

Perspective of intercultural bioethics and human rights

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Abstract

The aim of this study was to contribute to a deeper understanding of intercultural conflicts within the field of bioethics, and to identify problems associated with using human rights as a theoretical normative that mediator of bioethical conflicts characterized by interculturalism. The methodological steps adopted in this study were: an analysis of the concept of intercultural conflict in bioethics, from the perception of the Colectivo Amani; a study of human rights as tools of human culture based on Bauman's theory; and an investigation of the tools human rights offer for the solving of intercultural conflicts in bioethics. It was concluded that intercultural bioethics must apply the norms and institutions of human rights to its prescriptive and descriptive dimensions so as to ensure the participation and social integration of individuals from communities in cultural conflict. Such measures will act as tools for the solution of intercultural conflicts.

Keywords: Bioethics. Human rights. Cross-cultural comparison. Culture-social control, informal.

Resumo

Perspectiva bioética intercultural e direitos humanos

Este artigo tem como objetivo contribuir para o aprofundamento da reflexão acerca dos conflitos culturais na esfera bioética e problematizar o emprego dos direitos humanos como referencial teórico-normativo, mediador dos conflitos em bioética que apresentem elementos de interculturalidade. Os passos metodológicos adotados neste estudo foram: análise do conceito de perspectiva bioética intercultural e de conflito cultural em bioética, a partir da acepção desenvolvida pelo Colectivo Amani; exame dos direitos humanos como instrumentos da cultura da humanidade, com base na teoria de Bauman; investigação acerca dos instrumentos que os direitos humanos fornecem para a solução de conflitos culturais em bioética. Concluiu-se que a perspectiva bioética intercultural deve incorporar às suas dimensões prescritivas e descritivas os instrumentos dos direitos humanos, que concorrem para a solução de conflitos culturais, bem como as normas e instituições de direitos humanos, que asseguram a participação e integração social dos sujeitos integrantes de comunidades culturais em conflito.

Palavras-chave: Bioética. Direitos humanos. Comparação transcultural. Cultura-controles informais da sociedade.

Resumen

Perspectiva bioética intercultural y los derechos humanos

Este artículo tiene como objetivo contribuir a la profundización de la reflexión sobre los conflictos culturales en la esfera bioética y discutir el uso de los derechos humanos como un referente teórico y normativo, mediador de conflictos en materia de bioética que presentan elementos interculturales. El proceso metodológico utilizado en este estudio fueron: análisis del concepto de perspectiva intercultural bioética y del conflicto cultural en bioética desde el sentido desarrollado por el Colectivo Amani; examen de los derechos humanos como instrumentos de la cultura de la humanidad, basado en la teoría de Bauman; investigación sobre los instrumentos de derechos humanos que plantean soluciones para los conflictos culturales en bioética. Se concluyó que la perspectiva intercultural bioética debe incorporar en sus dimensiones prescriptivas y descriptivas los instrumentos de los derechos humanos que buscan la solución de los conflictos culturales, y también las normas e instituciones de derechos humanos, con vistas a garantizar la participación y la integración social de los sujetos de las comunidades culturales en conflicto.

Palabras-clave: Bioética. Derechos humanos. Comparación transcultural. Cultura-controles informales de la sociedad.

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Declara não haver conflito de interesse.

In the course of its theoretical, institutional and normative construction, bioethics has not emphasized cultural conflicts, despite the numerous conflict-laden situations involving cultural elements as a source of confrontation, controversy, and even wars, in the most varied regions of the planet. As an example, Koenig and Gates-Williams¹ highlight cultural distinctions about life and death that are reflected in themes such as the donation of organs, the response of patients to pain and the definition of the beginning of the human person. In the same sense, Searight and Gafford² stress the impact of culture on patient-physician communication in the course of the deliberative process, in the clinical arena and in the care of patients at the end of life. In fact, Porto notes that the cultural issue began in the mid-sixties to be incorporated into the debates about the quality of life of the populations, especially of groups or segments with different sociocultural characteristics³.

