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Should There Be Governmental Guidelines in Bioethics? The French Approach

by Catherine Labrusse-Riou*

I. INTRODUCTION

In France and throughout Europe, as in North America, the so-called biogenetic revolution and its myriad medical and other applications have spurred ardent debate from philosophical, ethical, political, economic, and legal standpoints. This development has given rise to sometimes violent conflicts of doctrines and interests.

Control over nature deeply upsets all our interpretations or representations of life and humanity in legal concepts. When Descartes depicted the human spirit as "master and possessor of nature," he allowed for a human and rational understanding of the world that did not exclude recognition of "the sacred." But modern science now holds the power to transform the world and humanity, and this constitutes a complete denial of "things sacred" because it eliminates all taboos. While this is normal, at the same time it is extremely uncomfortable to be shaken in the search for the ethical foundations of this power. When one can do anything, one no longer knows exactly what one should do.

The choices that must be made, unless one is simply swept along by a movement beyond the control of jurists, are difficult, to say the least. It is for this reason that the question of defining law for biogenetics and its applications has yet to be resolved in France. Indeed, this question remains the subject of extensive study. It is a broad question that has divided both lawyers and politicians. The former do not all share the same philosophy with regard to legislative action, and the latter find it difficult to move away from political conflicts or daily interests in order to gain necessary distance.

Creating law poses a problem in terms of method and strategy with regard to the appropriateness of legal rules within a parliamentary civil law system. Although several major decisions have already been handed down in this area,

* Professor of Private and Comparative Law, University of Paris I, Pantheon-Sorbonne, France; Member, National Committee for Life and Health Sciences. The text of this article is taken from a speech given by Professor LaBrusse-Riou at Harvard Law School in October 1987. Since these remarks were delivered in a speech, this article appears without the full complement of footnotes.
social questions are not normally brought before the courts. The legislative problem, in terms of the content of the laws, supposes an intimate awareness of the relationship between ethics and the law—a precise evaluation of the values that one seeks to defend, promote, or arbitrate via the law. In the face of the development of biotechnologies and the social and cultural consequences of such research, however, no one yet has a clear vision of the best way to make these judgments. Furthermore, no one has put forth a global assessment of the risks, interests at stake, or conflicting values involved in the development of these techniques.

In addition to these problems of analysis and choice, the international dimension further complicates matters. The universal nature of science and the economic market for technologies applied to the life sciences are confronted with the ethical, sociological, and legal pluralism of nations—the cultural wealth of humanity. How can this heritage be preserved against the reductive uniformity of technology when it is humanity itself in its complexity and mystery that we are manipulating and manufacturing?

To add further to the deep concern of both jurists and citizens, consider the sharp difference between the laboriously slow creation of law and the breakneck pace of scientific innovation—innovation which is not thought through before it is put into practice. Consider the freezing of in vitro embryos, which poses insolvable questions. Or take genetic diagnostics of human embryos, which render our law on abortion, in particular the legal limits of medically required abortions, either outdated or inadequate.

Although the French Parliament has remained silent, and ministers have set bills aside while awaiting a social consensus that never comes, the government is far from disinterested in the problems posed by the creation of ethics or a body of law governing the life sciences. In 1983, the President of the Republic created by decree a national consultative committee on ethics for the life and health sciences, the National Ethics Committee. This official and permanent organization, of which I am honored to be a member, is unique in its pluralist composition. In addition to members from the scientific and medical communities, there are philosophers, lawyers, sociologists, and representatives of different social groups and religions. The Committee marks the first time that the milieu of medical research officially has been opened to and confronted with specialists and currents of thought from other fields. This has required interdisciplinary reflection in reaching decisions on the ethical questions posed by medical research and, more generally, the life and health sciences.

The Committee, however, has only an advisory role. It submits recommendations which are not binding upon those who put questions before it: the government, universities, researchers, doctors, or ordinary citizens. We have done a great amount of work over the past four years both in pragmatic terms, by answering questions put before the Committee as quickly as possible, and
also in theoretical terms, by preparing documents of a more philosophical nature. This latter part of our work is vital to establish the ethical justifications behind our recommendations and to maintain an independent and objective analysis of the cultural, scientific, and social stakes involved in biotechnologies and related research.¹

