

# Introduction

## At the Foundations of Christian Bioethics; or, Why H. Tristram Engelhardt, Jr.'s Orthodox Christian Bioethics *is so very Counter-Cultural*

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This book is as much about a philosophical puzzle as it is about bioethics.

This book is more about a religious quest than it is about a philosophical puzzle. Yet, it is directed to a philosophical puzzle which it approaches through philosophical reflection and analysis. The philosophical puzzle is this: if we are trapped in immanence, can moral truth be anything but ambiguous?

*H. Tristram Engelhardt, Jr. (2000, p. xi).*

### I. Introduction

In *The Foundations of Bioethics*, published in 1986 followed by a second edition in 1996, Professor H. Tristram Engelhardt, Jr. critically and carefully articulated the limits of a secular morality which could legitimately bind moral strangers.<sup>1</sup> He argued that given the reality of deep moral pluralism and the starkly limited ability of secular rationality to resolve controversies, general secular moral authority must be created through, and thus limited to, the actual agreements of actual persons; general secular morality is thus

libertarian – not due to any particular celebration of personal liberty, nor because of any simple assumption regarding the rights of persons,<sup>2</sup> but as a default moral and political reality. Reason fails to secure rationally justifiable ultimate foundations for universal morality and, as a result, there is a prima facie lack of moral authority to interfere in the free choices of persons acting with consenting others, even if some would condemn their actions as imprudent or even sinful. It is this unflinching libertarianism for which Engelhardt is best known. Indeed, it is widely assumed not only that Engelhardt affirms the libertarian social political consequences of his conclusions, but that he celebrates all of its frequently libertine personal consequences. Many (perhaps most) readers have not taken seriously Engelhardt's own announcements found throughout the two editions of *The Foundations of Bioethics* that general secular morality permits and justifies many activities that he, himself, knows to be deeply sinful (e.g., abortion on demand, human embryonic stem cell research, euthanasia, same gender marriage, and so forth)<sup>3</sup> as well as imprudent (e.g., utilizing a chiropractor or doctor of naturopathy for treatment of heart disease). The challenge, however, as he argues in great depth, is that there simply does not exist secular moral authority permissibly to prohibit such actions among consenting persons.

With the publication of *The Foundations of Christian Bioethics* in 2000, Engelhardt completed the previously one-sided picture. Supporters and critics alike were provided with the other half of the very same coin – Engelhardt's detailed and deeply serious account of Orthodox Christian bioethics. Where secular bioethics is limited to what general secular reason can show to be authoritative and is thus very limited, Christian bioethics, Engelhardt argues, does not originate in human reason but in the command of God. Christian bioethics is not a secular bioethics that all presumably should endorse through their shared rationality; nor is it a bioethics that can be adequately captured in terms of universal accounts of human rights and the best interests of patients; nor can it be known through the sound rational arguments of philosophers, healthcare lawyers, bioethicists or others. Rather, Christian bioethics articulates a spiritual and moral framework at one with the Christian commitments, beliefs, and practices of the ancient fathers of the Christian Church, founded in the experience of God and the ways in which He has revealed Himself to man. It is a bioethics set within the Holy Traditional Orthodox Christianity of the first millennium, which is all-encompassing, transcendently oriented, frequently mystical, and framed in terms of the single-minded struggle towards ultimate salvation. As Engelhardt describes these circumstances:

...this volume invites the reader to the Christianity of the first millennium, a Christianity rooted in mysticism, or better stated in noetic theology. It is here that the puzzle is solved and the door found in the horizon of immanence: Christianity's disclosure of an immediate experience of the uncreated energies

of a radically transcendent, personal God. Here philosophical solutions and theological truth coincide: the truth is a Who. Such a theology is pursued ascetically through prayer bound to repentance expressed in worship. Within such a theology, bioethics is a way of life. It can only be introduced via an invitation to enter. To the question of “How can I know the truth?” one receives first and foremost instruction in ascetic transformation. It is the “pure of heart who shall see God” (Matt 5:8) (2000, p. xiii).

In short, while *The Foundations of Christian Bioethics* details and defends a robustly content-full Christian bioethics, often articulated in the language of philosophy – an occupational hazard – the book attempts neither to present a philosophical moral system, nor to provide a legalistic moral framework for decision making, nor a set of personal values and virtues. Whereas some critics attempted to frame the volume as just another cultural stop for the devoutly secular cosmopolitan tourist, such a judgment reflects a significant error.<sup>4</sup> Instead *The Foundations of Christian Bioethics* seeks both to help readers adequately to comprehend the real moral chaos of the contemporary moral and cultural landscape, while also to draw readers into a journey in which philosophy must be left behind so as to engage in a relationship with a living and very personal, but fully transcendent, God. Engelhardt’s scholarship since 2000 has been dominated by this central and monumental task: to clarify, explore, and articulate traditional Christian bioethics, untainted by the errors of scholasticism, the Enlightenment, modernity, post-modernity, or the numerous religious heresies and false gods of both east and west (see for example, Engelhardt, 2005, 2007, 2009).

