

## Bioethical Reflection

It is possible to observe in articles, books, meetings and even in the informal discussions of those who dedicate themselves to bioethics that the notion of what this field of study and research consists of is still restricted to the conflicts and problems established in the biomedical area, subsumed to the obstacles in the relationships between health service professionals and users, as well as to ethics in the use of technology. Although the direct relationship between health and illness with the dynamics of social life, and with the distribution of wealth and opportunities in society, is already recognized, these aspects are still treated as topics far removed from the field of bioethics.

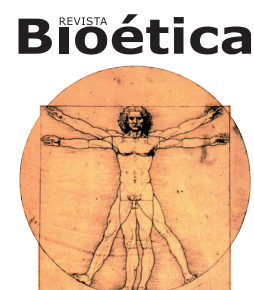
This difficulty of appropriating thinking regarding social issues refers to several factors. If it is possible to relate the term to Potter, who proposed, in the pioneering use of the “bioethical” neologism, a comprehensive and ecological perspective<sup>1</sup>. A brief survey in those first decades will show that the appropriation of “bioethical” neologism by the biomedical field limited its use, unequivocally referring bioethics to principlism<sup>2</sup>. The recognition that thinking in this field must go beyond such a restricted environment, which was promoted 12 years ago by the *Universal Declaration on Bioethics and Human Rights*<sup>3</sup>, has not yet been able to reduce the resistance to incorporate discussions focused on social issues in the field of bioethics.

This resistance can be easily understood not only as resulting from the historical process, which initially defined bioethics as related to health, but also concerning the importance of this field that mediates in the clash between life and death. It is in the knowledge developed by biomedical disciplines that people place their hopes for healing and their desire to overcome illness or even death. Considering so many impasses, it is natural that bioethical reflection on health is needed.

However, closer examination may reveal that the fact that bioethics remains confined to this area also derives from other causes. Understanding the complexity of social dynamics and its relation to the health-illness process requires analytical efforts capable of coherently articulating the interdependent relationships between phenomena. It also requires a willingness to deal with social processes involving diverse circumstances and role-players. These requirements are at odds with the pace and dynamics of medical care, which is increasingly called upon to serve more people in less time and with greater efficiency and effectiveness.

Therefore, although limiting the field of bioethics, restricting the discussion to medical practice provides some comfort, since it reinforces the feeling of control over the intervening variables in the caring process, which, by itself, already implies the quest to unravel the enigma of the disease. Adding to the puzzle of each clinical case the broad picture of social life, with its multiple determinants of illness, can increase distress and uncertainty, as it often points to chaotic scenarios in which all role-players feel powerless and lost.

Thus, the very urgency of medical practice, which daily places professionals in real battles, prevents or hinders thinking from expanding and reaching the social dimension. The most immediate consequence is that health determinants - such as the characteristics of treatment and care systems, infrastructure, professional training, and other aspects that should be addressed by bioethical reflection (for instance: the division of power, wealth and rights in society, which are determinants of epidemiological and collective health indicators) - are disconnected and incapable of producing effective responses.



Nevertheless, as much as one might want to restrict reflection to medical practice, restricting it to care practices and the use of technology, sometimes reality breaks clinics' doors, posing provoking questions, whose call cannot be ignored. Although many of these dilemmas cannot be avoided by clinical care, some need to be "looked into" so that bioethics is in fact applied ethics and does not become a mere repetition of preconceived formulas. This is the case of inequality of rights and duties between people, which places some of them in a condition of absolute subordination, granting others, by simple random phenomena, the prerogative of domination<sup>4</sup>.

As an extreme example of this phenomenon it is possible to cite slavery or the situations similar to slavery, its modern substitute. To see other human beings as things in order to take possession of their life<sup>5</sup>, reduced to the workforce, is the true *banality of evil*<sup>6</sup>, ordinarily perpetrated by all who allow themselves to be dominated by the greed of unmeasured gain. Supported by the scourge of hunger and upheld by the blight of wars, the enslavement of men, women and children is (or should be) an open wound in the consciousness of humanity.

