

## The Dilemmas of German Bioethics

*Eric Brown*

In 1999, Peter Sloterdijk, a professor of aesthetics and one of Germany's most prominent intellectuals, lit off a massive controversy in his country with a speech entitled "Rules for the Human Zoo." In his remarks, Sloterdijk explored the various ways that human beings have "tamed" the brutish regions of their animal natures—what he called the "engagement of retrieving man from the barbarian." In Enlightenment societies, our literary, philosophical, and religious traditions taught us the habits of empathy and mutual respect, and thus accustomed us to thinking of ourselves as belonging to a dignified and universal human community. But today, this civilizing culture is in a state of crisis. "Americanism"—Sloterdijk's term for the contemporary onslaught of mass media, popular culture, and frenzied consumerism—is rendering the humanist project morally and politically insolvent. Or, as Sloterdijk put it: "The taming of man has failed."

This failure of humanism was seen by Sloterdijk as a pressing problem. The animal within us was growing restless and disorderly in its cage—the "bestialization of man was on the increase." But with no philosophical or religious doctrine to lift man from his incipient barbarism, what was left to tame the human zoo? To avert the looming catastrophe, Sloterdijk argued that society—or its larger cultural faction—would have to invent some "minimally effective methods of self-taming."

Sloterdijk found reason for hope in emerging genetic technologies. As the age of humanism reaches its twilight, advances in reproductive biology and genetic science are beginning to furnish us with "a new codex of anthropotechnology," a new rulebook for making people out of beasts. By manipulating the human genome, we might assume conscious control over our own breeding, and devise new laws for "steering" human reproduction toward the births of properly domesticated human beings. Sloterdijk speculated whether

this long-range development will also lead to a genetic revision of the characteristics of the species, whether a future anthropotechnology will eventuate in an explicit planning for specific traits, whether throughout the entire species humanity will be able to turn birth defects into optimal births and universal prenatal selection—these are questions through which the evolutionary horizon, as always vague and risky, begins to flicker.

When the details of Sloterdijk's speech came to light in the German press, the outpouring of public opinion was tremendous. In reams of newspaper and magazine editorials, television talk shows, and other forums devoted to the subject,

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an array of scientists, theologians, philosophers, and other experts clamored to understand the meaning of Sloterdijk's remarks. For months, Germany was rapt with both fascination and horror.

Many critics detected in Sloterdijk's speech the outline of a new genetic fascism. "He imagines a working group unencumbered by democracy and composed of real philosophers and appropriate geneticists, who no longer debate moral questions," wrote Thomas Assheuer in a piece called "Das Zarathustra-Projekt" in *Die Zeit*. "This elite band is entrusted with the task of initiating ... the genetic revision of the human species." A great deal of the public outcry was affixed to Sloterdijk's use of the words *selektion* (selection) and *züchtung* (breeding)—words that had virtually disappeared from the vocabularies of contemporary Germans because of their association with the euthanasia and eugenics programs of the Third Reich. "Why does Sloterdijk use this word 'selection'?" asked the moral philosopher Ernst Tugendhat. "When I listen to this word in this context, I think instinctively of the selection on the ramp at Auschwitz. Is that only my problem?"

### The Burden of History

In Germany, the memory of the Nazi Reich permeates every discussion of biotechnology and genetics. Guilt and shame for the Nazi period, along with the post-Holocaust imperative of "Never Again," bear heavily on Germany's national conscience, and have combined to make Germans of all political persuasions into passionate opponents of scientific research that threatens to instrumentalize and exploit human life. Germans have been particularly sensitive to reprogenetic technologies—such as cloning, preimplantation genetic diagnosis, and germline engineering—that might make it possible to design our descendants or select individuals with "superior" genotypes. Nazi medicine, after all, exalted an "ideal Aryan"—the *Übermensch*—leading to a callous disregard for the dignity of human beings: the Jews, the weak and infirm, and others deemed to be genetic "ballast." "Germany is a burdened country," explained the father of a child with Rett Syndrome to the BBC News in 2001. "We should be careful even to think about starting a discussion on this matter," lest we make genetic fitness the new standard for being born.

In his widely televised Berlin Address in 2001, President Johannes Rau urged his fellow citizens to exercise great care and moral restraint to ensure that the coming genetic age brings progress "befitting humanity." "It does not take a believing Christian," Rau told the nation, to understand that new forms of genetic manipulation and control would run contrary to the conditions of human freedom and human dignity. "Eugenics, euthanasia, and selection—these are words with terrible connotations in Germany." In the biogenetic future, the president continued, Germans should never forget the sins of their past.

