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**Self and Other in Global Bioethics:
Critical Hermeneutics and the Example of Different Death Concepts**

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Abstract

Our approach to global bioethics will depend, among other things, on how we answer the questions whether global bioethics is possible and whether it, if it is possible, is desirable. Our approach to global bioethics will also vary depending on whether we believe that the required bioethical deliberation should take as its principal point of departure that which we have in common or that which we have in common *and* that on which we differ.

The aim of this article is to elaborate a theoretical underpinning for a bioethics that acknowledges the diversity of traditions and experiences without leading to relativism. The theoretical underpinning will be elaborated through an exploration of the concepts of sameness, otherness, self and other, and through a discussion of the conditions for understanding and critical reflection. Furthermore, the article discusses whether the principle of respect for the other as both the same and different can function as the normative core of this global bioethics.

The article also discusses the New Jersey Death Definition Law and the Japanese Transplantation Law. These laws are helpful in order to highlight possible implications of the principle of respect for the other as both the same and different. Both of these laws open the door to more than one concept of death within one and the same legal system. Both of them relate preference for a particular concept of death to religious and/or cultural beliefs.

Keywords: global bioethics, hermeneutics, self, other, sameness, difference, culture, death concepts

**Self and Other in Global Bioethics:
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I. THE CHALLENGE OF GLOBAL BIOETHICS

Global bioethics, some claim, is problematic. It needs to do justice to the “traditional *ethos* of each region” but this is not easily achieved (Sakamoto 1999). Others claim global bioethics to be not only a difficult, but a dangerous enterprise. It can result in a moral neo-colonialism where certain Western ideas are claimed to be universally valid at the expense of alternative approaches (Bauer and Bell 1999).¹ Still others acknowledge the relevance of these concerns, but claim global bioethics to be a practical necessity and desirable (Widdows 2007). New infectious diseases with a global impact, the need for transnational research in this field, the global migration of labour force and refugees, the global trafficking in women and children and the phenomenon of medical tourism (where people travel abroad to get medical treatment that at home is illegal, more expensive or difficult to get for other reasons) make the call for global bioethical deliberation important. The desirability of a global bioethics rests, in this reasoning, on its global impact.

The concept of global bioethics is open to interpretations. It may be understood as a set of norms that rest on universal values (a meta-ethical view) or as a set of standards, norms or principles that have gained or can gain some kind of global acknowledgement. These interpretations can, of course, be interrelated. Global bioethics may also be understood as a statement of achievement: bioethics has become a “global field of inquiry” (Holm and Williams-Jones 2006:1).² In this article, global bioethics is understood as a set of standards, norms or principles that – hopefully – can gain some kind of global acknowledgement. The article focuses on the *conditions* for such a global bioethics. Its aim is to elaborate a theoretical underpinning for a bioethics that recognises the diversity of traditions and experiences without leading to relativism.

Global bioethics has been much debated (see for example Engelhardt 2007). Our approach to global bioethics will depend, among other things, on how we answer the questions whether global bioethics is possible and whether it, if it is possible, is desirable. Our approach to global bioethics will also vary depending on whether we believe that the required bioethical deliberation should take as its principal point of departure that which we have in common or that which we have in common *and* that on which we differ. I concur with those who claim global bioethics to be important for handling medical situations such as those mentioned above. However, I will argue, the desirable global bioethics need to recognise that the diversity of human traditions and

experiences is crucial in the elaboration of a set of standards, norms or principles that can gain global acknowledgement. It needs to acknowledge both the sameness and difference of human selves, both that which we have in common and that on which we differ, and it needs to take these selves' lived experiences as necessary starting-points for reflection and action.