*At the Roots of Christian Bioethics: Critical Essays on the Thought of H. Tristram Engelhardt Jr.*, critically regards Engelhardt’s search for ultimate foundations – his search for the decisive ground of the why and how of human existence and knowledge of appropriate moral choice. Compassing essays authored by his students, friends, and colleagues, at the surface this book may appear as but an academic assessment of the Christian scholarship of Professor H. Tristram Engelhardt, Jr. At another level, however, the book draws on Engelhardt’s diagnosis and exploration of the contemporary social and cultural crisis to illustrate the remarkable moral and political shifts so evident in our time.<sup>5</sup> The authors seek, for example, to make sense of the collapse of Christianity in Western Europe, which as Engelhardt documents, has become decidedly post-Christian and often openly anti-Christian (Engelhardt, 2009). Still deeper, the volume seeks also to understand and appreciate one scholar’s personal and tireless enquiry to secure ultimate moral foundations as well as to recognize the full implications of the results of his investigations. Perhaps most profoundly, it is also a book about one man’s religious quest to find God, Himself, and why others ought also to accept Engelhardt’s invitation to enter Traditional Orthodox Christianity.

## II. Bioethics and the Culture Wars

In part, the challenge for contemporary bioethics and public policy, as Engelhardt's scholarship both before and after the publication of *The Foundations of Christian Bioethics* details, is that so much of contemporary bioethics functions, at best, at the level of political ideology.<sup>6</sup> Bioethics and its adepts routinely assert unique access to an ethical vision that operates on analogy with the universal legislator of Immanuel Kant's categorical imperative, or the privileged and unbiased utilitarian calculator of costs and benefits, who, in either case, purports to derive a canonical understanding of appropriate human choice, rational human preference satisfaction, and legitimate governmental authority from a particular account of moral rationality and rational volition. Through its robust moral claims, bioethics attempts to authorize and legitimize state moral authority in terms of a rationally discoverable vision of morality, justice, and proper conduct. This is why bioethicists routinely give significant accent to supposedly universal special goods, such as "basic human rights" or "health", while also asserting special insight into the human condition through claims regarding the so called "best interests" of patients, children, women, and society, and articulating ubiquitous universal statements on morality, bioethics, and proper public policy.<sup>7</sup> Such appeals attempt to side-step any actual regional, cultural, community, or religious morality, and thereby to claim a universal morality to bind all nations and peoples through so-called enlightened reason. Or to speak in a more Kantian metaphor: the community of faith has been restated as the community of reason; the kingdom of grace has become the kingdom of reason.<sup>8</sup> The underlying quasi-religious belief is that all humans are morally bound together without a common confession of religious faith, cultural background, or shared moral worldview.

As Corinna Delkeskamp-Hayes illustrates, Engelhardt often functions as an intellectual and cultural critic, documenting the ways in which the twenty-first century is marked by explicit disorientation, both moral and metaphysical (2009). Similarly, Thomas Bole chronicles (2009) that, over the time of his professional career, Engelhardt came to recognize that the cacophony of moral perspectives worldwide empirically demonstrated that there did not exist a particular universal secular morality; and, through his philosophical exploration regarding the character of moral arguments, that, in principle, a universal content-full secular morality was not possible: "The controversies fragmenting our contemporary society are the result of the conflict of numerous, incompatible moralities..." (2009, p. x) and there is no in principle way definitively to resolve such moral conflicts in general secular terms. The contemporary moral world is sundered into a wide variety of religions and secular worldviews, with no definitive set of secular reasons for privileging one particular moral viewpoint among the many starkly divergent religious and secular points of view. As Engelhardt argues:

The elements or dimensions of morality cannot be fully integrated in a secular moral vision. One cannot bring into harmony (1) the right and the good, (2) the claims of universal moral perspective and particular moral commitments, (3) the justification of morality and the motivation to be moral, or even (4) justify the content of morality (2000, p. 75).<sup>9</sup>

The typical bioethical fault lines (e.g., such as abortion, cloning, embryo experimentation, euthanasia, selling human organs for transplantation, human subjects research, and healthcare resource allocation), illustrate the real depth of the divisions sundering foundationally different accounts of the moral life.<sup>10</sup>

Note, these circumstances are not simply a debate about which policies will best achieve the desired objectives, but a much more fundamental disagreement regarding which objectives themselves are desirable; that is, which moral understanding should be established in public policy and individual choice (e.g., pro-life or pro-choice). Given the great diversity of moral viewpoints in contemporary society, alternative moralities compete without an apparent principled basis for establishing one as uniquely true. Or as Delkeskamp-Hayes makes the point:

Richard Rorty and others have begun to speak the unspeakable: once one is no longer willing seriously to follow Immanuel Kant and act as if God exists, and once there is no basis in the end to justify as canonical one account of the right, the good, and the virtuous, there is also no way to guarantee that the right should trump the good, or even that moral rationality should have precedence over prudential rationality. Despite passionate proclamations of moral consensus, the contemporary condition is marked not only by disagreement, but by the inability to determine how through sound and rational argument, moral diversity—indeed, deep moral conflict—can be set aside (2009, p. 23).

In secular terms, persons are isolated within the finite bounds of human nature, and are embedded in an immanent world marked by a significant plurality of moral perspectives.

Faced with such a stark reality, bioethicists and public policy makers routinely acquiesce to individual preference, current convention, cultural custom, or falsifiable claims to moral consensus. Moral content to guide public policy has been sought through appeal to intuitions, consequences, casuistry, the notion of unbiased choice, game theory, or middle-level principles. All such attempts, however, as Engelhardt argues in *The Foundations of Bioethics*, confront insurmountable obstacles: one must already presuppose a particular morality so as to choose among intuitions, rank consequences, evaluate exemplary cases, or mediate among various principles, otherwise one will be unable to make any rational choice at all. As he argued, even if one merely ranks cardinal moral concerns, such as liberty, equality, justice and security differently, one affirms different moral

visions, divergent understandings of the good life, varying senses of what it is to act appropriately. How then does one break through the seemingly interminable bioethical debates to truth? Absent definitive moral foundations, grounded in an unshakable moral anthropology, canonical accounts of human well being, good consequences, and right action, morality – and thus bioethics – appears to be no more or less than what humans make it out to be. Or, as Protagoras famously observed: “Of all things the measure is of man, of the things that are, that [or “how”] they are, and of things that are not, that [or “how”] they are not.”<sup>11</sup> Secular morality, and thus bioethics, is deeply ambiguous, with no definitive reasons for choosing one particular moral content rather than another.<sup>12</sup>