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With this past in mind, postwar Germany has enacted some of the strictest bioethics policies in the world—on euthanasia, surrogate motherhood, in vitro fertilization, experimentation with human subjects, and the manipulation of nascent human life. In 1990, the Bundestag passed the Embryo Protection Act, which strictly forbids the creation or handling of human embryos that “does not serve its [the embryo’s] purpose.” When Britain announced its liberal regulations on embryo research in 2000, German leaders of all parties condemned the policy—some describing it as “nothing more than cannibalism.” In 2001, when the American biotech firm Advanced Cell Technology announced the cloning of a human embryo, the director of the German Federal Physician’s Council said it is a “nightmare unfortunately come true.” An editorial in *Die Welt*, back in 1997, had put the issue in starker terms: “The cloning of human beings would fit precisely into Adolf Hitler’s world view. And there is no doubt that he would have used this technology intensively if it were available at that time. Thank God it wasn’t.”

And yet, there are also signs that the taboos born of Germany’s past are loosening their hold, and that the parameters of the German bioethics debate are slowly changing. A few years ago, the German Research Foundation requested that the government allow the importation of stem cells harvested from embryos destroyed abroad—a request that parliament ultimately granted. *Die Zeit* declared 2001 “The Year of Biopolitics,” because the Bundestag spent a large part of it engaged in soul-searching debate over important bioethics issues. Chancellor Gerhard Schroeder led a political drive to jumpstart the German biotechnology industry, and he created a National Ethics Council to address “areas of tension between great medical hopes, economic expectations and people’s understandable fears of reproduction and selection.” Research that had once been unfathomable and unspeakable was now open for discussion. Taboos were giving way to democratic discourse, fueled by the growing desire to take advantage of the supposed medical and economic benefits of cutting-edge research.

There are also signs that public attitudes about genetic technology are changing. In September 2003, a boutique called “Chromosoma” opened its doors in the city of Bremen. A stylish interior, attractive employees, and complimentary glasses of sparkling wine drew customers into the store, where they were given the chance to preview Chromosoma’s assorted products and services. One such service, called “re-set,” would allow customers to bank their DNA so they could one day clone themselves and begin their biological lives anew. Another service, called “book-a-baby,” offered prospective parents the opportunity to choose the genetic traits of their offspring, including hair color, eye color, and sex. As it turns out, Chromosoma was not a business, but a project designed by Germany’s Federal Center for Political Education to monitor the public’s reaction to these genetic technologies. The organizers expected the reaction to be

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negative. Much to their surprise, however, the public's response to "designer genetics" was overwhelmingly favorable. As one project organizer told the Deutsche Welle website, when these services are presented as "lifestyle" choices, people seem "quick to accept their often controversial premises."

Like all advanced nations, Germany is now confronting the coming age of liberal eugenics. One is reluctant to apply the notorious "Nazi analogy" to this emerging situation, and rightly so. The biogenetic age advances under the banner of physical and economic well-being, not the hygienic and superman ideology of the Nazi Reich. New technologies promise to enhance human reproductive freedoms, not restrict or control them. New research promises to cure the sick, not eliminate them, albeit by using microscopic human embryos as an experimental resource. In this way, the new genetic age is wearing away at the linkage between Nazism and eugenics in the German conscience, and it is not clear what shape German bioethics will take in the years ahead, or what foundations the German idea of dignity will rest upon.

As our powers over the future of human life expand, Germany will be forced to ask old questions anew: What is a human being, and what is the source of human dignity? But how Germany answers these questions will have special significance for Western civilization as a whole. It will test whether historical memory alone, divorced from a deeper grounding in nature or religion, can preserve human dignity in the genetic age. And it will test what the Nazi legacy means for bioethics in the modern world—not only for Germany, but for all of us.

### Never Again

In 1934, Rudolf Hess, the Nazi Party's Deputy Führer, remarked that, "National Socialism is nothing but applied biology." As Robert Jay Lifton and other historians have shown, the firm grounding of Nazi ideology in the language of biology was one of the reasons why Nazism appealed to so many doctors and scientists. Nearly half of Germany's medical profession rallied to the cause of the "Great Doctor" and his "Magna Therapia" for restoring health and vitality to the German *Volk*. In the Nazi euthanasia and eugenics programs, SS doctors oversaw the elimination of the "cancers" and "poisons" believed to have infiltrated and weakened the German *Volkskörper*. In this totalitarian biology, every notion of the sanctity of human life, not to mention the first principle of medical ethics—"do no harm"—was completely shattered by the ethic of selecting between "life worth living" and "life unworthy of life," and the vision of creating a racially purified master race.

After the destruction of the Nazi Reich, Germany sought to build a new society that upheld the dignity of the human person, giving this idea political expression in the *Grundgesetz* or "Basic Law." The drafters of the new constitution aimed to address both the totalitarian excesses of the Nazi regime and the

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weaknesses of Weimar democracy. The constitution's first article declared: "The dignity of man is inviolable. To respect and protect it shall be the duty of all public authority."