The alternative and in my view problematic approach to global bioethics starts with a search primarily for sameness. It implicitly or explicitly assumes that the sameness of me and the other (i.e. that which we have or hold in common) is what matters most for the elaboration of global bioethical standpoints. This is done, as an example, when it is held that there are four ethical principles that can be derived from a common morality, shared by all “morally serious persons” (Beauchamp and Childress 2001:3,12) that should be taken as starting-points in global bioethics. This is also done, M.C. Rawlinson and A. Donchin (2005) suggest, when the UNESCO *Universal Draft Declaration on Bioethics and Human Rights* (2005) fails to acknowledge that cultural diversity is an important resource for generating universal norms – and not a threat to this work.

Engaging in a bioethics that focuses both on sameness and difference can be hard work. Nevertheless, I will argue, because this global bioethics does not gloss over differences, it has the potential to result in understanding and critical examination in a way that a bioethics that focuses primarily on sameness has not. Though there are difficulties with this global bioethics, this approach is less problematic than a global bioethics that starts primarily with a focus on sameness.

The theoretical underpinning for the global bioethics I have in mind will be elaborated through an exploration of the concepts of sameness, otherness, self and other, and through a discussion of the conditions for understanding and critical reflection. A bioethics that seeks to gain global acknowledgment will benefit from making these conditions explicit. I use the concept of the other as both the same and different. In this way, I try to take Luce Irigaray's (1974) warning against the “blind spot of an old dream of symmetry” seriously, where the wish for symmetrical relations with the other may deny the other's difference. I also concur with Iris Marion Young (1997:347) in holding that we, as selves, are *not* so “totally different that we can see no similarities or overlaps” between each other's lives, but that we often also find ways in which we “are strange to each other.”³ Just as someone else is both the same and different from me, so am I in relation to her or him. In this sense, there is an “asymmetrical reciprocity” (Young 1997:341) in this conception of the other.⁴

The first part of the article explores the implications of a critical hermeneutics for this global bioethics. It also discusses some of the difficulties that this bioethics faces. The second

part discusses whether the principle of respect for the other as both the same and different can function as a normative core of this global bioethics.⁵ This principle allows a positive view of cultural differences at the same time as it sets certain procedural and substantial limits for bioethical deliberation.

The second part also discusses the case of the New Jersey Death Definition Law (New Jersey Statutes 1991) and the Japanese Transplantation Law (*Zoki no Ishoku nikansuru Horitsu*, July 16th, 1997, Law no. 104 of 1997). These laws are helpful in order to highlight possible implications of the principle of respect for the other as both the same and different. Therefore they will be presented in some detail (for further discussion of these laws, see Zeiler 2008). Both of these laws open the door for more than one death concept within one and the same legal system. Both of them allow individuals who do not share particular death criteria to have alternative death criteria applied to their own deaths. Furthermore, both of them relate preference for a particular concept of death to religious and/or cultural beliefs. It has been said these laws signal “a new direction” as regards policies and laws in this area (Olick 1991:285.)

II. CRITICAL HERMENEUTICS AS A FRAMEWORK FOR GLOBAL BIOETHICS

Hans-Georg Gadamer (2004:179) tells us that the “effort of understanding is needed wherever there is no immediate understanding, i.e. wherever the possibility of misunderstanding has to be reckoned with.” While a distinction between “simple misunderstandings” and “pathological or ideological distortion” such as that involved in systematic exploitation of others is helpful (Ricoeur 1981:97), the possibility of misunderstandings is evident in global bioethical discussion. Understanding, therefore, becomes one of its primary tasks.

There are certain conditions necessary for understanding. We cannot understand, at all, if we do not understand from within our own tradition. Furthermore, we need to acknowledge that we are conditioned by historical circumstances and that we necessarily harbour certain prejudices or pre-judgments; these prejudices can become visible to me only in the conversation with the other who is different from me. In this sense, I can only reflect on (some of) my prejudices and at least partially avoid the “tyranny of hidden prejudices” when (parts of) my historical embeddedness is made conscious to me (Gadamer 2004:272).