Absent the ability of human reason to deliver a particular content-full universal morality to bind all in a common moral framework, without simply begging the question, and insofar as one decides to eschew violence, Engelhardt argues that moral authority must instead be drawn from the actual choices of actual persons. It is this situation which gives general secular morality and political authority its inescapably libertarian character. It is libertarian by default – because no authoritative content-full morality can be justified in general secular terms, moral authority must be created through the actual agreements of actual persons to cooperate in common projects. Given such foundations, the morality available to guide the secular world is stark indeed. Such was the moral and social political conclusion for which Engelhardt argued in both editions of *The Foundations of Bioethics*.

### III. Re-reading Engelhardt: The Old and the New

Given his overtly and defiantly libertarian positions in *The Foundations of Bioethics* when *The Foundations of Christian Bioethics* appeared there was much surprise in many quarters. Consider, for example, James Childress’ comment on the back of the book cover, which states:

‘What a long, strange trip it’s been,’ to echo the Grateful Dead, as Tristram Engelhardt has moved from a bioethics for moral strangers in a pluralistic society to a contentful bioethics grounded in traditional Orthodox Christianity that revels in its separation from and challenge to that society. Those of us who cannot make the same journey can nevertheless marvel at the coherent and powerful vision that now motivates Engelhardt’s work and shapes his understanding of Christian bioethics as a way of life.

For many commentators, there was now a second Engelhardt – an Orthodox Christian Engelhardt seemingly estranged from his secular libertarian doppelganger. It is to this particular question, Engelhardt the old and the new, to which the first section of essays is addressed. Corinna Delkeskamp-Hayes, Ruiping Fan, and Kevin Wm. Wildes, S.J. each demonstrate the organic unity between the past and the present in Engelhardt’s research, scholarship, moral

and political thought, even while acknowledging that his faith in God has profoundly shifted his personal and spiritual life.

Delkeskamp-Hayes, for example, argues that Engelhardt's secular and religious dimensions are both needed for an accurate intellectual diagnosis of our cultural condition:

From his early writings in the 1970s (1973), to his contemporary publications (2006), in diverse venues and in a wealth of articles and books, Engelhardt persisted in addressing our cultural predicament. In his two editions of *The Foundations of Bioethics*, and in *The Foundations of Christian Bioethics*, Engelhardt provides a substantive exploration of this state of affairs... (2009, p. 23-24).

Through both editions of the *Foundations of Bioethics*, Engelhardt demonstrated that the resources available in secular reason are inadequate to the task of securing an authoritative universal morality. Then, in *The Foundations of Christian Bioethics*, he provides a way out of the post-modern philosophical puzzle.

On the one hand, the author accounts for the fractured character of our postmodernity, as well as for the practices that transcend its moral plurality (e.g., the market). ... On the other hand, he accounts for the ultimate disorientation and loss of final meaning that characterizes the dominant secular culture. Engelhardt appreciates that the moral and metaphysical challenges of postmodernity proceed from the collapse of Christendom and of Christian metaphysical orientation. He describes this collapse as linked with the failure of the Western-Christian project of combining theology with philosophy—a project that he recognizes as having led to the Enlightenment's claims regarding the possibility of a universal, rationally justifiable secular morality (2009, p. 24).

As Delkeskamp-Hayes argues, when both aspects of his scholarship are seen together, the reader is provided with a unified philosophical diagnosis and religious therapy.

Ruiping Fan and Kevin Wm. Wildes, S.J. similarly argue that these two dimensions of Engelhardt's thought organically fit together, exploring different sides of the same fundamental puzzle. Fan argues that the secular morality provided in *The Foundations of Bioethics* can only be appreciated as one-sided and incomplete. He argues that the arguments in the earlier secular works required the completion that is only offered in the later Christian work. As a result, *The Foundations of Christian Bioethics* provides the epistemic perspective which is necessary to complete the account of moral knowledge, content, and community found in Engelhardt's secular work. Or, as Wildes makes a related point,

Engelhardt's model of moral knowledge and moral community is along the lines of the exclusive model of community. One needs to be a member of a community. Moral reason only works within the context of a community and its presuppositions. Moral reason is part of a way of life. But, he also believes

in the call for active conversion. It will be a conversion of faith not of reason that leads to moral agreement. Only when people work within the same framework can we reach agreement on moral issues in medicine and health care (2009, p. 101).

Morality and decision making need the moral life of a substantial community, such as Confucianism or Orthodox Christianity, to give it content, shape, and commitments, to specify standards of moral evidence and inference, to distinguish right from wrong and good consequences from bad, virtue from vice, or even to ground a proper account of the human good and human flourishing in an authoritative moral anthropology.<sup>13</sup> In short, *The Foundations of Christian Bioethics* completes an intellectual journey begun in *The Foundations of Bioethics*.

