general[17], and these ideas do not depend on scientific fundamentals. Eugenics is a good example of how beliefs and personal desires can be much stronger than any scientific argument and of how the science can be used in a wrong way to accomplish certain goals.

Another problem that can arise is genetic discrimination. This problem is mostly connected to diseases or predisposition to diseases. The genetic discrimination by insurance companies and bosses is well known.[18] With the development of genetics of populations and of new markers, the greater vulnerability of individuals will be not only because of the diseases, but also by the genetic ancestrality of individuals or any other pattern that we can imagine and reach through genetic exams. Subjects will be discriminated not only racially, but also from a certain country, geographical region or ethnic group, in agreement with the grade of refinement that the genetic tests allow and mainly in accordance with the interest and the criteria utilized by who desires to do the discrimination.

The information of biogeographical ancestry must be shown with extreme care to the population in general and even in the scientific field. It must be emphasized that identifying individuals in specific groups on the basis of genetic criteria is a sociological process in which biology is invoked as evidence of identity, but the prestige of science should not privilege genetic studies or distract attention away from the social mechanisms that individuals and group form a sense of identity.[19,20] It is need to remember that DNA can tell us the region where our ancestors came from, but cannot restore our identities, because identity it is our set of values and do not reside in the genes.[21]

The knowledge supplied by the genetics of populations is useful in areas including medicine, biology, anthropology and forensic sciences. Studies about polymorphisms in different populations are useful for diagnoses, and comprehension of genetic diseases or diseases with a genetic component, comprehension of epidemiological aspects, help in prevention measures, identification of individuals with risks to develop diseases, besides knowledge of the origin and history from human beings and specific populations. However, there is the need to be careful with the segregation of individuals or human groups due to the small genetic differences among them.

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