Following the war, however, there was a "stubborn, and at times vicious refusal" among the German public, as Hannah Arendt observed in *Commentary* in 1950, "to face and come to terms with what really happened." The doctors and scientists who benefited from the Nazi regime and participated in its eugenics and euthanasia programs simply returned to medical practice or their posts at universities. No questions were asked. But by the 1960s, much of this silence was lifted. A younger generation began asking about their fathers and mothers and about their country's history during the war. The past became a subject of national and highly-politicized conversation. In the intellectual ferment of the period, and especially among liberals, shame for the German past was seen as the basis for a new German society. "Never Again" became the rallying cry of a new generation of German social democrats.

Two general expressions of human dignity emerged in the German polity—both of them seen as direct responses to the transgressions of the Nazi regime. The first was a "restoration of values," especially the Christian value of the sanctity of the human person, based on the Biblical belief in *Gottesebenbildlichkeit*, of man being made "in the image of God." The second was the liberal expression of dignity originally formulated by Immanuel Kant. Rather than locating human dignity in God or nature, Kant exalted man's autonomy—his ability to make and obey the moral law. Since all men are capable of establishing and respecting this law, all men are required to respect each and every human life as an "end in itself," never merely a means. Both ideas of human dignity were expressed in the second article of the German constitution, stating that the "free development of (one's) personality" and the "right to life and physical integrity" are fundamental possessions of every human being.

For the most part, these two principles—the sanctity of the person and the autonomy of the person—overlapped in shaping German social democracy. But the rise of the *alternativkultur* movement in the 1960s placed new demands on the obligation to respect the free development of personality, and brought to light new ethical conflicts. Central among them was the legality and morality of abortion, which put the German idea of dignity on trial.

Abortion was illegal in Germany until 1971, when the Bundestag, under pressure from fledgling abortion-rights groups, made a move to legalize it. In the debates that followed, one side emphasized the dignity and personhood of the unborn and the inviolable right to life. The other side emphasized the dignity of the mother and her inviolable right to the free development of her person. In 1975, the Federal Constitutional Court ruled against abortion-on-demand, saying that "wherever human life exists, it is the subject of dignity." In justifying

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their decision, the judges did not appeal to a moral law expressing the sanctity of human life. Instead, they appealed to the historical experience of the Nazi Reich. As the majority opinion of the court put it:

The Basic Law contains principles ... which can only be explained by the historical experience and by the moral-ethical recollection of the past system of National Socialism. The almighty totalitarian state demanded limitless authority over all aspects of social life and, in pursuing its goals, had no regard for individual life. In contrast to this, the Basic Law established a value-oriented order which puts the individual and his dignity into the very center of all its provisions.... The (Basic Law) demands the unconditional respect for every life, however seemingly without 'social value'; it is therefore unconceivable to take this life without justifying reasons.... This does not reflect in a derogatory way on other legal systems which did not have the experience with an unjust system and which decided otherwise on the basis of a different historical development and state-philosophical conceptions.

But moral recollection of the Nazi past proved flexible enough to support multiple claims of human dignity. In voicing their dissent, the court's minority opinion also appealed to the experience of the Nazi Reich, warning of the dangerous consequences of applying criminal law in a manner that constricts the moral autonomy of individuals. It claimed that the right of a pregnant woman to bodily and existential self-determination was also a type of human dignity that could not be ignored. The resulting abortion policy was a liberal compromise between the two claims of dignity. The constitutional ruling forbade abortion-on-demand, and in principle affirmed the dignity of the unborn child and its equal right to protection. In practice, however, abortion was permitted in the case of rape or incest, if the mother's life was threatened, or if the fetus was shown to be severely handicapped. This latter justification has been hotly contested because of its clear eugenic implications. Abortion was also tolerated in the first trimester of pregnancy if the woman was shown to be in existential or economic distress, conditions that adversely affected her autonomy. The number of such abortions has risen consistently with each year, especially in non-Catholic states.

But the balance between sanctity and autonomy has played out differently in the debate over scientific experimentation involving nascent human life. In the 1980s, it was discovered that excess embryos were being produced during in vitro fertilization (IVF) treatments and being used by doctors and scientists for biomedical research. This practice forced a new (though related) moral and legal question: Is the embryo outside the womb a subject of human dignity? Initially, the German Medical Association advised a policy of self-regulation by researchers, and the federal government, led by Chancellor Kohl and the Christian Democratic Party, endorsed limited embryo research. But in the public's mind, embryo research raised the specter of eugenics and dehumanizing

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experimentation; it threatened to violate the dignity of human life, “however seemingly without value.” While willing to tolerate a degree of autonomy for women in their abortion policy, the German public was not willing to grant the right of autonomy to scientists to destroy or manipulate embryos for research.