In this way, it is argued that bioethics, in the sense of applied ethics of a prescriptive nature, dedicated to the solution of concrete disputes in a variety of contexts, must deal with the consequences of the encounter between different cultures in the field of medicine, the life sciences and technology. Such a bioethical focus on cultural conflicts is essential to expanding its sphere of action, to the extent that by incorporating an intercultural dimension when dealing with conflicts between individuals or groups of different cultures, bioethics becomes an essential tool in the solution of issues that arise in the hospital or in the context of public policies and programs.

Thus, this article aims to contribute to the theoretical elaboration of an intercultural bioethical perspective (IBP), understood as the branch of bioethics that appropriates the foundations of intercultural studies to scrutinize conflicts marked by the clash between different cultures, in order to stimulate reflection on the constituent aspects of conflicts and contexts involved, as well as to make prescriptions and contribute to conflict resolution. In fact, it is understood that the IBP is characterized not only by its specific object, i.e. cultural conflicts, understood as conflicts between different persons or cultural groups, but also by its normative character, in that it defends respect for different cultures, overcoming the failures of ethnocentrism and cultural relativism, in search of an encounter in equality⁴.

In this way, in addition to being characterized by description of culturally based moral conflicts, the IBP also stands out by reason of its normative arguments in defense of respect for cultures and

human rights. For that to happen, i.e., with the purpose of transposing its postulates to the practical plane, IBP needs tools capable of insuring that the decision-making process in the context of cultural pluralism is not permeated by ethnocentrism and cultural relativism. On the other hand, such tools should also ensure the strengthening of interculturality, the premises of which are as follows: 1) Do not look at other cultures using your own cultural patterns; 2) seek encounter and equality between cultures; 3) promote a critical view of the cultures, with some of their elements deserving criticism⁴.

These tools to aid in decision making and mediation have both a procedural character, since they relate to the rules of decision-making procedures, and a substantive character, limiting as they do the space for deliberation, positing principles that are not at stake in this procedure. Thus, in this article, we argue that the tools mentioned are human rights, in their condition of universally shared rules of action - which corresponds to a true culture of humanity in the sense proposed by Bauman⁵.

The methodological steps adopted in this study were: 1) Analysis of the concept of IBP and cultural conflict in bioethics, in the sense developed by the Amani Collective⁴; 2) an examination of human rights as an instrument of the culture of humanity, based on Bauman⁵, with contributions from Rorty⁶; 3) research about the instruments that human rights provide for the solution of cultural conflicts in bioethics, in order to develop a conception of IBP based on human rights. Subsequently, the topic is approached from the viewpoint of IBP, emphasizing the related moral conflicts.

The Intercultural Bioethics Perspective: descriptive and normative dimensions

Under this topic, we discuss the concepts of culture adopted in this article, formulate a proposal for IBP, and finally, demarcate the notion of culturally based bioethical conflict.

The study of IBP requires dealing with the previous question related the concept of culture. Considering the scope of this work, we decided to discuss the issue within a single theoretical framework, that of Bauman⁵. Our theoretical considerations commence with an approach to culture as a concept, recognizing the ambiguity of the term because of the existence of various schools of thought that historically converge around the same term. According to Bauman, there are three different concepts of

culture that systematize its content and emphasize the different aspects that constitute it: culture as an hierarchical concept; culture as a differential concept; and the generic concept of culture.

Starting with a brief allusion to the hierarchical concept, culture means a quality of a person, the “educated”, and thus correlates with the following terms: *educated, polite, courteous, refined*⁷. Turning to culture as a differential concept, its use sheds light on the visible differences among communities of people. The differential concept is incompatible with the idea of cultural universals, and the only universal that fits this concept concerns the human characteristics common to the species.

According to Bauman, the plurality and singularity of cultures became such a paradigm among anthropologists that it constituted a “fact” requiring no verification or proof. On the other hand, the differential concept is tied to the understanding of culture as a *closed system of characteristics that distinguish one community from another*, so that if each culture constitutes a closed, cohesive, singular entity, the disagreements between cultures are seen as a clash between *distinctive and coexisting cultural totalities*, making the idea of “cultural shock” an “evident truth”⁸. Thus those who cling to the differential concept of culture cherish the uniqueness of the cultures and judge the mixture of cultures to be something abnormal and reprehensible⁵.