#### IV. Challenges to Engelhardt's Orthodox Christian Theology

The second bolus of essays raise specific challenges to Engelhardt's Orthodox Christian bioethics. Gerald McKenny notes that Engelhardt's foundation in Orthodox Christian theology is at core a call to personal religious conversion – a call to return to the ancient Christian religion embodied in the Orthodox Christian Church, a call to experience God rather than to reason about God. His arguments and conclusions at times display a character that rings oddly to the modern academic ear. Indeed, Engelhardt explicitly states that until one converts to Orthodox Christianity and enters into a proper relationship with God, one will only one-sidedly and incompletely understand what is truly at stake and why one must act in particular ways. Each of the essays in this section puzzles about such a foundation for Christian ethics. Such knowledge is not private – it is shared by the entire Church – however, it is a very particular epistemological vantage point for understanding and appreciating Truth. Alas McKenny straightforwardly refuses this conversion to Orthodox Christianity (at least as of the time of this writing), setting aside its importance, while recasting Engelhardt's call for conversion into a reawakening of the desire for the transcendent in modern Christian ethics.

Consider McKenny's core concern: why Orthodox Christianity? As McKenny argues, Engelhardt has demonstrated the limits of discursive reason to disclose universal moral truth. "It proves that discursive reason is bound to immanence and that the ground morality requires must be transcendent and, therefore, must be reached in some other way than by discursive reason" (2009, p. 114). However, McKenny continues, such a demonstration does not, and indeed cannot, show that any particular account of the transcendent is true, which is why Engelhardt's account in *The Foundations of Christian Bioethics* shifts from discursive argument to an invitation to conversion.

This is how it must be if transcendent truth can be known only noetically. But, as Engelhardt also realizes, this means that there are no criteria external to Orthodoxy itself by which the now disillusioned rationalist can choose which



invitation to the transcendent to accept as an invitation to truth. Even where the argument succeeds, then, it brings one not to Orthodoxy but only to a notion of the transcendent as such (McKenny, 2009, p. 114).

Thus, McKenny concludes that from an external perspective Orthodox Christianity will only appear as one among many competing accounts of truth, each account issuing its own invitation. How can one determine which account is genuine, which one is uniquely Truth?<sup>14</sup>

M. Cathleen Kaveny focuses on Engelhardt's criticism that much of Western Christian moral theology is legalistic. She argues that Engelhardt's attack on what he terms Western Christianity's "legalism" is for the most part merely polemical, missing the forest for the trees. Drawing on Thomas Aquinas's account of law, she works carefully through a comparison of Engelhardt and Germain Grisez, both of whom criticize "legalism". Aquinas argued that law "is nothing else than (1) an *ordinance* (2) of *reason* (3) for the *common good*, (4) made by him *who has care of the community*, and (5) *promulgated*" (*ST*, I-II, q. 90, art. 4). Working her way through each of these categories, Kaveny seeks to show that "legalism" is not a straightforward concept, but rather a complex phenomenon with many components, each leading to what she terms "trigger points":

These trigger points touch on basic issues in Christian ethics, such as whether morality is more appropriately seen as an aspect of God's will or God's reason, what relationship obtains among the individual, the community and the common good, and what role various ecclesiastical authorities and theologians play in interpreting Christian moral teaching (2009, p. 159).

She argues that moral theology must be understood within the relevant frameworks of particular accounts of Christian morality and that once one appreciates the appropriate framework, mode of reasoning, and appropriate exceptions, the criticism of "legalism" loses much of its relevance. What is more important than charges of "legalism", she concludes, is the clarification of more fundamental disagreements about the nature and purpose of the Christian life and of the guiding force of the moral law within such a life.

Christopher Tollefsen changes tactics, turning to questions regarding whether Engelhardt's secular moral and political philosophy can in principle be adequately integrated with his Christian bioethics. Tollefsen raises puzzles, for example, regarding the ways in which Orthodox Christian bioethics absolutely condemns much that a libertarian bioethics must permit. On the one hand, the libertarianism of *The Foundations of Bioethics* requires that the state permit abortion on demand, at least as a de facto non-prosecutable practice, provided that all those involved consent. No tax dollars may ever be spent in support of abortion, nor may any hospital or health care professional be forced to participate, absent actual contractual agreements, but abortion on demand remains permissible in the general secular state. On the other hand, *The*

*Foundations of Christian Bioethics* states unequivocally that abortion is the spiritual equivalent of murder. How are two such positions to be fully integrated? Tollefsen argues that an adequate understanding of human biology and the human good provide strong secular reasons straightforwardly to prohibit abortion. Moreover, he argues that an argument against abortion that, unlike Engelhardt's, distinguishes between the evils of contraception or sterilization on the one hand and abortion on the other is necessary for modern Christians. The argument against abortion, Tollefsen argues, must be built around the language of rights and personhood. Abortion must be rejected, according to Tollefsen, in part because it involves unjustly taking the life of a person, reasoning Engelhardt explicitly rejects in *The Foundations of Christian Bioethics*.<sup>15</sup>

In the final essay of this section, Fred Fransen concludes that despite Engelhardt's protestations to the contrary, there really is a new Engelhardt in *The Foundations of Christian Bioethics* – a triumphal Engelhardt dreaming of the establishment of an Orthodox Christian empire with the crowning of an Orthodox emperor at the fourth Rome. Consider Engelhardt on such issues:

As every young Texian<sup>16</sup> Christian of school age knows, Austin shall surely be the fourth Rome, and if not Austin, then Dallas or perhaps even Abilene. ... The patriarch of all the Texans will then bear the weight of that priority among the bishops which is the Primacy of St. Peter that will be preserved by that Church, that future diocese of Santa Fe. As the capital of the Empire of Holy Texas, it will preside as first in loving care for all true believing and worshipping churches. ... Once all is put in order, the Empire can be reestablished and the populace of Texas baptized in the Brazos de Dios. Then the Orthodox Mounted Posses can saddle up and ride out to the Second Rome to restore the Hagia Sophia, Christendom's great temple, carrying the Bonnie Blue Flag next to the Empire's banner of gold with the proud double-headed eagle (2000, pp. 393-294).