In 1990, a coalition of anti-abortion conservatives and pro-choice Social Democrats and Greens united to pass the Embryo Protection Act, which explicitly made ex vivo embryos protected subjects. The law allowed the creation of embryos for IVF, but strictly controlled the number of embryos that could be created. In America, over 400,000 “spare embryos” are frozen at IVF clinics. In Germany, by contrast, there are only a few hundred such embryos, each one individually accounted for. The law also outlawed a range of biological interventions that might be possible in the future—including human cloning, the creation of man-animal chimeras, and germline modification.

In the public debate surrounding the new law, the advance of modern genetic science and technology was depicted by many Germans as an assault on the nation’s constitutional order. The central issue was not simply the moral status of unborn life—the dominant theme in the American embryo research debates—but the status of the modern scientific project itself.

### A Bioethics of Dissent

Angst about modern technology has a long and complicated history in Germany. Modernity descended upon the German world very quickly, without the liberal-democratic roots that shaped Anglo-American society. German romantics attacked the Enlightenment’s greatest achievements—liberal democracy and modern science—for corrupting the German soul, and they sought to bring science and technology under the command of *Kultur*. In the Weimar era, this romanticism discouraged the “idle chatter” of parliamentary democracy, calling instead for a German *sonderweg* or “special path” through modernity. For many Germans—including Martin Heidegger, the towering figure of modern German thought—Nazism represented a confrontation with modernity that would redeem the German people. It was seen as the political consummation of the romantic impulse.

After the Holocaust, German romanticism took a new turn—seeking to assimilate the horrors of Nazism to technological civilization in general, and decrying both as anti-human. In 1949, Heidegger declared that in “essence” mechanized agriculture is “no different from the production of corpses in the gas chambers and death camps, the embargoes and food reductions to starving countries, the making of hydrogen bombs.” (This casuistry, by the way, has persisted, albeit somewhat less dramatically: In a 1999 speech entitled “Against Social Darwinism,” the influential Social Democrat Ernst Ulrich von Weizsacker discussed what he perceived to be the two types of advanced societies: the “traders,”

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such as American and British capitalists, and the “watchmen,” who were the “moral guardians, the people, the state and the church.” In World War II, the traders defeated Nazism. But in its place they imposed a new “sinister” kind of Social Darwinism, and Weizsacker singled out three forms of Darwinist social thought that should be resisted: “eugenics, Nazi ideology, and the economic liberalism opposing the welfare state.”)

As a former Nazi, Heidegger fell into ill-repute in postwar Germany. But his thought, especially his teachings on modern technology, exerted a powerful influence on the notorious Frankfurt School of Critical Theory, an extremely prolific and influential collective of Marxist-Freudian thinkers, and the intellectual force behind the rise of the New Left in the 1960s. This group argued that the modern drive to dominate nature meant that liberalism built on Enlightenment foundations led inevitably to totalitarianism. Exiles from the Weimar era, they returned to Germany after the war to show why, as Theodor Adorno and Max Horkheimer put it in *Dialectic of Enlightenment*, “mankind, instead of entering into a truly human condition, is sinking into a new kind of barbarism.” Modern capitalism and modern technology were conspiring, through instrumental rationality, to bring about a new form of tyranny.

By the 1980s, the influence of the original Frankfurt School had waned considerably. Chancellor Kohl, whose Christian Democratic Party came to power in 1982, linked the militancy of the student movements and leftist terrorism of the 1960s and 1970s to the Frankfurt School’s radical ideas. But angst about the problems of modern technology remained a powerful force in German politics, and not only among German radicals. This was especially true in the backdrop of the nuclear standoff of the late Cold War, when many Germans feared being incinerated by a U.S.-Soviet exchange. In the mid-1980s, Hans Jonas’s *The Imperative of Responsibility* became a bestseller in Germany, deeply influential among leftists and conservatives alike. Jonas argued that the new powers made possible by modern technology require a revolution in man’s idea of “ethical responsibility.” He feared that certain techniques of man’s own making might one day run beyond human control, and that we should set limits today to ensure the possibility of human and non-human life in the future. While nuclear weapons worried him deeply, it was the new genetics that frightened him most of all.

At the same time, the passions that originally animated the New Left were channeled into a flurry of “social justice” movements, concerned primarily with nuclear technology, genetic engineering, the environment, healthcare, and the rights of women, minorities, and the disabled. These different movements were bound together by a common allergy to man’s advancing domination of nature, believing the technological ethos put humanity at grave risk. Their ideas greatly affected mainstream German politics, and in 1984, with the unprecedented



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election of a large number of Greens to parliament, they exercised a tremendous influence over the legislative agenda of the Bundestag.

One of the first major controversies over the new genetics came in 1988, when the CDU-led government endorsed the European Human Genome Project, which included a “predictive medicine program” aimed at developing prenatal genetic screening techniques. The government’s announcement provoked widespread indignation among the German public, especially the Greens, who feared a new “eugenics-oriented” European health policy.