The generic concept of culture connects to attributes shared by all members of the human species, distinguishing it from the others. This perspective includes culture as something inherent to the human being, and therefore a concept encompassing universal human aspects. For example, man is the only animal who laughs, makes tools, and produces art, moral prohibitions and symbols; that is to say, there is a set of elements constitutive of the human species that are universal, and which can be defined as human culture.

In this sense, the culture of humanity is one, and the cultures that are forged in different social, economic, and environmental spheres are portions of the whole. The generic concept of culture is also anchored in the understanding that despite the specificities of each human community, human beings share a list of basic needs that if not met, precludes the existence and the very survival of the species. Thus, regardless of idiosyncratic characteristics of human groupings, it is well known that the language and the production of symbols constitute the *universal basic core of human culture*⁸.

Based on the concepts of Bauman, this study adopts specifically the differential and the generic concepts of culture, understanding that human communities have particular cultures; however, this empirical observation does not lead to a denial of the existence of a culture of mankind, into which the individual cultures converge and with which they share their elements.

The study of the IBP entails a prior distinction between non-normative and normative approaches to bioethics⁹. The non-normative, descriptive approach to bioethics deals with the factual description and explanation of behavior and moral views. The normative approach focuses on basic principles that govern moral life and on the design of standards of conduct for action. Taking into account this distinction, the IBP, from a non-normative point of view, takes as its object of study the description and understanding of culturally based bioethical conflicts, through the analysis of the moral behavior of different cultures and their disagreements. This being the case, the descriptive IBP is anchored in the differential concept of culture, i.e., that differentiated communities feature natural moralities, as well as approximating an understanding of multiculturalism as a social phenomenon⁴.

From the normative viewpoint, the IBP assumes a system of moral principles and prescribes ways to accomplish its implementation⁹. Thus it is grounded in both the meaning of interculturalism, as *reference to the equal value of each culture*¹⁰, and the generic concept of culture. The principles and moral guidelines governing the IBP can be subdivided into principles of interculturalism, the intercultural dialog and the equal value of all cultures, and principles of human rights.

Starting with the descriptive IBP, the definition of conflict shows itself to be an arduous task, to the extent that there are different approaches, such as the social psychological and the sociological⁴. In the light of social psychology, conflicts can be defined as situations in which the actors are pursuing different goals, defend contradictory values, have opposing or different interests, or are simultaneously and competitively pursuing the same goal. Using a sociological prism, the sociology of conflict defines it as a situation in which there coexist purposes and values that are irreconcilable between people or peculiar to each. Thus culturally based conflict, in general, can be understood as a situation of conflict between people or groups of people of different cultures.

Culturally-based conflict is to be found in situations explicitly marked by cultural differentiation

between the parties involved. In such cases, we must pay special attention to the cultural factor, which will interfere directly in the process of interaction and communication between those concerned⁴. From the point of view of the IBP, culturally based bioethics is understood as a divergent moral situation involving parties from different cultures, related to medicine, the life sciences and associated technologies when applied to human beings, as in the description of the object of bioethics in the *Universal Declaration on Bioethics and Human Rights*¹¹.

The IBP of a non-normative nature is not only anchored in the fact of moral diversity, but also brings to bear as guiding principles intercultural dialog and the equal value of the cultures, as well as human rights, which will be treated later in this paper. Intercultural dialog surpasses ethnocentrism, which implies approaching a culture from the perspective of one's own culture, causing lack of understanding, paternalism and unequal treatment among the parties involved in cultural conflicts⁴.

In the same sense, interculturalism outweighs cultural relativism, understood as the analysis of a culture taking into consideration only standards of internal evaluation. The risk of relativism is that it may abort any critical view of a particular culture, preventing the rejection of certain traditional practices or the struggle against them; establishing that each traditional community remains limited to its own space, secluded from the possibility of encounters between cultures⁴; and finally, endorsing discriminatory or ethnocentric cultures.

In upholding the principle of the equal worth of cultures, interculturalism advocates the dismantling of the whole idea of cultural superiority, thus limiting the ethnocentrism of the parties to the conflict¹². Along these lines, to the extent that it problematizes the employment of the tools of one culture to understand another, the diatopian hermeneutic contributes to meeting in equality and to bridging gaps between two different cultures¹³. For Santos, the scope of the diatopian hermeneutic includes expanding to the *maximum the awareness of mutual incompleteness, through a dialog that takes place, so to speak, with one foot in one culture and the other in another*¹⁴; i.e., the author is dealing with intercultural dialog, which will be covered later.