Fransen's concern is whether such a millennial vision is compatible with Christianity. He argues that it may be impossible for persons to embark on the ascetic path of holiness, while also fully carrying out their duties as magistrates. The role of governing a society may simply be incompatible with what is necessarily proper to the struggle towards salvation. Here, Fransen's concern is that the Orthodox concept of *symphonia*, in which the church and the state are in "perfect harmony" seems incompatible with Engelhardt's account of secular political authority in *The Foundations of Bioethics*:

From the point of view of *symphonia*, the state is good, if different from the Church. There is no room in the world of the *Foundations*, however, for a "good" general secular realm. Moreover, for a thick community to rise up and set out to conquer its neighbors—even Traditional Christians in Texas or Papists and Muslims in Rome and Constantinople—would be legitimate cause for the general secular world, together with other thick communities, to intervene (p. 194).

As a result, while Fransen finds himself in deep sympathy with many of Engelhardt's Christian commitments, he believes that there is a greater difference between Engelhardt's Orthodoxy Christian bioethics and his secular philosophy. As Fransen concludes: "There can be no crusading *symphonia* within the terms of the [secular] *Foundations*" (p. 194).

## V. Christian Bioethics, Moral Pluralism and the Hope for a Common Morality

The final section brings together a series of applications and critiques of Engelhardt's arguments, conclusions, and methodology. Each draws out and carefully explores the ways in which Engelhardt's account of Christian bioethics, in Griffin Trotter's words, "is flagrantly sectarian and outrageously counter-cultural" (p. 203). Here Trotter asks whether there can be a middle ground between the stark, substance-free secular bioethics of Engelhardt's secular morality and the content-full sectarian bioethics of his Christian morality. Joseph Boyle and Stephen Wear each consider the ethical significance of moral disagreement and moral pluralism. Nicholas Capaldi lays out the implications of Engelhardt's work for conceptualizing expertise in ethics, arguing that many of the ways for which bioethicists claim expertise are flawed. Thomas Cavanaugh considers whether it is even appropriate to speak of Christian bioethics as a distinct set of moral and spiritual understandings. Cavanaugh contends that a Christian bioethics is necessary if one is to ascertain the role of sin in the fallen world.

Griffin Trotter questions whether Engelhardt has drawn too fine of a line between moral stranger and moral friend, with too wide of a cognitive and moral gap between moral strangers. Trotter shares Engelhardt's disquiet about the deceptive ideology of much of contemporary bioethics. As Trotter argues

At its worst, discursive reason devolves into "conceptive ideology"—intellectual adornment for coercive politics ..., replete with an inventory of academic high priests (e.g., tenured bioethicists), ritual deployments of intellect (e.g., political advisory committees), and creative myths disguised as facts (e.g., stories that portray infant mortality or life-span inequalities as consequences of poor health care access) (p. 204).

However, Trotter argues that it is more accurate to the ways in which we often experience the world to think, as Wildes does (2000), in terms of moral acquaintances. He argues that he finds it fruitful to approach others in terms of the commitments and concerns that we share in common, to deliberate together seeking peaceful short term collaboration, and possibility a common appreciation of ethical truths in the long run. He concludes that Engelhardt is wrong to so neatly divorce sectarian bioethics from discursive bioethics.

Following similar threads of argument, both Joseph Boyle and Stephen Wear approach Engelhardt's thought with a critical eye to his conclusions regarding the importance of moral disagreement. Stephen Wear notes that Engelhardt seems to think of the failure of reason to provide a content-full secular morality as a bad outcome. Why? Also, Engelhardt states openly that one ought to want more moral content than a cosmopolitan libertarianism can provide. Again, why? On the one hand, Wear argues that many of the basic moral guidelines, such as truth telling, do not kill, and beneficence, remain remarkably useful tools for day-to-day medical decision making, even if Engelhardt is correct in his observations regarding the deep disagreement on hard cases. On the other hand, while Wear by and large affirms a political position much like Engelhardt's libertarianism, he notes that once we recognize ourselves as wholly within the realm of the immanent, then the liberal affirmation of liberty and equality, as positive values, is as much on the table for discussion as any other position:

Once we have placed ourselves wholly in the realm of the immanent, with our ethics charged with ascertaining how we might best "coherently and accountably seek satisfaction, fulfillment, and happiness," then it would seem that restricting ethics to considering freedom as a side constraint is no longer mandatory, and a reflection on whether and how a given society might consider supporting the liberal view of human flourishing becomes as legitimate as any ethical reflection (2009, p. 258).

In short, Wear argues that secular reason can, and has, fashioned an ethic for moral strangers, evidence for which in bioethics he sees in the past several decades of discussion, argument, and often agreement about many types of cases and circumstances with which physicians and bioethics routinely grapple.

Joseph Boyle argues that persons have, or can obtain, a common grasp of basic moral principles, that cover a wide variety of cases, even if not all will articulate such content through the same principles or virtues. Many moral disagreements can be explained in terms of insincere moral disagreement, innocent mistakes, and morally flawed ethical thinking, discernment or formation. Regarding apparently deep moral disagreement in complex cases he argues: "in these cases, moral disagreement is to be expected; there is no ground for expecting agreement because the necessary thinking is complex and can easily go wrong without any moral fault on the part of a person addressing such a problem" (p. 240). As a result, he concludes that the existence of moral disagreement, even significant disagreement, does not demonstrate that the serious moral judgments of reflective persons are false; nor, he argues, does such disagreement show that public ethics and state policy must be crafted in such a way as to stand free of any particular deep moral commitments and value rankings, as Engelhardt's libertarianism would require. Rather, he argues that conscientious political compromises will accomplish what good people should do, even though it may routinely be less than perfect.