However, this wound is not truly seen or eradicated, persisting with a slightly different appearance throughout the world. Sometimes children are taken from their homes by wars and subjected to armies and militias, other times they are sold by their parents for arranged marriages, prostitution and forced labour. Women subjugated by war and famine are also preferential victims of the slave trade. Used in forced labour or for prostitution, they enrich cartels around the world<sup>7</sup>.

Although the characteristic of submission is largely different, men are also constrained to slavery<sup>7,8</sup>. In Brazil, this group is mostly found on farms in the North and Midwest, as well as, in large cities, amongst small manufacturers of clothing, footwear and objects. Generally led to such a critical situation by false promise of employment, those who now live in a condition similar to slavery serve the enrichment projects of those who are not ashamed of prioritizing their own benefit and taking advantage of the vulnerability of other human beings.

Apparently, the symbols of wealth and power that such people gain in the process (emulated and multiplied exponentially by digital communication) fill their existential void, blurring awareness in the frenzy of media recognition and consumption. Companies and brands so well-known and desired worldwide (to the point of not needing any introduction), such as Nestlé, Nike, Zara, Carrefour, Hershey's, Apple, Coca-Cola, were recognized or acknowledged to have practiced this kind of work through the purchase and sale of products obtained through the exploitation of slavery<sup>9</sup>.

If the idea of making others into slaves was normal and did not create moral problems for those who lived at other times, being a practice that was common and admitted in ancient times in different cultures and civilizations, this prospect has become, over the centuries, more and more opposed to morality. As countries became nations, countries began to abolish slavery in their national constitutions, gradually eliminating it to some degree from everyday life. This process allows us to understand that, as time goes by, the appropriation of other people's lives began to be considered increasingly contemptible.

However, the practice continues to victimize millions of people around the world. Although statistics are not accurate, it is estimated that currently there are still between 29.8 million<sup>10</sup> and 45.8 million people subjected to slavery<sup>11</sup>. The countries with the most slave labour are India, China, Pakistan, Nigeria, Ethiopia, Russia, Thailand, Congo, Myanmar and Bangladesh: *in the list of 162 countries, Brazil appears in 94<sup>th</sup> place, with an estimated 209,622 slaves*<sup>10</sup>. Although this time we are not the "champions" of iniquity, the estimated existence of more than 200,000

people living in a situation similar to slavery, 129 years after the country's formal abolition of slavery, shows that the practice persists.

Therefore, the fact that the Brazilian government has published in October 2017 an ordinance from the Ministry of Labour (MTB) - Portaria MTB 1.129/2017 [MTB Ordinance 1,129/2017]<sup>12</sup> – which is considered internally and externally a regression in terms of guarantees of human rights<sup>13,14</sup>, cannot fail to surprise the world and shock society. Changing the provisions of article 149 of the Brazilian Criminal Code<sup>15</sup>, the document restricts the idea of slavery to the right to come and go, eliminating the exhaustive day and degrading conditions from the characterization of the offense<sup>13</sup>, as provided for in the Code: *reducing someone to a condition similar to slavery, whether by subjecting them to forced labour or to exhaustive working days, either by subjecting them to degrading conditions of work, or whether by restricting, by any means, their movement by reason of debt contracted with the employer or agent*<sup>15</sup>.

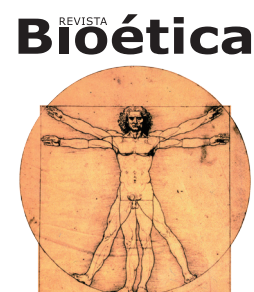
To understand how the letter of the law reflects on the ethical dimension, it is necessary to think about some terms that need to be carefully considered. One is “*subjecting*”, in the sense of obliging, subjugating, which amounts to suppressing autonomy and eliminating the *freedom of choice*.

In the law, the term - subjecting - refers to how the person is linked to the work, which according to the text can be from forced labour to exhaustive working days, aspects that would characterize the specific regime and pace of the work process. However, it is essential to add that when intensity, frequency and duration of work denote maximum use of the time and energy of the workforce submitted to these conditions, this indicates the exploitation of human beings by one another. It demonstrates conditions similar to slavery.