Thus, as regards the principle of intercultural dialog, it should be noted that interculturality denotes the *construction of spaces of collective participation between different cultures*¹⁵, within which will occur intercultural dialog, of a dialogical nature. In fact, Panikkar¹⁶ proposes dialogical dialog as a

way to deal with a pluralistic conflict, which presupposes mutual openness toward the other and the recognition of the incompleteness of the cultures. Intercultural dialog *goes beyond mere tolerance or formal respect*¹⁰; moreover, it implies a cooperative attitude among the participants, who are sincerely trying to reach agreement¹⁷.

According to Panikkar, the search for "homeomorphic equivalents"¹⁶ forms a part of the intercultural dialog, because the dialogical conversation between people or groups of different cultures demands not only the literal translation of the language, but mainly the creation of methods to promote the understanding of symbols⁴ of one determined cosmovision in another, through the search for terms whose meaning is closest to the meaning in the language of another culture¹³. Intercultural dialog requires understanding between the parties involved in the conflict through taking an open stance toward the different and building bridges across the interpretative schemes of culturally apprehended reality, with a view to the construction of shared symbols and meanings.

The IBP - whose focus is on culturally based conflicts, reflecting on them, normalizing them and mediating them through instances of the institutional dimension - as will be seen later in this paper - requires both respect for equality between cultures and intercultural dialog, with the fair and balanced participation of all the parties involved¹⁸. Next, human rights will be discussed as principles and universal standards, constituents of the culture of humanity.

Universal human Rights: constituent aspects of the culture of humanity

Currently, it is striking that people live with a plurality of cultures, not belonging to just one cultural community¹⁹. Even traditional communities interact with those who do not belong to them and who act as transmitters and receptors of beliefs, values, customs and other components of culture. Thus arises the notion that culture is a device of adaptation, since cultures change historically and are not something static, and changes may come to enrich them⁴. Likewise, cultures are experienced differently by their members; the members of a cultural community are never homogeneous in all aspects, because each brings multiple social identities²⁰.

Thus, given that cultures modify themselves and change through the influence of other cul-

tures, and that their members share differently in the cultural elements that comprise them, an inexorable openness of cultures and their members to elements external to them is to be noted. The movement of openness provokes the incorporation of non-original languages - which, by itself, cannot be seen as positive or negative for the maintenance of the social texture of that social group.

In addition to the vision of differences between cultures, there is a culture of humanity, composed of aspects widely shared by members of the human species. Among these common elements are moral norms which are basic for social fellowship and which crisscross cultures - which does not imply the observance of these norms by everyone, without distinction. Anchored in this understanding, this article sustains that human rights, anticipated in international treaties, are norms of conduct widely shared by the different cultures, in such a way that they constitute the culture of mankind; nevertheless, it recognizes that some of those rules are having problems being put into practice. Without aiming to refute the varied arguments against the universal conception of human rights, it is opportune to cite philosopher Richard Rorty, in an attempt to add theoretical underpinning to the sense of human rights as the culture of mankind. Differently from the Western tradition, Rorty does not anchor them in rationality, but rather in human sentiments common to all the members of the species.

Actually, Rorty⁶ points out that to overcome the view of the other as “quasi human”, not deserving of the same respect and consideration, implies searching for what we all have in common: our humanity, a shared constituent element considered critical for integrating the other into the moral community. Thus despite their trivial differences, whites and blacks, men and women, Christians and Muslims, heterosexuals and homosexuals, have something that unites them and makes them equal, permitting the construction of a moral community in which everyone has the same intrinsic value. According to Rorty, the accomplishment of this result is only possible through affective education, not by a simple utilitarian calculation or engagement in a process of public deliberation. By producing generations of gentle, tolerant, secure persons, respecting others, the culture of human rights will be strengthened.