More recently, the French government asked the Council of State to study the need for legislation and the possible content of legislation in the areas of artificial procreation, genetics, human experimentation, the computerization of medical data, and the commercialization of human body products. This study has also covered the status and role of ethical committees, both locally, at the hospital or research unit level, and nationally, at the level of the National Ethics Committee itself. The scope of this assignment is vast. I have also had the honor of being asked to join the working group of the Council of State. This working group consists of jurists and will submit its report early next year.² On an international level, President Mitterand has insisted that the agenda for the annual conference of industrialized nations include these problems. On a more modest scale, the French government has delayed a statement of France’s position within the Council of Europe until the Council of State delivers its report. Likewise, the director of the National Health and Medical Research Institute has decided to await the recommendation of the National Ethics Committee before stating a position within the European Medical Research Council concerning human embryo research. The European Medical Research Council is, in fact, seeking to convince the European Parliament to revise its restrictive and prohibitive positions in its 1986 resolution.

Thus, while we are far from defining positive legal solutions, we have begun the active search for these solutions. This search is difficult and not without conflict. It is difficult due to the vast and widely varying nature of the data that must be considered before making a legal judgment. And, it is difficult due to resistance from scientific and medical circles to any legal intervention other than that which would legitimize their actions. Lastly, it is difficult due to the weaknesses of the law as an instrument for regulating existing practices within an atmosphere of conflict. The search for solutions is also subject to conflict since opinions are divided, interests are divergent, and the moral options or philosophies of law are extremely diverse.

While some promote a hands-off policy or feel that the law can accomplish nothing, I believe that lawyers must confront these difficulties and conflicts if they have any faith in the necessity and the virtue of law. I would like to give you a look at how I feel we must deal with these questions of law by examining

² De l'Ethique au Droit, Notes et Etudes Documentaires (Documentation française 1988).
three aspects of the question. First, I will examine the legal and cultural context of the relations that exist between law, ethics, and biomedical research, particularly the French view of these relationships. Second, I will discuss a number of basic questions posed by the legality or legal status of certain scientific practices. Third, I will discuss a number of institutional and methodological problems related to the development of biology and its multiple applications.

II. The Legal and Cultural Context of Bioethics

With regard to the legal and cultural context, we must, as French biologist Henri Atlan has written, “think globally before acting locally.” The current debate shows that any new legislative intervention in a given area, whether it be research on embryos, surrogate motherhood, genetic diagnostics, or trade in human products, first requires a period of global reflection. This reflection must cover the current state of positive law, the cultural and ethical stakes involved, and the difficulties of using the law to regulate the development of biogenetic sciences and technologies.

The concern for coherence in a system of civil law makes it necessary to avoid legislation which is casuistic, which is not open to interpretation and adaptation, and which would prove incompatible with the general law or destabilize its very roots. In many respects, we suffer in France from a movement away from comprehensive codification and a breaking up of the judicial order into different disciplines which put forth contradictory solutions to the same questions. Moreover, the deficiencies in civil and criminal law regarding the status of the human body and the uncertainty of civil or private rights require philosophical reflection on the relationship between humanity and its own nature, on the right to dispose of one’s body, and on the finalities linked to the exercise of this right. Such reflection must necessarily precede any choice of standards or rules. These choices lead to the examination of the major cultural and political stakes involved in scientific development. I feel that there are three fundamental questions at issue.

The first question is how, and with which rules or creative processes, can one construct an image of humanity and an image of our genealogical identity in the context of artificial fertilization that remains a human image? How can the essence of what is human and the transmission of life be protected against being reduced to the organic species from which humanity first emerged or even to simple matter for industrial manufacture? How is one to advocate ethical values and legal concepts capable of imparting, without major risk, a human sense to the power of technology and sciences, when processes face us which make a human being no more than a material, using or producing humans as objects? The imperative of retaining respect for human dignity remains an unclear ideal which must be rendered concrete and endorsed, however symbolically. Human
life is not something that is simply produced; it must also be imbued with meaning.

The problem is that the definition or the frontiers which define human beings disappear when we are identified with machines. This is even more true when the machines become a subject, as has been suggested by an American jurist who proposed recognition of the legal personality of computers or machines with artificial intelligence. In a pluralistic society and a secular state, science risks replacing religion if the law remains silent or follows technological change without judgment. As we will see, the law governing the rights of persons is deeply affected, right down to the very conceptions that law has of the person.