## VI. Engelhardt's Reply – A Restatement of Position and a Response to Critics

As is traditional in these circumstances, we the editors have provided Engelhardt with the last word – the final shot, as it were, at least within these pages – to comment on his friends and critics alike. Rather than attempting to summarize his arguments in this brief introduction, we will simply let him speak for himself – as he would have done in any case. Instead we offer the reader two short reflections, which we hope will give those who do not have the pleasure of knowing Professor Engelhardt personally, some insight into his personality, intellectual and religious commitments, as well as his sense of humor.

“Discrete” is hardly an adjective most people would use to describe Professor Engelhardt. “Provocative” and “in your face” seem more accurate. Another graduate student and I (Ana) were checking in for a conference when Professor Engelhardt appeared at the registration desk and said, quite loudly, to the young woman working at the desk: “It is a pleasure to see you *facies ad faciem*.” The woman looked stunned and proceeded to check him in. After he left, she asked us: “Did he just say the f-word to me?” We explained the phrase, and have enjoyed sharing the story over the years. Although the provocative Engelhardt no doubt is the one many know, there is a truly discrete – and deeply generous – Engelhardt. Many who hear his famous toast, “To a world without taxes, to a world without welfare, to a world without borders,” assume he does not wish to share his resources with the poor and, moreover, that he validates selfishness. Nothing could be further from the truth. Over many years, I have watched Professor Engelhardt very quietly and abundantly give to those in need, including to people whose actions and lifestyles I suspect he finds deeply offensive. Not only does he give generously and without “making a fuss”, he does not flaunt the depth of his generosity when people attack him for being a selfish libertarian, someone who clearly must not care about the poor given his disdain for a tax-based social welfare system.

I (Mark) received a call one night after 11:00 p.m., a time at which phone calling is properly reserved to close family members and perhaps philosophy professors with metaphysical emergencies. “Mark, let’s fly to Kabul and preach the gospel of Christ!” Professor Engelhardt enthusiastically replied to my simple “Hello”. “I just checked and we can get tickets on the cheap. Business Class! If we get lucky”, he continued, “the Mohammedans will martyr us. That’s first class to heaven! It doesn’t get better than that!” “Before we leave,” I suggested, “we should both officially change our names to Bubba, that way, if we are martyred, the Church will have gained two saints: Bubba the Greater and Bubba the Lesser from Texas.” One can only imagine the glorious Orthodox icons, complete with Texas boots, cowboy hats, and large

belt buckles, as well as a feast day presumably appropriately set on March 02, or perhaps April 21.<sup>17</sup> Cooler heads prevailed, our spouses, and the trip was indefinitely postponed. At any rate, while Orthodox Christians are at all times obliged to live the faith, and sometimes obliged to die for the faith, they are not in general supposed to seek martyrdom, although they are permitted to accept martyrdom if it is offered.

Again, as is the usual circumstances of academic volumes, there is no real opportunity adequately to acknowledge the many gifts he has given us, nor the love and guidance he has shown over the many years of our deep and abiding friendships. Nor are we permitted to reflect on the grand insanity of day-to-day life while living as his students in a state only properly referred to as slavery, or even on his wonderful relationship with his many grandchildren (some 10, as of this writing), who shout "Opa!" with great zeal while climbing up for a great bear hug, chatting away variously in German, English, and Romanian. We will, however, openly thank his wife Susan for her frequent protection and kindnesses far too numerous to mention.

Still, with such heady matters in mind we commend this volume to the reader's consideration; it is a great pleasure to present it to the worlds of both secular philosophy and Christian scholarship; two of the many worlds of our friend, mentor, and professor: H. Tristram Engelhardt, Jr., Ph.D., M.D.

## Notes

1. "Moral strangers are persons who do not share sufficient moral premises or rules of evidence and inference to resolve moral controversies by sound rational argument, or who do not have a common commitment to individuals or institutions in authority to resolve moral controversies. A content-full morality provides substantive guidance regarding what is right or wrong, good or bad, beyond the very sparse requirement that one may not use persons without their authorization. Moral friends are those who share enough of a content-full morality so that they can resolve moral controversies by sound moral argument or by appeal to a jointly recognized source other than common agreement. Moral strangers must resolve moral agreements by common agreement, for they do not share enough of a moral vision so as to be able to discover content-full resolutions to their moral controversies, either rby an appeal to commonly held moral premises (along with rules of evidence and inference) and/or to individuals or institutions commonly recognized to be in authority to resolve moral controversies and to give content-full moral guidance" (Engelhardt, 1996, p. 7).
2. For all of the brilliance of the arguments in *Anarchy, State, and Utopia*, Robert Nozick just begins with the assumption of forbearance rights: "Individuals have rights, and there are things no person or group may do to them (without violating their rights). So strong and far-reaching are these rights that they raise the question of what, if anything, the state and its officials may do" (1974, p. ix). For Engelhardt, forbearance rights are the end result of the failure of general secular reason to secure content-full moral norms without begging the question. If we are to eschew simply

appealing to violence as a means for solving controversies, then we must act only with the permission of the persons involved. As a result, forbearance rights provide a conceptual framework for thinking about the authority of persons over themselves and their private property, for assigning praise and blame, as necessary to the practice of morality in a general secular world. In Engelhardt's language: "It is a disclosure of the minimum grammar involved in speaking of moral commitments with an authority other than through force. This account can be regarded as a transcendental argument to justify a principle of freedom as a side constraint, as a source of authority" (1996, p. 70). Respecting the forbearance rights of persons permits the resolution of controversies without appeal to violence, and recognizes persons as in authority to grant permission to common projects. It is thus a social fabric that can bind moral strangers in general secular terms.