In this article, we have sought to assess Rorty's contribution to the concept of a culture of mankind developed by Bauman; there has been no attempt to discuss the complexity of putting human rights into effect. In contrast to Santos's¹⁴ proposal, universal-

ty is not question of Western culture specifically, but rather an aspect which is fundamental for all vulnerable individuals, regardless of their culture. Women, children, indigenous people and economically marginalized groups are the bearers of human rights, and recourse to these instruments with the purpose of demanding that national governments and international organizations put them into practice is an undeniable advance. In the next topic, the theme or human rights as norms of conduct underlying the IBP will be discussed.

The Intercultural Bioethical Perspective based on human rights

The scope of this part of the article is a contribution to the development of a IBP based on human rights. The proposal takes as its starting point the assumption that human rights are not the only theoretical reference point capable of dealing with culturally based moral conflicts. As Lorenzo²⁰ proposed, ethical decisions in intercultural contexts can be grounded in the Habermasian model of dialog. While recognizing the suspicions that universalistic claims provoke in certain schools of contemporary philosophy^{3,21}, an IBP based on human rights necessarily takes as its starting point its universality and transcultural acceptance.

Because of undue association, the biomedical paradigm is imposed in a generalized manner, reinforcing the asymmetry of power among the interlocutors, in cases in which the cultural particularities of the minorities do not correspond to the parameters accepted by the majority. In this sense, human rights are the foundation of a IBP which is procedural and substantialist²². The focus of the IBP, with its three dimensions (theoretical, institutional and normative)²³, is the institutional dimension; that is, bioethical institutions such as ethical review committees, hospital ethics committees and national bioethics committees, that cooperate with those involved in moral conflicts, seeking a solution through intercultural dialog¹¹.

From a procedural viewpoint, prescriptions of concrete moral contents are not sought, but rather the introduction of procedures that make it possible to legitimize or de-legitimize procedural norms that underly processes of resolution of culturally-based moral conflicts. In the light of substantialism, the IBP opts for shared norms of conduct²². Thus via the procedural bias, human rights rest on a series of norms of conduct that must be observed by the par-

ticipants in the decision making process in concrete cases, or moral conflict mediation through adoption of intercultural dialog. Thus determined human rights are to set the agenda for the bioethical institutions mentioned above, when adopting procedures designed to resolve culturally based moral conflicts.

In effect, the cultural rights of those involved, defined in Article 27 of the *Universal Declaration of Human Rights*¹¹ and in Articles 13 and 15 of the *International Pact on Economic, Social and Cultural Rights* (IPESCR)²⁴ are to be respected by all concerned in the dialogic procedure. The cultural rights are fundamental to the protection of individual members of minority groups, in that they permit the defense of their life style against the incursions of other communities, especially the State²⁵.

People's right to participate in decisions that concern and affect them, their right not to be discriminated against and the right to freedom of expression should be highlighted. The right to participation implies that those involved in conflict can take part in decision making or mediating processes. The right not to be discriminated against implies respect for their beliefs, religion, values and life style. For example, people of African descent in Brazil have been suffering discrimination because of the practice of *candomblé*²⁶. This discrimination is reflected in culturally based moral conflicts, in which the followers of *candomblé* demand recourse to traditional practices that help them in the treatment of diseases, in contrast to practices considered correct by the majority.

Through a substantialist prism, the principle that governs the human rights based IBP is what is found in Article 12 of the *Universal Declaration of Bioethics and Human Rights*: the principle of respect for cultural diversity and pluralism, with the proviso that such considerations must not be invoked to violate human rights¹¹. The same idea is found in the *Universal Declaration on Cultural Diversity*, also by UNESCO, signed in 2012²⁷. In effect, as Beuchot 28 points out, the human rights serve as a limit for determined cultural practices; nevertheless, it must not be forgotten that an ambient of respect for cultural differences and those of other orders is a *sine qua non* for the flourishing of human rights.

Determined practices which are harmful to women and children, such as early marriage, collective rape as a form of justice between communities, and homicide of women in the name of honor, must not be tolerated under a cover of being cultural practices. Among other things, because certain cultural practices reflect patriarchy, asymmetrical

power relationships, discrimination against women and subjugation of children. Thus ethical review committees, hospital ethics committees and national bioethics committees must adopt human rights as the backdrop for the ethical analysis of the justice and correctness of a determined conduct. Although the importance of legitimate dialogical procedures anchored in human rights is recognized, it is admitted that they are insufficient for reaching effective decisions, the fruit of agreement among the parties. There exist limits that are imposed on the parties involved in culturally based moral conflicts; i.e., certain conducts are a priori unacceptable, inasmuch as they are in conflict with the norms of human rights.