In France, the status of persons and, in particular, of filiation is not covered by subjective or contractual rights. This principle of the so-called unavailability of the status of persons, however, could be superseded by a concept of life having no standards which establish the existence of the human subject. Expert evaluations on a case-by-case basis replace general and impersonal rules that ensure equal application for all. These judgments establish bonds of filiation, but, if all the possibilities of science are considered lawful and freely negotiable according to one’s individual desires, the multiplication of procreative techniques may destroy these bonds.

The second matter at stake is whether our societies are to govern or be governed by a technical-scientific power which brings with it as many advantages as it does risks, both individual and collective. The silence of law results in a transfer of power to the scientific community which is incompatible with democratic principles. The law governing medical liability in this area is extremely deficient and poorly adapted, at least in France, to counterbalance the power of the medical sector. Is it necessary to legitimize every possibility open to science in the name of uncertain or ineluctable progress? Should we impose barriers and limits on members of the scientific community, on individuals who resort to their services, or on states themselves which employ science for ends which can be condemned from an ethical or social point of view?

These questions bring us back to the foundations and the function of taboos, or prohibitions, within liberal and permissive societies. Such societies fear that the articulation of a public order and imperative rules will lead to a state-controlled moral order. But these prohibitions can also benefit individual freedom, for example, by protecting women from the slavery of bearing children for others. They may also inhibit freedom, for example, if eugenic work leads to the justification, for reasons of public health, to bar someone from marrying or having children.

The third question concerns the difficult reconciliation between individual liberties and collective interests in public health. The most visible example of this today is AIDS. Other cases are less visible but equally serious. For example, there are risks in the use of eugenics for individual preference in choosing the
sex of a future child. There are also collective risks: the interests of experimental research, the protection of the subjects of experiments and of medical or genetic data banks, and the protection of privacy or medical secrecy. In these areas of delicate judgment, France has a number of specific rules, but we lack a general philosophy to serve as a guide in ambiguous cases.

The consequences for the legal order are the confusion of its fundamental structures and values. In private law, the distinction between the legal status of a person, which defines the identity of the subject, and the individual rights of the human personality becomes unclear. For property law, this same confusion appears with the distinction in our civil code between three types of property: common goods, which are not objects of property; public goods, which are the property of the state or public institutions; and private goods, which are objects of individual rights for the owner or the subject of private contracts. In public law, the problem is how to determine the duties and rights of the state with regard to the human body. For these three general categories of problems, three sets of corresponding difficulties have emerged for the law in the search for appropriate ethical solutions. We cannot ignore them in a realistic discussion of the problem.

The first difficulty requires that we partially renounce the reassuring distinction between scientific research, which is in principle free, and its applications, which may be subject to potential social or legal control. It is for this reason that France created the National Ethics Committee. The increasingly close ties between research and its applications have revealed that, in order to avoid undesirable applications, society must control or prevent the research itself. For example, this applies to genetic research on in vitro embryos. In this case, the National Ethics Committee has prohibited genetic manipulation and proposed a moratorium on genetic diagnostics. There is no certitude, however, that their recommendation will be honored. The difficulty lies in evaluating future risks which are by definition random and which research cannot quantify. Furthermore, while it is possible to control public research, it is much more difficult to control commercial and industrial research within private entities. Finally, for acceptable areas of research, the difficulty lies in correlating within the rules governing this research a respect for scientific standards and for equally necessary ethical and legal standards.

The second obstacle, related to the first, is the result of the powerful ties that exist between scientific research and the commercial marketplace. Business increasingly controls researchers, and science is no longer a free search for knowledge. As long as work is restricted to inert and inanimate materials and objects, legal categories remain intact. Persons and things subject to ownership remain clearly distinct. But when acts are performed on living beings who are subject to the laws of the market and economic profitability, everything changes from a legal standpoint.
It has become increasingly difficult, if not impossible, to prevent the marketing of a product, such as growth hormones, or to limit its use to strictly therapeutic applications. Although this decision may be socially or ethically preferable, it is economically irrational. Furthermore, the combination of scientific and economic utility may restrict or set aside the ethical requirements governing research on products or on human subjects. The economic pressure of the marketplace today has led to the consideration of human life as a subject of trade and has transformed the human being into an object.

Economic pressure has prevented the creation of independent legal standards to govern the trade in these human products. These are the legal categories that are disappearing. This disappearance is manifest with the probable extension of patent law to genetically modified human cells. In France, it is becoming increasingly difficult to defend the principle that the human body is outside the realm of trade and, for example, that donated organs for experimentation are free and should not be remunerated except in certain cases.