Another term that needs to be carefully considered to understand the law is “*restraining*”, used as the equivalent of curtailing. Its use indicates that the suppression of the person's autonomy over their own existence - specifying that they are incapable of preventing a condition harmful to themselves - is defined as a condition similar to slavery. From the perspective of the bioethics of protection, for example, *this would refer to those groups that are particularly vulnerable or literally violated (or affected), [who] are not capable, for some reason independent of their wills, of defending themselves due to the unfavourable conditions in which they live or due to abandonment by applicable institutions, which do not offer them the support necessary to deal with their affected conditions or to escape these conditions*<sup>16</sup>. Far from being subjective, the law clearly pointed out more than one condition to characterize the third-party appropriation of the labour force, defining several parameters capable of identifying conditions similar to slavery.

In the legal sphere, the measure did not go unnoticed, raising opposing opinions. Some people rejected the idea and others considered it beneficial. As reported by the media, the first assessment in this regard would have come from the Attorney General Rachel Dodge<sup>17</sup>, seconded within a few days by the decision of Rosa Weber<sup>18</sup>, minister of the Federal Supreme Court. It has been reported that the attorney general had criticized the Portaria MTB 1.129/2017 [MTB Ordinance 1,129/2017] and a ruling from the Supreme Court minister suspending the ordinance was registered, which showed her dissatisfaction with the new text.

On the other hand, media reports<sup>19</sup> state that law professors linked to renowned universities in the country and abroad considered the norm positive because, according to them, it distinguishes between slavery and work with an exhaustive or degrading day, in addition to *trying to take the subjectivity of the concept and give more legal objectivity to what is slave labour*<sup>19</sup>. The article also



brings the analysis of representatives of entities related to employers, which classified the measure as “correct”, “a breakthrough”<sup>19</sup>.

Interviewees emphasized that the measure will prevent cases where employers are charged as offenders, but in fact are not committing the crime for which they are accused. It remains to be explained what will guarantee the right of those thousands totally deprived of autonomy both in regard to the manifestation of their will and to the exercise of their option of action. What mechanism will safeguard the person whose rights are infringed by strenuous journeys and diminished by degrading work and living conditions?

The situation becomes ethically more complex when one considers another related issue, which refers to the suspension of the dissemination of the “dirty list” of slave labour by the Ministry of Labour<sup>20</sup>. In a sentence from the 11<sup>th</sup> Labour Court in Brasília, Judge Rubens Curado Silveira pointed out that *the Ministry has the duty and responsibility to publish the list, but it does not have its ownership*.<sup>21</sup>. The concern to be included in the list of companies prosecuted for slave labour seems directly related to the impediment of obtaining bank financing from public and private financial institutions<sup>22</sup>. The non-disclosure of the list constitutes social retrogression, a violating factor for groups and segments impoverished and deprived of power<sup>17</sup>.

In view of this blatant affront to human dignity and to the inalienable rights of all human beings, and especially considering the most vulnerable segments and groups of the population, who end up being victimized by this perverse measure, bioethics scholars and researchers cannot remain unmoved or impassive. We should not fool ourselves and close our eyes, considering that the issue is not related to the academic debate nor is it related to health: the life and death of people are interwoven in this measure, which blurs the characterization of modern slavery in our country and, of course, will increase the number of people whose rights have been violated<sup>16</sup>.

We need to think that, as serious as the text itself might be, its subliminal morality, which admits and applauds the “distinction” between forced, degrading, exhausting and slave labour, is equally grave. The formulation of this conceptual gradation reifies the existence of a very worrying type of moral standard, which must be the object of society’s attention. A morality that advocates to curb slavery synthesized in the right to come and go, but admits all other aspects that characterize the loss of autonomy in work relationships.

In this sense, it is fundamental to point out that bioethical reflection and the exercise of citizenship are inexorably committed to issues such as this, which transcend the professional perspective and invade the public space, demanding from everyone ethical discernment in everyday life. Working diligently and courageously for the quality of life and well-being of others is the task of those engaged in health professions. To cry out and demand the rights of those who had their rights violated, in turn, must be the goal of everyone who strives to ensure that ethics is present in the lives of all humanity.

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