This, however, is not easily done. As shown by Sara Ahmed (2007) in her phenomenological analysis of the concept of orientation, certain things (such as lines of thinking or actions) will be “within reach” and others will not depending on how we are “oriented.” In this reasoning, orientation is about starting points and about what is near to us and what is

reachable. Just as each self perceives things “in a certain orientation,” from a particular side depending on where the self’s “here” is (Husserl 1989:166), orientations are about “how we proceed from ‘here’” and about how the world unfolds from “here” (Ahmed 2007:151).

What is reachable will depend on how I am oriented. Furthermore, my orientation takes place in relation to others’ orientations. To be oriented is both about how I find my way in the world and how I inhabit and come to “feel at home” in this world of shared inhabitance; how others have inhabited and inhabit the world matter for my orientation. Ahmed highlights this when she describes the phenomenon of being “in line:”

We are “in line” when we face the direction that is already faced by others. Being “in line” allows bodies to extend into spaces that, as it were, have already taken shape. Such extensions could be redescribed as an extension of the body’s reach [...] the body gets directed in some ways more than others (Ahmed 2006:15).

There is a critical potential in this perspective. When I reach for that which is “just about reachable” or, indeed, when I lose my orientation, this can enable my questioning of what I previously took for granted. However, Ahmed’s concept of orientation also helps us see the power of the familiar, including our prejudices. Because of us being conditioned by how others have inhabited and inhabit the world, we become “directed in some ways more than others:” we become directed towards certain ways of thinking more so than others. This indicates that a thorough self-questioning can be very difficult. Even if conversation with the other can *enable* my questioning of my own prejudices, this questioning will (probably) only be partial.

Self-questioning is important in global bioethics in order – as an example – to avoid moral neo-colonialism. It requires that we see what we have taken for granted. It takes place in-between the familiar (the same) and the unfamiliar (the different). This is also where understanding takes place (Gadamer 2004:295).

Understanding that which the other says necessarily takes place from another point of view (mine) than the original one (the other’s) and this distance between (a reader and a text, or between) two persons is a productive distance. This is the case since understanding that which the other says is not a matter of mirroring oneself in the other. It is a matter of exposing oneself to the other and by so doing receiving a “richer self” by acknowledging the variation of possible worlds that interpretation makes intelligible (Ricoeur 1991). With this imagination and because of the distance between those engaged in conversation, hermeneutical understanding has in it the

seed of productive critical reflection. Still, critical reflection can result in an objectification of the other that is detrimental both to understanding and self-questioning.

This is also the idea that lay at the heart of Gadamer's (2004) well-known paradigm for understanding the other: the I-Thou relationship characterised by openness. On the one hand, Gadamer says, when we enter into such a relationship, we should avoid the temptation to objectify the other and the temptation to rise above the other (through "reflection") in a self-other dialectic. Trying to rise above the other results in the loss of openness and immediacy of the I-Thou relation, which is negative for the process of reaching an understanding.⁶ We shall not claim to understand the other better than s/he understands her- or himself. On the other hand, Gadamer also says, this does not mean that we are not allowed to question that which the other says provided that it is done with a respectful and constructive attitude. Indeed, it is desirable to allow criticism within hermeneutics of that which is being said for the sake of achieving understanding (Gadamer 1989:55).⁷ If global bioethics seeks to enable understanding, communication and the negotiation of possible conflicts, then global bioethical deliberation will benefit from making these conditions for understanding and questioning explicit.

The limits of well-meaning questioning

Of course, these conditions for understanding and questioning will not always be met. It needs to be asked why I should engage in a well-meaning questioning with a racist or a misogynist or why marginalised persons in positions of subservience should engage in such questioning with their oppressors. Is not the best alternative, sometimes, to walk away?

On the one hand, and as seen above, there are difficulties involved both in self-questioning and in the questioning of others. I agree that conversation can, at times, be detrimental to those engaged in it and that the only viable alternative can be to walk away. Understanding is not achieved. Conflicts arise. A global bioethical stand-point on the issue discussed is not reached. Scenarios as these are not hard to imagine. I see two main reasons why we should engage in this kind of global bioethics even if it can be detrimental to us. We should do so because of the need for global bioethics in the medical situations mentioned in the beginning and because of the conditions for understanding in the first place. If understanding is a first step in global bioethics and if understanding takes place in-between the familiar and the unfamiliar, then we need to listen to each other - if we want to engage in global bioethics at all.