In the resolution of culturally based moral conflicts, it is important to distinguish between two types of conflict: conflicts in which there is no presence of violation of human rights and conflict in which there is violation of human rights. In the first type of conflict, there is moral disagreement on determined conducts, but situations of violation of human rights are not present. In the second case, besides moral disagreement, the practices regarding which there is disagreement constitute a violation of human rights. It is important to clarify that violation of human rights is characterized as conduct perpetrated by the State, through action and omission, in infringement of international human rights treaties.

According to the typology of human rights obligations, the State has three obligations: to respect, to protect and to promote; thus violation presupposes noncompliance with one or more of these duties. One example of noncompliance, in this case with the duty to respect, is when the State acts in direct violation of human rights, torturing citizens for political reasons or any other other reason, or when the State is remiss in failing to adopt measures of protection of the population designed to impede the violation of their human rights; and lastly, with regard to the duty to promote, it is when the State fails in the execution of programs and policies and in the creation of administrative and legislative measures aiming to put human rights into practice.

A certain degree of subjectivity is recognized in the identification of a determined practice as a violation, or not, of human rights. However, the official declarations by UN human rights bodies in that sense, such as the resolution adopted in December 2012, calling upon all member countries to eliminate female genital mutilation²⁸. There are global consensus, achieved at the venues of dialogical construction of the UN, regarding conduct in violation of human rights. Considering that con-

licts can be analyzed casuistically or in the abstract, the bioethical institutions responsible for such examination must take into account the previously established international standards, as well as the principle of maximum protection of human rights. At any rate, considerations regarding the presence or absence of human rights violations in a determined conflict must precede the application of the IBP instruments proposed in this article, because such definition will determine the subsequent manner of treatment of the culturally based bioethical conflict.

To illustrate a conflict in which there is no violation of human rights, consider the case of Lorenzo²⁰, concerning a child of Tucano ethnicity who was bit by a jararaca snake and interned in a health unit in Manaus. At that unit the child's father requested the entrance of the shaman, so that the child might be submitted to treatment in accordance with his own culture. As the request was denied, the father took legal action to withdraw the child from the health unit. The director of a hospital in the region proposed to the father that the child be interned in the intensive care unit (ICU) and submit to Western medical treatment, along with the traditional forms ministered by the shaman. The proposal was accepted by the father, and the report culminates with the healing of the child. In this example, we see that there was a culturally based bioethical conflict concerning the treatment of the child; however, it is clear that none of the parties involved practiced any act in violation of the human rights of the child. Both acted to safeguard his health.

In contrast, in conflicts of the second type, as in the case of indigenous infanticide and female genital mutilation, there is violation of the human rights of children and women, even though the contexts in which such practices occur are clearly different. In these cases, the principle of respect for cultural diversity and pluralism is respected, according to which cultural diversity and pluralism must not be invoked to justify the violation of human rights. Thus such practices are rejected, even though the fact of conceiving them as violations of human rights may not constitute an incentive for immediate cultural changes; rather, effective intercultural measures in that direction are required.

Thus with regard to the resolution of culturally based moral conflicts by bioethical institutions, two kinds of procedure are distinguished, depending on the type of conflict. Conflicts in which there is *no* violation of human rights may be resolved through Habermas-based intercultural dialog²⁰, and the adoption of human rights as a yardstick for the procedure of deliberation among those concerned.

Among these rights are the right to express themselves in their own language, the right to choose and exercise their cultural practices, the right to participate in decisions that concern and affect them, the right not to be discriminated against, and the right to freedom of expression.