This principle of free donation, applied to blood and organs, should extend to all products of the human body. Since there is simply no justice in profits from free raw materials, the principle of free donation requires the establishment of laws to govern the institutions or companies which manage, transform, and sell these products.

Surrogate motherhood, which has known only limited development today in France and is most certainly illegal, poses two questions in a more crude and brutal fashion: whether a woman's body and a child can be sold as products, and whether a human being can be treated as an object in a contract. The French principle that the human body is nontransferable and is identified with the person guarantees the freedom of the individual from slavery, even if consented to voluntarily. This principle, nevertheless, has been subjected to difficult tests and requires that we establish the boundaries of taboos. Higher ethical values justify these boundaries to limit the freedom of trade and commerce. Here, the concept of individual freedom of consent, which is, for example, inspired by generosity, finds itself opposed to the principle of solidarity, which is imposed upon individuals for the benefit of others.

This brings us to a third difficulty resulting from the proliferation of subjective rights and the concept that individuals are free to do as they wish with their bodies. Within a medical and health context, the conventional criteria used to determine the legitimacy of medical acts reside in the distinction between normal and pathological acts and between acts of personal convenience and therapeutic acts. From a scientific standpoint, these criteria are increasingly difficult to define. Health is defined as the state of well-being. Nothing could be more subjective. Moreover, the extension of medicine outside the realm of treatment for pathological conditions is a social phenomenon that even the French health care system, notwithstanding enormous expenditures, is unable to control.
Thus, the social right to health care becomes unlimited, and individual freedom to seek medical attention becomes destructive to social equality.

These difficulties are important because no one, not even one virulently opposed to science, is ready to give up the advantages of scientific development, the principles of free market economics, and the freedom of individuals to retain control over their lives. Any constraints imposed by law risk poor acceptance, noncompliance, or perpetual debate from an ethical standpoint.

Yet we know very well that not everything is permissible, nor is everything possible. Given the pluralism of opinion, the risks for human dignity and for science, and the contempt for law, the law remains the best, or at any rate the least offensive, instrument for social regulation. But what law? What content should this law have? Who should articulate it and in what terms?

III. THE LEGAL CONFLICT OF BIOETHICS

This brings me to certain basic questions concerning the content of the law, legality, and the legal system. These questions are so numerous that I will limit my analysis to two examples that pose legal difficulties in a large number of countries. Despite their tentative nature, I will try to underscore the dominant trends that have become apparent in France today.

The first question regards the legality of and the consequences for filiation of artificial fertilization. The second question concerns experimentation on human subjects, in particular, on human fetuses.

Legislation has yet to address these questions for an extremely profound reason: lawyers find themselves faced with the need to break with their present tradition. Indeed, the legal or sociological positivism that continues to reign over our law faculties leads us, through a sort of legal utilitarianism or neutrality, to adopt purely technical and scientific attitudes, which are primarily relativistic from an ethical standpoint. The intellectual break thus requires that we again find the balance between realities which are not normative and must be created and values which give meaning to legal concepts or mechanisms. This is not totally impossible, or at least I do not believe it is impossible, and I would like to demonstrate this process with the two examples I have selected.

Artificial fertilization is rapidly developing in France without a solid and coherent legal foundation. For artificial insemination, an efficient and uniform medical deontology is in effect at public hospitals. But these practices are subject to considerable debate concerning, in particular, whether to limit this technique to sterile living members of a heterosexual couple and whether to maintain the anonymity of the donors. For in vitro fertilization and the multiple forms of embryo transfer to persons other than the parents, there is no shared deontology at public and private health institutions. As for surrogate motherhood, the majority of the French population disapproves of this practice, though certain
doctors encourage surrogate motherhood despite its civil illegality and criminal nature.

Here, medicine is not attempting to restore an order that has been upset by sickness. Rather it is attempting to manufacture a human being to satisfy a desire. This initial transgression is something that can no longer be globally prohibited. We must, however, establish limits of legitimacy if we are to keep the status of the child and the fundamental rights of the individual from falling into anarchy and chaos.

These limits of legality cannot be objectively deduced from the right of privacy. When covered by consent or generosity, the right of privacy permits any manipulation of life and any disarticulation of the human body. This leads to the uprooting of the genealogical order which civil law creates and the civil code formalizes.

The difficulty with the freedom to procreate is that the law must interface with the act of procreation and thus violate an individual's right to privacy if it is to prevent the birth of children without filiation or with multiple filiation. Filiation, however, is in principle a question of law subject to public policy rules that define the role of will, but do not authorize all practices. The civil status of the child depends first and foremost on the law, rather than on individual desire. This is the meaning of our principle of "indisponibilité de l'état des personnes."