On the other hand, scenarios in which conflicts arise highlight the importance of a *normative core* that sets certain limits for what should be said in the global bioethics encounter and for how

what is said should be said. I will soon discuss whether the principle of respect for the other as the same and different can function as such a normative core. Before engaging in this discussion, I will use Seyla Benhabib's (1992) distinction between the generalised and the concrete other, and argue for the importance of encounters with concrete others for critical reflection.

The limits for understanding: the importance of the concrete other

The *generalised* other is someone who is in the morally relevant respects assumed to be more or less as I am. I can understand her or his point of view if I start in my own experience and generalise to this other's point of view. The *concrete* other is the other who is different and distinct from me; I cannot understand her or his point of view only by starting from my own experience (Benhabib 1992). Her or his story is nothing that I can come up with or tell *for* her or him. If this was the case, the concrete other would be reduced to the generalised other. Still, the concrete other is not completely other (which would make communication impossible).

This distinction is helpful in order to clarify the limits of the self's imaginative act. Certainly, moral imagination can take me beyond what I have empirically experienced. It can help me imagine myself differently. Still, when I engage in this imagination by starting in my own experiences, it is still I that imagine, and the personal structure of my imagination sets its limits. While I can imagine myself acting in different ways and imagine others who respond to my acts or non-acts, imagined others remain the products of my imagination. This being the case, imagining the generalised other can enable a certain amount of criticism, but it is the concrete other that can act in ways *beyond* my imagination. For this reason, encounters with concrete others can extend my thinking beyond what I would have come up with had I only used my imagination.⁸

The otherness of the concrete other can allow a radical ethical self-criticism. It is this space of difference between me and the other that enables the necessary questioning of my ethical reflection, the ethics of the practices in which I am involved and their possible universal claim. Only as a concrete other can I enable the radical ethical reflection of someone else. This means that the otherness of the concrete other should not be overcome.⁹ This also highlights, however, that there is a limit also to the kind of understanding of the other and the self-criticism that the concrete other can enable. While listening to the concrete other, I may understand parts' of her or his experiences. Yet I cannot put myself, with my own perspectives and privileges, in the position of the other and by so doing understand her or him fully. I cannot understand from within the other; listening to the other will "not carry me into the standpoint of the other person [...]"

but only into a mediated relation between us” (Young 1997:349). This attitude of respect for the impenetrability of the otherness of the other is beneficial for dialogue and global bioethical deliberation.

II. THE NORMATIVE CORE

A constructive, critical reflection can of course be enabled if it takes place in an environment where people with strongly different views on an issue can listen to each other and critically examine their own and others’ thoughts and acts. The other may, however, reason or act in ways that challenge what still others take to be fundamental ethical norms. Conflicts may arise. This highlights the need for a normative core of global bioethics.

I suggest that the principle of respect for the other as both the same and difference can function as such a core. This principle is not typically articulated from within a Western philosophical tradition (a criticism that has been directed towards concepts of human rights, see Bauer and Bell 1999). In a global bioethics, and keeping in mind the criticism of moral neo-colonialism, this is beneficial. The principle allows us to set certain procedural and substantial limits for global bioethics.

Respecting the other implies acknowledging that she or he may be different from me and that this difference is worthy of being listened to and critically examined since I care about what she or he says. It implies acknowledging that this person is an “I” to her or himself just as I am so to myself, and that she or he never should be treated merely as an object for me – just as I don’t want to be treated in this way. However, in order to protect this principle of respect it may, in some circumstances, be necessary to *limit* it. Respecting the other’s practices, when these practices are disrespectful towards or denigrate other others, is not ethically acceptable. Denigrating practices, I suggest, are practices that exploit, abuse or threaten the health and well-being of some people. Respecting someone does not imply choosing not to, or even refusing to, critically examine that which is being said or done.