Eventually, however, these worries seemed to subside, as people warmed to the idea of using genetic knowledge to develop new therapies and to prevent the births of severely handicapped babies. Even anti-abortion religious groups argued that the ethical questions raised by prenatal screening technologies were best decided by an individual’s conscience, not by public law. But the Green Party, along with a handful of other leftists and some religious conservatives, continued to condemn Germany’s involvement in the genome project, saying it would lead to “a European abortion program motivated by eugenics.”

To make their case against genetic screening and abortion, the Greens appealed directly to the horrors of the Nazi biomedical project, and in the process rallied widespread support for their cause. “We Germans,” said one statement, “in light of experiences during the years 1933 through 1945, should be sensible, even supersensible” to the threats that unrestrained genetic technology poses to human dignity. Women’s groups bashed genetic counseling practices as “continuations of Nazi eugenics.” Prenatal genetic screening, one leaflet declared, “forces us to distinguish between worthy to live and not worthy to live.” “During the period of German fascism,” said another, “the search for the perfectly functioning human being quickly killed those who did not correspond to the bodily and mental ideal. This highly functional and achieving human being is today more than ever in demand. In this context the resurgence of eugenics which we can observe today is remarkable.”

In 1989, Germany experienced the infamous “Singer Affair,” an episode that reminded many of the leftist militancy of the 1960s. Peter Singer, the controversial bioethicist, had recently coauthored (with Helga Kuhse) a book called *Should the Baby Live?* Their thesis was straightforward: “We think that some infants with severe disabilities should be killed.” The authors defended infanticide in the name of compassion, arguing that some lives are so miserable and so lacking in value that they should be destroyed soon after birth. When Singer was invited to lecture at a bioethics conference in Germany, a militant protest movement condemned him for denying “the right to life of the disabled.” Singer himself was jeered by the crowd, then physically assaulted, then attacked as a “Nazi.” Oliver Tolmein, a self-described “anti-bioethicist” and leader of the “Cripples Movement,” wrote that debating with Singer was “as senseless as debating a the-

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ory arguing for the superiority of the Aryan race. In both cases it is the cognitive will at the theory's foundation that must be attacked."

Singer's ideas were depicted as the vanguard of Anglo-American bioethics—a dangerous form of instrumental rationality and a deceptive ruse by which Darwinist fascism would reintroduce itself in Germany. The study of Anglo-American bioethics was suspended in many German universities, and many bioethics scholars were forced from their teaching posts. In the state of Baden-Württemberg, Social Democrats pushed for a formal government declaration that the thought of the "Anglo-Saxon institutes such as the Kennedy Institute of Ethics, the Hastings Center, or the Center for Human Bioethics (in Australia)," be considered "incompatible with the norms of the Constitution."

Through the 1990s, this debate continued at a fevered pitch. In 1996, the European Council's "Convention on Human Rights and Biomedicine" elicited widespread alarm and condemnation in Germany for failing to provide human subjects with the same level of protections as German law. Protestors targeted the convention's lax guidelines on embryo research and emerging reprogenetic technologies. In the Grafeneck Declaration of 1996, social justice activists declared that Anglo-American bioethics abandons "the human rights tradition," treating man not as a "social being" but as "biological matter" and according to the dictates of utilitarianism and the imperatives of research. "Developments in medicine and biology question the dignity and the rights of many people," as one anti-bioethics leaflet put it in 1999. "Should we really be condemned to repeat history, only because we don't want to remember it?"

### **The End of an Era?**

But in the biogenetic age—especially the age of stem cells—the taboo on discussing these matters is proving impossible to sustain, and the ethical lines governing research may be slowly changing. In 2001, when the German Research Foundation requested permission to import embryonic stem cells from abroad, the proposal was initially greeted by strong opposition. When the Bundestag commenced debate, it seemed likely that a coalition of Social Democrats, Greens, and Christian Democrats would successfully block the request. But the issue, it turned out, was not so clear.

Tensions began to mount when Roman Herzog, a Christian Democrat and former president, delivered this heartfelt plea: "I am not ready to explain to a child with cystic fibrosis about to die, who is struggling for air, the ethical reasons that are preventing science from making his salvation possible." In response, one Social Democrat threatened "civil war" if the 1990 Embryo Protection Act was overturned. The CDU's main position paper urged extreme caution, in light of Germany's historical "tendency to revalue values." All sorts of fissures began to emerge within the parties; alliances shifted. Most signifi-

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cantly, the debate pitted two of Germany's most prominent Social Democrats against each other: Chancellor Gerhard Schroeder and President Johannes Rau.