3. "Here the reader deserves to know that I indeed experience and acknowledge the immense cleft between what secular philosophical reasoning can provide and what I know in the fullness of my own narrative to be true. I indeed affirm the canonical, concrete moral narrative, but realize it cannot be given by reason, only by grace. I am, after all, a born-again Texan Orthodox Catholic, a convert by choice and conviction, through grace and in repentance for sins innumerable ... My moral perspective does not lack content. I am of the firm conviction that, save for God's mercy, those who willfully engage in much that a peaceable fully secular state will permit (e.g., euthanasia and direct abortion on demand) stand in danger of hell's eternal fires. ... Though I acknowledge that there is no secular moral authority that can be justified in general secular terms to forbid the sale of heroin, the availability of direct abortion, the marketing of for-profit euthanatization services, or the provision of commercial surrogacy, I firmly hold none of these endeavors to be good. These are great moral evils. But their evil cannot be grasped in purely secular terms. To be pro-choice in general secular terms is to understand God's tragic relationship to Eden. To be free is to be free to choose very wrongly" (Engelhardt, 1996, p. xi).
4. "He offers a Baedekker's guide to a system of belief that most of us have heard about but few of us know much about. One should read this section of the book just as one would read a book that attempts to describe any system of belief, secular or religious, mainstream or not. In this sense Engelhardt's is one more book for those who take their cross-cultural education seriously. If your bioethics library has a section devoted to Jehovah's Witnesses, the Hmong, and Christian Scientists... here's one more for your collection" (Scofield, 2002, p. 324). Such a verdict would be amusing if it were not to display historical ignorance to place Christianity of the first millennium on a par with the religious beliefs of the Jehovah Witnesses, the tribal customs of the Hmong, or the spiritual convictions of Christian Scientists.

As Engelhardt underscores, ancient Traditional Christianity was one of the central historical sources out of which the West drew its cultural, intellectual, and moral substance. Where the ancient Christian Church defined Christian belief and culture over against other religions, including the paganism of ancient Greece and Rome, the Roman Catholic Church, while affirming the first seven ecumenical councils, recast such reflections within the framework of Western social, political, and religious institutions. Prior to the Reformation, the Roman Catholic Church was the principle institution that framed the Christian moral vision of Western

Europe: from the crowning of Charles the Great by Pope Leo III as “*romanum gubernans imperium*,” after the third Mass on Christmas, A.D. 800 to Pope Urban II’s announcement of the First Crusade in A.D. 1095; from Pope Innocent IV’s official inauguration of the Inquisition on May 15, 1252, with the bull *Ad extirpanda*, to the founding of the University of Paris in A.D. 1208 and eventual development of natural law moral philosophy. Thus, when Western Christianity explicitly articulated its notions of proper medical department, Roman Catholicism offered a significant institutional locus for much of the moral discussion of the first thousand years of Christianity. The morality of Western Christianity became the morality of medicine and of the good physician. Clearly, this circumstance has for the most part ended. Contemporary American and Western European bioethics, as Engelhardt documents, has been post-Christian if not anti-Christian.

5. This moral cacophony of the contemporary world and the struggles its political expression and control is often termed the culture wars (see Hunter, 1991).
6. Ideology: 4. A systematic scheme of ideas, usu. relating to politics or society, or to the conduct of a class or group, and regarded as justifying actions, esp. one that is held implicitly or adopted as a whole and maintained regardless of the course of events. ... 1970 D.D. Raphael *Probl. Pol. Philos.* i. 17. Ideology... is usually taken to mean, a prescriptive doctrine that is not supported by rational argument (Oxford English Dictionary, On-line edition, 2008).
7. See the following for examples and discussion of such statements: UNESCO, 2005; National Commission, 1979; World Medical Association, 1964-2008; Council of Europe, 1997; InterAction Council, 1996; Parliament of the World’s Religions, 1993; *Journal of Medicine and Philosophy* volume 34, number 3, 2009, especially Cherry, 2009; Engelhardt, 2006.
8. “...insofar as we take account only of the rational beings in it, and of their connection according to moral laws under the government of the supreme good, the kingdom of grace, distinguishing it from the kingdom of nature, in which these rational beings do indeed stand under moral laws ... To view ourselves, therefore, as in the world of grace, where all happiness awaits us, except as we ourselves limit our share in it through being unworthy of happiness, is, from the practical standpoint, a necessary idea of reason” (Kant, 1965[1781], pp. 639-640, A812 = B840). Engelhardt addresses the relationship between philosophy and theology, faith and reason in Engelhardt, in press.
9. For example, if one holds that torture is always morally wrong, and one also knows that if one tortures suspect A.G. that he will provide you with information necessary to save many many innocent lives, should one choose to save the innocent lives or should one respect the principle not to torture? If one chooses not to torture, do the family members of those innocents whom one has failed to save, have a justifiable claim against you for having failed to torture A.G. when you knew, or should have known, that torturing A.G. would have saved their loved ones? Or, consider a case in which claims of a universal good conflict with one’s own particular interests and special obligations. If a physician has access to a vaccine that is in very short supply for a deadly disease, and which will very likely kill his family, would the physician be acting wrongly if he sets the vaccine aside for his family? Do rights trump even potentially devastating consequences? If so, which rights? Or whose rights? Which consequences should be given priority over



others? Which values should we choose or eschew? As Corinna Delkeskamp-Hayes notes,

...once one is no longer willing seriously to follow Immanuel Kant and act as if God exists, and once there is no basis in the end to justify as canonical one account of the right, the good, and the virtuous, there is also no way to guarantee that the right should trump the good, or even that moral rationality should have precedence over prudential rationality (2009, p. 23).