Conflicts in which *there is* the presence of violation of human rights depend, in addition to encouragement of intercultural dialog, on measures of another nature, in view of the very violation of the human rights of vulnerable groups. Nevertheless, it should be stressed that these measures must respect the cultural rights of those involved, and all those mentioned above. It is important to point out that the determination of the measures depends on the verification of the type of practice which is the object of conflict, i.e. 1) whether it is a traditional practice of a cultural minority, 2) whether the traditional practice is that of a hegemonic cultural majority. In the first case, interventionist measures, without respect for cultural specificities, are to be rejected, at the same time that the intercultural approach calls for perception of the culture under analysis, cleansed of an ethnocentric way of seeing, eliminating negative stereotypes and seeking a relationship of empathy with the culture. Thus it is understood that strategies based on intercultural mediation⁴ are appropriate for conflicts in which violation of human rights has been detected.

In the second case, when traditional practices reflect the position of inferiority of women and children in a given patriarchal society, intercultural dialog and mediation are insufficient for the resolution of culturally based moral conflicts. Employing the strategies of the United Nations Fund for Population Activities (UNFPA) to deal with female genital mutilation, the following measures stand out: 1) alteration of national legislation to prohibit the practice, without necessarily criminalizing it, signaling its disapproval by the State; 2) promotion of public campaigns; 3) empowerment of communities to debate the issue and reach an internal consensus; 4) informing the communities regarding the consequences of the traditional practice for health; 5) public declarations of influential members of the communities, as a form of persuasion; 6) participation of religious and community leaders as change agents²⁹.

As for the activities of the bioethical institutions, it can be verified that the ethical review committees and the hospital ethics committees frequently deal with conflicts in which there has been no violation of human rights, and that most of these conflicts concern the relationship between the sub-

ject of research and the researcher or sponsor, and between the patient and the health professional - relationships which despite being asymmetrical, are usually permeated by the ethical performance of the parties involved. As for conflicts in which there has been violation of human rights, they will be handled by national bioethics commissions, because they involve practices in violation of the human rights of vulnerable groups.

Thus the IBP deals with culturally based conflicts, with or without violation of human rights. Consequently, the bioethical institutions that are to apply it in the resolution of this kind of conflict must be attentive to the different ways of dealing with them. Nevertheless, their behavior must always be oriented by the human rights norms, whether in terms of procedure or from a substantialist perspective.

Final considerations

Culturally based moral conflicts are a reality in a large part of the globe. Different cultures give rise to medical or sanitary practices, or those related to the life sciences, that are also differentiated - which may lead to dissensus regarding their morality. It is extremely important that bioethics, as ethics applied to moral issues, concern itself with such questions, demonstrating its connection with the world of life and its role as a relevant instrument for ordering social life. Designed to make specific theoretical contributions for dealing with culturally based moral conflicts, the equality of cultures in intercultural dialog, as a precept orienting decision making and intercultural mediation, implies rejecting ethnocentrism and cultural relativism.

The theoretical-normative reference point for human rights as an ethical agenda which is both procedural and substantive, given its condition as an

integral element of the culture of mankind, and its role in the defense of different cultures, especially those in a minority, is essential. Thus human rights, which are universal in that all members of the human species are entitled to them, reveal themselves to be a unique instrument in the defense of vulnerable groups and the rejection of authoritarian governments and practices. This is expressed in the use of human rights by indigenous peoples to enforce their rights before the InterAmerican System of Human Rights, and by nongovernmental organizations in countries where there are harmful traditional practices, such as child weddings, female genital mutilation and honor killing of women.

It is by virtue of their universality in the defense of vulnerable groups that the construction of the IBP based on human rights, through which culturally based moral conflicts and intercultural mediation, procedurally grounded in the cultural rights, the right to participation, the right not to be discriminated against and the right to freedom of expression, was proposed. In the case of culturally based moral conflicts in which there has been violation of human rights, beyond the human rights that orient dialog and cultural mediation, it will be necessary to have recourse to the principle of prevalence of human rights, thus rejecting arguments of authority in terms of the predominance of the cultures over the rights of any human being not to be submitted to torture, cruel, inhuman or degrading treatment, and others of the same nature.

Finally, it should be noted that strategies for the resolution of culturally based moral conflicts, which, regardless of their nature, are anchored in human rights, start from the assumption that there is no hierarchy among cultures and that protection of the vulnerable, regardless of the cultural community of which they are members, is the inexorable duty of the State.

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