Chancellor Schroeder argued in favor of importation, in what many believed was a first step toward a more liberal policy on embryo research. He argued that without biotechnology, "we will hardly be able to secure our prosperity for our children and grandchildren," and that "this is the only way we can have a say in how this research is used." "Otherwise," Schroeder pleaded, "research won't stop but could go ahead following strictly economic interests and in places where ethical concerns have less force." He said that he did not think it was constitutionally permissible to limit biogenetic research—that "the ethics of healing" requires as much attention as "the ethics of creation"—and warned about the German cultural tendency to view these issues with ideological blinders and taboos.

President Rau, who was alive during the Nazi period, responded that "where human dignity is affected, economic arguments do not count." "Those who begin to instrumentalize human life, to differentiate between worthy of life and unworthy of life, are on a runaway train," he said. "No one should forget what happened in the academic and research fields during that period.... An uncontrolled scientific community researched for the sake of its scientific aims without any moral scruples.... This memory is a perpetual appeal: nothing must be given precedence over the dignity of the individual."

What resulted from the 2001 Bundestag debates was a compromise solution: Importation of embryonic stem cells would be allowed, but only if they had been harvested before 2001, and only for use in biomedical research of "overwhelming significance." Most Germans accepted the policy—some with hesitation, others in the belief that it was a clarification of the country's commitment to human dignity, and still others with the hope that importation would be the first step toward a more lenient policy on embryo research. Interestingly, the decision mirrors the American policy on federal funding of embryonic stem cells, which also seeks to benefit from past embryo destruction while not encouraging future embryo destruction. It suggests that Germany is beginning to see these issues in ways that transcend its own unique past.

Even the Greens, long the most zealous opponents of the genetic revolution, seem to have adopted a more pragmatic stance. "At least no new embryos will die," one Green parliamentarian put it. "It is not possible to be completely for or against biotechnology," said Minister of Health and Green party member Andrea Fischer. "That would be as reasonable as saying 'I'm against German unification.' Things have changed and that is reality. You can't be against reality."

But where this new reality leads and what it signifies is still an open question. An opinion poll published in *Die Welt* in 2001 found that seventy percent of Germans agreed with President Rau that ethical concerns should always take

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precedence over other arguments. A few years later, in 2003, Justice Minister Brigitte Zypries delivered a statement claiming that ex vivo human embryos are not entitled to the levels of protection that German law presently affords them. And in the press, there is an effort underway to depict opposition to embryo research as a concern of parochial Catholics and unrealistic Greens. Meanwhile, Schroeder's Social Democrats have sunken very low in public opinion polls, largely due to a sagging national economy. A less restrictive biotechnology policy, some argue, might improve Germany's economic outlook and give Social Democrats the boost they need in the national elections in 2006. Their main rivals, the Christian Democrats, remain internally divided on embryo research, and the junior party in opposition, the liberal Free Democrats, appear to be in cautious support of it.

There has also been a growing debate about new rerogenetic technologies. In February 2002, the majority of a sixteen-member Bundestag "study-commission" voted to ban completely the use of preimplantation genetic diagnosis (PGD), a technique for screening and selecting ex vivo human embryos before initiating a pregnancy. The commission's recommendations, as many legal scholars argued at the time, were consistent with the core constitutional values of human dignity, as well as the standards set by the embryo protection law. One year later, however, Schroeder's National Ethics Council proposed that rerogenetic technology be regulated not by the Embryo Protection Act of 1990, but under a separate Reproductive Medicine Act. In making this proposal, eight out of fifteen participating council members recommended in favor of allowing "limited authorization of PGD."

In the international arena, there is another powerful political dynamic at work. In December 2003, talks in the U.N. General Assembly regarding an international ban on human cloning were delayed for one year because of deep disagreements among member nations. The United States, along with 50 other (mostly developing) countries, favored a total ban on cloning, including a ban on the production of cloned embryos for research. Germany, along with Britain, France, Russia, and China, favored an international ban on reproductive cloning only, while allowing individual countries to make up their own laws governing the cloning of human embryos for research. For many critics in Germany, the government's support for a partial ban was seen as an effort to revise Germany's domestic bioethics legislation from the outside—an effort to make the country more "normal," like many of its European peers.