Here, the recognition of post-modernity is simply the understanding of the foundationally irresolvable character of moral pluralism in general secular terms.

10. For those who believe that the culture wars are a movement of the past, consider the outrage that was apparent in much of the American Roman Catholic community when President Barack Obama was invited to give the commencement address and to receive an honorary doctorate from the University of Notre Dame, May 17, 2009. See generally [www.notredamescandal.com](http://www.notredamescandal.com). Very early in his term of office, Obama acted to increase federal funding for abortions and embryonic stem cell research, and many of his choices for high office in his administration are well known pro-abortion activists.
11. Freeman, 1983, DK 80b1.
12. Here one might consider G.W.F. Hegel, who argued that moral concepts, such as "moral duty", possess no particular content, they must first be outfitted with such a content: "Because every action explicitly calls for a particular content and a specific end, while duty as an abstraction entails nothing of the kind, the question arises: what is my duty? As an answer nothing is so far available except: (a) to do the right, and (b) to strive after welfare, one's own welfare, and welfare in universal terms, the welfare of others" (1967 [1821], p. 89, §134). However, even here, there is no particular content to "welfare"; that is, there is no particular content to the good or to the good life, many competing incommensurable accounts of the good exist without an in principle method for authoritatively choosing among them in a general secular world.
13. Here one might think of Hegel's critique of Kant: where reason can show you that you ought to fulfill your duty, it cannot provide the very content of that duty. So, for example, we may know that having made a promise or agreed to a contract, one ought to fulfill that promise or contract; reason cannot demonstrate which promises or contracts to make, or which ones to keep given countervailing circumstances (Hegel, 1967 [1821], p. 107, §150) See also, Mark J. Cherry, "The normativity of the natural: Can philosophers pull morality out of the magic hat of human nature? In M. J. Cherry (ed.), *The Normativity of the Natural: Human Goods, Human Virtues, and Human Flourishing* (Springer: Dordrecht, 2009).
14. Here one might recall Engelhardt's admission: "If one wants more than secular reason can disclose – and one should want more – then one should join a religion and be careful to choose the right one. Canonical moral content will not be found outside of a particular moral narrative" (1996, p. xi).
15. As Engelhardt documents, the spiritual implications of destroying human embryos is unambiguous: it possesses a moral and spiritual impact equivalent to murder. The Didache, for example, which dates from the first century A.D., states: "Do not murder a child by abortion, nor kill it at birth" (Sparks 1978a, p. 309). Likewise, the

Epistle of Barnabas, dated to the first or second century A.D.: "Do not murder a child by abortion, nor, again, destroy that which is born" (Sparks 1978b, p. 298). Canon 91 of the Quinisext Council (A.D. 691) states: "Those who give drugs for procuring abortion, and those who receive poisons to kill the fetus, are subjected to the penalty of murder" (Schaff and Wace 1995, second series, vol. XIV, p. 404). Moreover, as St. Basil the Great (A.D. 329-379) made clear, the ensoulment, or state of formation of the fetus, is not relevant to this traditional Christian judgment: "The woman who purposely destroys her unborn child is guilty of murder. With us there is no nice enquiry as to its being formed or unformed" (Letter 188, 1995, vol. VIII, p. 225). St. Basil recognized that even early embryocide possesses the same spiritual effects as murder, without ever committing himself to understanding the embryo as already possessing a soul or as being a small person. As Engelhardt argues, to appreciate the destruction of embryos rightly, one must understand this practice in terms of its full spiritual implications.

16. "TEXIAN. The term Texian is generally used to apply to a citizen of the Anglo-American section of the province of Coahuila and Texas or of the Republic of Texas. Texian was used in 1835 as part of the title of the Nacogdoches Texian and Emigrant's Guide. As president of the Republic, Mirabeau B. Lamar used the term to foster nationalism. Early colonists and leaders in the Texas Revolution, many of whom were influential during the Civil War and who were respected as elder statesmen well into the 1880s, used Texian in English and Texienne in French. However, in general usage after annexation, Texan replaced Texian. The Texas Almanac still used the term Texian as late as 1868" (Fletcher, 2009).
17. On March 2, 1836 at Washington on the Brazos, Texas declared its independence from Mexico citing, among other grievances: "When a government has ceased to protect the lives, liberty and property of the people, from whom its legitimate powers are derived, and for the advancement of whose happiness it was instituted, and so far from being a guarantee for the enjoyment of those inestimable and inalienable rights, becomes an instrument in the hands of evil rulers for their oppression. When the Federal Republican Constitution of their country, which they have sworn to support, no longer has a substantial existence, and the whole nature of their government has been forcibly changed, without their consent, from a restricted federative republic, composed of sovereign states, to a consolidated central military despotism, in which every interest is disregarded but that of the army and the priesthood, both the eternal enemies of civil liberty, the everready minions of power, and the usual instruments of tyrants" (March 2, 1836). The complete document can be found at [www.lsjunction.com](http://www.lsjunction.com) (accessed July 6, 2009). On April 21, 1836 the Battle of San Jacinto was the climax of the Texas war of independence against Mexican rule.

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