So far, this reasoning is based on the idea of reciprocal recognition: I am the same and different from you, just as you are same and different in relation to me. The principle of respect for the other as the same and different does not, however, imply that our perspectives are symmetrical. Acknowledging that we cannot fully understand the otherness of each other, because of our different social positions and the constraints set by how we stand in relations to each other (i.e. how we are oriented), is to acknowledge this asymmetry (compare Young 1997).

What Respect?

The concept of respect may have a certain Kantian flavour as when it is held that the reason to respect others is that they are rational beings that should be treated as ends in themselves. This is not the basis for the respect that I have in mind. What is needed, instead, is a conception of respect that builds on an understanding of the other as both the same and different.

A distinction has been made between “recognition respect” and “appraisal respect” (Darwall 1977). Appraisal respect involves appraisal of someone’s qualities. It is due to a person to the degree that s/he warrants it, and it is a matter of degree. However, to respect persons in the former sense means to recognize them as persons – and to take this into consideration in one’s deliberations. This kind of respect is not a matter of degree. It has been held that there are two kinds of accounts of recognition respect (Dillon 1992; Gibson 2006). On the one hand, there is the “Kantian” or “thin recognition” respect. Here, it is assumed that persons, since they are rational beings, are ends in themselves. They should be treated accordingly, which means allowing them to pursue their own ends as rational beings. It should be noted that the morally significant features of persons in this account are both abstract and universal. On the other hand, there is also a “care respect” or “thicker recognition respect” based on a “thicker” conception of persons (Dillon 1992; Gibson 2006). According to this conception, persons are necessarily concrete, “each with [their] own unique blend of needs, desires, abilities, and emotional constitutions, [their] own peculiar histories, concerns and projects, each with [their] own way of viewing the world and [their] relationship to it” (Gibson 2006:75).

The view taken, then, is that what matters is how we exercise our rational capabilities as concrete, finite persons. I concur with this view; it can also be coherently combined with the previous reasoning. It combines a concern for certain universal features of human beings and a focus on the particularities that make us different. Thus “thick” recognition respect should be due to the other human being owing to her or him being both the same and different when compared with me.

As should now be clear, this respect implies not acceptance and approval of everything the other says or does. One difficult thing is, of course, to decide when we should respect the other’s views as being different from ours (which implies that it is worthy of both being listened to and being questioned) and when we need not only respect the other’s view but also to find consensus on a particular global bioethical issue. I will now argue that a certain pluralism of death concepts and their implications¹⁰ should be welcomed on the basis of the above out-lined global bioethics. I will use the New Jersey Death New Definition Law and the Japanese Transplantation Law in

order to discuss what it can mean to respect the other as both the same and different in this debate.

Death Concept, Death Definition, Death Criteria and Death Test Pluralism

During the 1980s in the West, there was a consensus as regards the accuracy of the whole-brain death criterion, i.e. “the irreversible cessation of all functions of the brain, including the brain stem” (*Uniform Determination of Death Act* 1990). While consensus can still be found at the level of national policies in this regard, the whole-brain death concept and its implications have been criticised for being theoretically incoherent, internally inconsistent (Truog 1998) and biologically implausible (Shewmon 2001, Kerridge et al 2002). This has caused some to argue for the use of alternative death concepts, such as the heart-lung death concept or the higher-brain death concept.¹¹ A number of policies and laws have also been established as regards concepts of death, death definitions, corresponding death criteria and tests for death (see the Swedish Committee on Defining Death 1984, President’s Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioural Research 1981). In these cases, it has often been assumed that there should be *one* legal concept of death. This, however, is not the case in the New Jersey Death Definition Law and in the Japanese Transplantation Law. Both of these laws open up for more than one death concept within one and the same legal system. Both of them allow individuals who share not particular death criteria to apply alternative death criteria to their *own* deaths. Furthermore, both of them relate preference for a particular concept of death to religious and/or cultural beliefs.