To fix the limits of legality for different techniques objectively, we must account for the consequences that would result from the total absence of legal interdiction. If nothing is illegal, the principal legal categories and structures of parenthood are subject to far-reaching changes without provision for a coherent and equitable solution to future problems. First, we must identify what must not be transgressed and then carry out legal practices judged to be tolerable—practices to which the law can and must adapt itself.

With regard to prohibitions, surrogate motherhood, which constitutes the loan of the uterus by the genetic mother, should be illegal for three fundamental reasons. The first reason is to protect the rights of the gestating mother and the rights of the child as subjects, not as products or objects. The prejudice against the physical integrity of the woman is so great that legitimizing this prejudice will lead us to new forms of slavery. The child is also not something to be sold with a warranty against hidden defects as is common in contracts. The second reason is that these techniques lead to the production of children for adoption, which is usually a legal remedy against the abandonment of children. While society cannot prevent this phenomenon, society should not promote it either. Finally, prenatal adoption must not be recognized, because no objective and real criteria can guide a judge in the appropriateness of his or her decision as long as the child is not born. Either the decision will be totally arbitrary, or it will result from the opinions of psychologists, doctors, and other
experts who have no legitimate right to decide the legal bonds of filiation for a child still unborn.\(^3\)

Legal reasons also lead me to condemn artificial fertilization for single parents or homosexual couples. In both cases, the child will be deprived of two-parent ties. The ability of so-called illegitimate children, however, to impose the establishment of their filiation through legal action in the absence of voluntary recognition by the father marks a major judicial step forward. A desire for a child conditioned upon the exclusion of the other parent denies the child’s rights and is not ethically acceptable. Enough children have been deprived of a parent by misfortune. We should not deliberately premeditate this misfortune. One could, of course, reveal the identity of the donors, but this would reduce filiation to the transfer of genetic property without parental intention and with no, or at best occasional, ties with the father and the mother. Filiation would thus become not a human link, but the pure product of technology.

The techniques of procreation that must be accepted and organized are the donation of sperm and ova for medical reasons or for the benefit of a living couple. This supposes a choice for or against the anonymity of the donors. I feel that anonymity is preferable in order to avoid a resurgence of as yet unseen forms of polygamy, polyandry, or incest that our familial system is incapable of managing without major risks.

This means that confidentiality must therefore be total and medical responsibility extremely strict. This also means that one must partially waive the criteria of biology for the determination of filiation and prohibit, without upsetting the balance of general law, the disowning of offspring, especially in paternity actions. These adaptations in the law of filiation must be accompanied by medical and social regulatory measures and by disciplinary measures that the deontological practice cannot define alone.

This brings us to experimentation. Are laws necessary here, or is professional deontology sufficient? There is no general legislation in France governing experimentation on human subjects. Such experimentation is subject to fragmentary rules, to deontological rules for new types of therapy, to regulations for administrative authorization for marketing of new medicines, to civil and criminal law in the event of offenses committed during experimentation, or to the general principles of international charters defined since the Nuremberg trial of Nazi doctors. The National Ethics Committee has prepared directives, and, in general, local committees within hospitals have examined protocols governing experimentation. This situation is not fully satisfactory and many observers feel that a general law should set forth regulations in this area and provide for penalties in addition to purely professional discipline.

\(^3\) French jurisdictions including the Conseil d’Etat, the Cour d’Appel d’Aix en Provence, and the Tribunal de Grande instance de Creteil have recently decided this way in 1988.
A certain number of conflicts arise from this need for law. Certain members of the scientific and business communities want a law that is extremely permissive, particularly with regard to consent of the subject. They feel that the scientific and collective interest, as precisely measured by experts, is more important than the voluntary participation of subjects. Others want either to prohibit experimentation without personal benefits or at least to limit it strictly by defining legal limits. Remuneration of subjects is another subject of dispute between idealists and realists. It is probable that an honorable compromise can be reached and translated into law with regard to the essential conditions governing experimental acts. The major trends are, first, toward requiring consent of the subject, and, second, toward requiring the partial return of the research benefits to the community or to the public interest.