There has also been a revolt in the intellectual world against the "political correctness" that prevails in Germany's treatment of the Nazi past, and against the so-called "conviction terror" that permeates the bioethics debate. This revolt has been developing in general since the famous "historian's debate" of the 1980s, which pitted liberal social democrats against a new class of conservatives over

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the meaning of the Nazi experience and how it should shape Germany's future. Since the unification of East and West Germany, there has been an increasing willingness to challenge the taboos of the past, just as a new generation of liberal thinkers has become more open to biotechnology as a form of humanitarian progress. Hans-Martin Sass, a Kennedy Institute fellow and major proponent of Anglo-American bioethics in Germany, has lambasted Germany's handling of the embryo research issue and called for a more "differential bioethics." Bettina Schöne-Seifert, a member of Schroeder's medical ethics commission, has characterized the "anti-bioethics" movement as a symptom of Germany's deeply illiberal "opposition to ethical pluralism." Even Sloterdijk won some defenders, not necessarily for his views about genetic engineering, but because of his challenge to Germany's "culture of remembrance." Sloterdijk himself responded to his critics by publishing a letter in *Die Zeit*—addressed to Jürgen Habermas, Germany's foremost social democratic thinker—attacking the liberal insistence on using the Nazi past to impose a "dictatorship of virtue" on Germany's conscience. But this memory regime, Sloterdijk concluded, was today crumbling at its foundations: "the era of overly normal sons of National Socialist fathers is coming, naturally, to a close."

### Liberal Justice

It is difficult to see why German liberalism needs to accommodate itself to Singer's views on infanticide or Sloterdijk's views on genetic engineering to be liberal. But the new generation of bioethicists does make, in spite of themselves, a good point. The reign of the Nazi taboo in Germany has delayed the development of truly open debate on bioethics issues, and perhaps hampered the effort to make good liberal arguments for why certain kinds of biogenetic research should be off limits. Whether such arguments exist—and whether they will have moral and political force—is the great question for German bioethics in the years ahead.

In this regard, Jürgen Habermas gives us cause for both optimism and concern in *The Future of Human Nature* (2003). Throughout his career, Habermas has tirelessly insisted on preserving the special authority of the Nazi past as a reminder of human evil, believing that memory is a key underpinning of Germany's postwar commitment to human dignity. In the emergence of "post-humanism," Habermas sees the atavistic return of a "very German ideology"—one that dismisses the liberal ideals of human dignity, equality, and justice for all as mere "illusions." The last time this anti-humanist philosophy surfaced in Germany, the results had been utterly catastrophic. But so far, Habermas thinks Sloterdijk and other such "freaked-out intellectuals" have only managed to stage a "media spectacle." Habermas's chief concern, rather, is liberal eugenics—the "explosive alliance of Darwinism and free trade ideology"—and what he sees as the loosening "socio-moral" restrictions in Germany on new and emerging reprogenetic technologies.

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Habermas's project is a complicated one: As a "post-metaphysical" liberal in the Kantian tradition, he doesn't believe philosophy can ask questions about the ultimate purpose of man or "the good life." He doesn't agree with recent conservative efforts to "remoralize" human nature in light of man's growing powers over human life. But he also does not think we can afford to be moral relativists in the biogenetic age, and he seeks to make a case for setting limits on genetic technology on the back of liberal reason. Habermas is opposed to embryo research, for instance, not because he believes the human embryo is a subject of dignity, but because he fears the "self-instrumentalization" of the human species at even the earliest stages. If we do not want liberal eugenics, he argues, "then we don't want the means that will lead to that end."

In making his argument against eugenics, Habermas appeals to the "sober premises" of liberal constitutional pluralism, and to the human being's "equal freedom to develop an ethical self-understanding, so as to realize a personal conception of the good life according to one's own abilities and choices." Borrowing both from Hans Jonas's idea of ethical responsibility for the human future and from the Anglo-American thought of John Rawls, Habermas imagines a great liberal contract stretching between us and future generations, and he seeks to defend the equal right of future individuals to ethical self-determination.

Despite his aversion to metaphysics, Habermas insists on a nominal understanding of human nature. We live in an "Aristotelian life world," he says, one in which every member of the human species is able to distinguish between things that are "grown" (i.e., things of nature) and things that are "made" through various social practices. Having the ability to make this distinction is essential to the person's awareness of autonomy, since nature, unlike socialization, is not subject to manipulation and control by other human beings. Only by referring back to nature, Habermas argues, are we able to exercise our moral autonomy within our social relationships, and thus preserve our ability to develop an ethical self-understanding as the creators of our own lives.

But genetic interventions threaten to collapse this distinction, to "dedifferentiate" between the spheres of the grown and the made. Those living today exert a new power over those that follow. We become "co-determinants" in the ethical lives of our descendants, and they become the defenseless products of our will. The "normalization" of liberal eugenics would restrict a future generation's capacity for self-revision; it would destroy the prospects for equality and autonomy in the future. As Jonas put it, the other side of eugenics, however well-intentioned, "is the future bondage of the living to the dead." For Habermas, resisting liberal eugenics is a matter of liberal justice: it is the only way to respect the equality and autonomy of future generations. And if we were to engage in the genetic control of future human beings, we would abandon our own self-understanding as morally autonomous individuals bound by moral respect for others.

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By trying to control the genetic future, we would erode the foundations of liberal society in the present.

