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Towards a Natural Law Critique of Genetic Engineering

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Introduction

One of the major factors affecting contemporary academic debate about biotechnology in general, and genetic engineering in particular, is that virtually all participants approach the issues from the standpoint of consequentialist moral theory. Now consequentialism takes many forms, especially when it comes to the question of just what it is that rational agents should be seeking to maximise. We can, however, abstract from these variations and note that as far as biotechnology is concerned, all consequentialists frame the terms of the debate around the key question of what harms or benefits a given technique, practice or method is likely to bring about.

One result of this phenomenon is that bioethical debate is skewed in favour of an ethical theory that is on many counts implausible at best, positively dangerous at worst. Another is that alternative ethical approaches typically receive short shrift. Rights-based theories (to the extent that rights on their own can form the basis of an ethical theory, which is doubtful) do receive some attention. On the other hand, natural law theory (NLT), to the extent that it receives any attention, is invariably brought into the discussion primarily for the purposes of exposing its many alleged fallacies and then consigning it to the theoretical dustbin. There is perhaps one positive aspect to this treatment, namely that opponents of NLT have emphasised the implausibility or irrelevance of a number of superficial concepts and distinctions that do not support a critique of biotechnological practices. That the opponents rarely if ever try to reach beyond these superficialities, however, means that an ethicist unfamiliar with NLT will almost certainly come to think of it as little more than a congeries of vague ideas and blatant
non-sequiturs. Since it is those with a reflex hostility to NLT who also explain the theory to each other and to outsiders, and who define the terms of the debate and provide the criticism, it is no wonder that NLT is held in such low regard in bioethics.

Natural law theorists are, therefore, obliged to show how their approach to ethical questions does, contrary to the many critics, provide a reasoned and reasonable response to the issues raised by biotechnology. The obligation is all the more pressing because of the fraught nature of these issues, which lie at the heart of public policy and are the subject of much anxiety outside the narrow realm of academic ethics. In the contribution to this enterprise that follows, I begin first with an account of how NLT should not be understood. The essay then moves on to an exposition of the positive case for natural law as applied to bioethics in general, followed by its application to some major questions of genetic engineering. Central to my outline and defence of NLT in the realm of bioethics will be an attempt to spell out the proper distinction between the natural and the unnatural that lies at the heart of the theory. It is by seeing how that distinction is not to be understood that we can begin to gain an idea of what the natural law theorist does in fact claim about the relationship between ethics and nature.

How not to understand the natural/unnatural distinction

A cluster of criticisms levelled by bioethicists at NL theorists centre on the alleged distinction between the ‘normative’ and the ‘descriptive’. The used of scare quotes is advisable, since moral theorists vary about (i) what these terms mean, (ii) what the distinction is claimed to amount to, and (iii) what kind of mistake NL theorists are supposed to be making when, ostensibly, they invoke it.

Untouched nature

Peter Singer and Deane Wells, in their attack on NL theory, refer to the ‘simple-minded version’ of the ‘unnaturalness’ objection to IVF, but the point applies to other controversial biotechnological procedures, whereby ‘what occurs in nature untouched by human intervention’ can be a guide to how we should act. This ‘descriptive view’, as they call it, would require the rejection of all medical treatment and of any other intervention in ‘the world apart from human beings’. Needless to say, they give no example of an NL theorist who espouses such a view, nor can one be found (inside or outside academia, I