There is less certainty of a consensus on the experimental use of human embryos, which in vitro fertilization has made accessible. Here, the conflicts are extremely sharp. Some state that the abortion law justifies treating the embryo as an object. Others, remaining faithful to Kantian morality, refuse to consider the embryo simply as a means to an end. Finally, there are others who challenge the interests of medicine and cite the risks of such eugenic research.

In France, we refuse the utilitarian concept of the "pre-embryo" employed in Great Britain to justify research up to fourteen days after conception. The National Ethics Committee, following extensive work, has published a complex and, in the final analysis, fairly restrictive opinion. We have attempted to seek pragmatic solutions based on philosophical and moral reflection. We consider that the human embryo must be respected as a potential person, and this reasoning has earned us both praise and criticism. It seems that in Great Britain, this text is considered unclear. We clearly sought to break with a certain scientific ideology held by researchers. And we drew the attention of the government to the need for effective control over research; we lack the means for such control, as our authority is only moral. We have no idea what is transpiring in the laboratories right now, and, indeed, perhaps it is better we do not know!

While there is no time here to enter into a closer analysis of these documents, I would simply like to emphasize one theoretical point. We can most certainly balance the risks and advantages of research, and we can evaluate the scientific validity and finality of this research. If we approve it, however, we will probably not be capable of controlling the applications, even if we refuse to accord patents to genetic manipulation of human beings. But above all, we must not remain imprisoned by a utilitarianism that reduces human life to an object.

We therefore believe that the defense of the principle of humanity requires postulates that cannot be demonstrated, similar to legal fictions. The law, like art, employs artifices and fictions which impart meaning to reality and which reconstruct reality by forging symbolic representations. The loss of such symbolic references may well be what makes the definition of law so difficult in this
area. What is more, if fictions are to be chosen, they must be good fictions. They must be those that will favor the freedom of the future child and block the powerful fantasy of the perfect child, an illusion maintained by science which genetic engineering could turn into a reality. But who in our society holds the power and possesses the art of enunciating these standards, these fictions, and these categories of law?

IV. THE INSTITUTIONAL ASPECTS OF BIOETHICS

I would like to touch briefly on two further subjects of reflection. The first is a constitutional problem, and the second is a problem of formal coordination between different sources of law.

From a constitutional standpoint, the French Parliament enjoys exclusive competence for drawing up laws, including civil and criminal law. Likewise, only the courts have jurisdiction in these areas. Without laws, therefore, ethics committees can only, in principle, make pronouncements in conformity with positive law. But since this positive law remains undetermined, insufficient, or poorly adapted, the National Ethics Committee can, as a consultative body, recommend that the legislative body intervene. The Committee has made such recommendations, but at the same time has found it necessary to go even further, and, albeit in the form of recommendations, it has set forth rules of conduct for legislative domains. Certain critics have accused the Committee of infringing upon the competence and jurisdiction of legislators and the courts.

The difficulty involved, however, is much more profound and concerns the very nature of the regulations. Are laws necessary or would flexible directives without compulsory measures be sufficient? Here, too, the question has been hotly debated. The medical and scientific community favors self-regulation, possibly subject to discussion by ethics committees. But others note correctly that when human rights and the status of persons are at stake, doctors and researchers must not establish de facto laws through their practices and thus present both society and the Parliament with a fait accompli.

A solution to the conflict might be forthcoming in a harmonization of formal rules, both civil and criminal, and philosophical adaptations under the control of ethics committees which would be integrated within the judicial order. Under these terms, it is the very status of the law in terms of its relationship with morality and deontology that must be reexamined.

The definition of law also requires that one avoid excessive incoherence within the existing judicial system. We are experiencing this difficulty at the Council of State. We must strive to assure compatibility with civil law, commercial law,

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social and administrative law, and criminal law. To achieve this, one needs common points of reference, a firm ethical perspective, and the art of combining the values of these ethics. Even though we are working within a relative domain, the law, insofar as it expresses an ethic, must present itself as an absolute. Otherwise, it is reduced simply to a bureaucratic question and divested of all thought behind the action. It is the thought and this art of judging that we hope will result from our shared and arduous work.5

The lesson of humility for both the biologist and the jurist is that given by Hamlet, a lesson that calls to mind the Chakrabarty decision handed down by the U.S. Supreme Court in 1980 concerning the patenting of genetic material: sometimes it is better to “endure the ills we have than to fly towards others that we know not of.”6 But this lesson does not exclude that put forth by Albert Camus, which is the hope, or the faith, that we can “serve human dignity through means which remain worthy in the course of an unworthy history.”