### The Great Delay

Habermas makes an important contribution to political liberalism in the biogenetic age. He makes a good argument, but not the whole argument, and its limits reveal the limits of reason alone to vindicate human dignity, including the liberal idea of dignity. Why should those who are not autonomous in practice—the disabled, the unborn, the lives of those yet to be conceived—be respected as autonomous in theory? And why should we prefer mere human dignity to genetically improved post-human dignity?

Nietzsche famously called Kant the “great delayer,” because the conceptual innovations that he introduced seemed to reconcile individual autonomy and respect for others without being constrained by any philosophical or religious idea about the purpose of man. Kant looked to unadulterated reason alone to ground human dignity. But autonomous human beings can put reason to many purposes—including rational arguments for why men are not equal and thus not equally autonomous. Man’s reason alone, as Nietzsche knew, cannot inspire reverence for the dignity of one’s fellow man.

The genetic age makes this problem starker. The new science turns humanity into an object of ceaseless interrogation and, being plagued by Cartesian doubt, it becomes increasingly more difficult for men to appeal to an idea of inherent dignity to set limits on where science might take us. In this respect, Habermas’s turn to Rawls is a revealing and troubling choice. After all, Rawls believed that genetic deficiencies needed to be eliminated, because they stood in the way of the perfection of equality.

Perhaps Habermas, like Kant, is a great delayer of the biogenetic revolution. He grapples with the limits of unadulterated reason alone to defend the liberal ideal in the genetic age. His argument depends on adopting the familiar German attitudes of pessimism and precaution about the consequences of modern technology to ground a sense of obligation to the future. He looks to *pathos* to guide reason; he appeals to fear to remind us of generations not yet born. But the only plausible ground for this fear in secular Germany is the fear of repeating the German past. Liberal dignity needs German memory. Yet neither liberalism nor German memory stand on firm ground. Both are, in the German mind, creatures of history.

This is, one might say, the German paradox: Without the taboos born of the Holocaust, it is unlikely that Germany would have such restrictive bioethics policies—policies that are, in many respects, preferable to American *laissez-faire*. And without the experience of Nazi medicine, perhaps modern democracies would not have adopted firm rules against the exploitation of human subjects in research. There is a reason the Nuremberg Code was not written until 1947.

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And yet, as the Nazi taboo begins to fade in Germany, it is unclear what will ground German bioethics in the years ahead. It is unclear whether the liberal humanism of thinkers like Habermas will have any force without the sentiments of German memory, or whether German memory will have any force unless shame is connected to a positive idea of the human person, with a dignity grounded in something deeper than autonomy and equality. Without fear to constrain autonomy, what is left to persuade the autonomous will to do good? Will an aggressively secular liberalism—governed by faith in progress, not fear of the past—erode all limits on reproductive technology by appealing to the very autonomy that Habermas seeks to defend? Isn't this the fate of liberal bioethics in America, with the only reliable defenders of limits those who believe that man's dignity is a gift to be received with gratitude and reverence rather than a product created entirely by the human will?

In his 2001 Berlin Address, President Rau implored his country to find the "human measure" in the future promised by the advance of biogenetic science and technology. He said it was right for Germans to remain attuned to the legacy of their dark past. But this heedfulness, Rau insisted, was not "a special German morality." "What is permitted and what is not permitted in fundamental ethical issues" does not change from nation to nation, even if some nations stand as a special reminder of both man's capacity for evil and man's inherent dignity. Instead, finding the human measure requires a sense of awe about man as man. He cited Sophocles: "There are many wonderful things, and nothing is more wonderful than man." Wonder is very different than autonomy alone or shame alone. It appreciates the giftedness of every human life, but does not insist on the innocence of human beings. It affirms the dignity of every person, but does not ground that dignity simply in the right of individuals to make themselves into whatever they please. It seeks a way of life that fears repeating the evils of the past, but also aspires to achieve the good in the future—a future that is made both more promising and more perilous by man's technological ingenuity.

In his book's concluding essay, entitled "Faith and Knowledge," Habermas argues that the perspective of religion, even for those like himself who do not accept "theological premises," cannot be ignored in a liberal society. Religion offers a bulwark against that reason which disenchants the world; it offers a prophecy of better things to come. Habermas is compelled, too, by Hannah Arendt's idea of *natality*—the idea that each birth brings forth an entirely new and unique beginning. Out of the darkness, a new life comes into the world. "On this indeterminate hope of something new, the power of the past over the future is shattered," writes Habermas. This new person never asked to be born; he still knows nothing of the cynicism and despair of the world; he is irreplaceable and unique, a gift to be received with gratitude and responsibility. In this concrete reality—the mystery of new life and our obligations toward the next genera-



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tion—lies the greatest hope for living responsibly in the genetic age. It requires remembering the past, but also believing in the future. And it requires acknowledging that men do not live by reason and history alone, but reason guided by a sense of the enduring truth about human beings, and memory informed by an intuition of the eternal.