Consider the New Jersey Death Definition Law (New Jersey Statutes 1991). When the state of New Jersey adopted this law, it was acknowledged that certain religious groups would not endorse the whole-brain death concept, the whole-brain death definition or the corresponding criteria and tests for death. Orthodox Jews were one such group, who argued against the concept of whole-brain brain death, on the basis of a certain understanding of Genesis 7:22. This text describes the story of Noah, his family and the animals that were with them in the ark when the floodwaters destroyed “every living thing:” “everything on dry land in whose nostrils was the breath of life died.” This has been interpreted as an argument for the heart-lung death concept, the heart-lung death definition and the heart-lung death criteria and tests.¹² As long as one can breathe, as long as the body is warm, and as long as the heart is beating, one is alive.

Should this religious reason for not accepting the whole-brain death concept, the definition or the corresponding criteria and tests be acknowledged as legally acceptable? Should people who

rejected the whole-brain death criteria be legally allowed to be treated in accordance with their dissenting view? The state of New Jersey chose the latter approach. The New Jersey Death Declaration Law (New Jersey Statutes 1991) has an exemption clause that states that people who reject the whole-brain death neurological criteria on religious grounds will not be declared dead on the basis of these criteria. This is an “opt-out” approach, according to which individuals who share not these criteria for a particular kind of reasons – i.e. religious reasons – should not be declared dead on the basis of criteria that they do not approve. They are, instead, allowed to be declared dead on the basis of the heart-lung death criteria.

Consider also the Japanese situation. The Japanese discussion of brain death started in 1968, when a heart from a brain dead patient was transplanted. The physician in charge of the transplantation was accused of illegal human experimentation. Criticisms were directed at the whole-brain death concept and its implications. It was argued that the tests for determining whether the brain death criteria were satisfied would not test the cessation of the function of all brain cells, only the observable functions of the brain – i.e. an argument against the internal consistency of the criteria and the tests (see Morioka 2001). It was also argued that the Japanese understanding of body and soul is different from the one in the West. In the West, the soul is thought to exist primarily in relation to the mind, whereas the Japanese understanding of the soul implies that the soul is dispersed throughout the body (Bagheri 2005; Lock 2002). In line with this reasoning, it was argued that the essence of human beings lies not only in one’s rationality and self-consciousness, but also in one’s body; this may lead some to reject the whole-brain death definition (Ohnuki-Tierney 1994, Lock 2002).

The resulting Japanese Transplantation Law (*Zoki no Ishoku nikansuru Horitsu*, July 16th, 1997, Law no. 104 of 1997), enacted in 1997, opens up for two alternative death concepts, death definitions and corresponding criteria and tests. The law gives the individual the opportunity to choose either the traditional heart-lung death or the whole-brain death.¹³ If nothing is known about the patient’s understanding of death, the heart-lung death definition and its corresponding criteria and tests are used.

Are these laws defensible? What kind of philosophical defence could be given, in order to argue for this kind of legal pluralism? The following line of reasoning could be a starting-point for such a defence: There are obvious difficulties in determining exactly when a human person dies. Whereas medicine can tell when certain biological functions are irreversibly lost, and whereas death is a biological phenomenon, it is not a biological, medical question when a human person is dead. An important distinction is the one between questions such as “which are the

necessary criteria for making sure that all the functions of the whole brain or the higher brain functions has been irreversible lost?” and questions such as “when is person P dead?” or “should a brain-dead individual be treated as a dead person? (Veatch 1999:140). The latter questions of when a certain *person* is dead are partly metaphysical questions, and philosophical and/or religious questions.

Now, some will claim that the human person dies when soul and body are separated, when there is a total loss of the somatic integrated unity of bodily functions (John Paul 2000). Others, such as the Malay people on the island of Langkawi, for whom blood has a central place in ideas about life as well as death, will claim that for humans death occurs when all the blood leaves the body (Carsten 2004:129). These are not examples to frown upon, claiming that some people may have these views simply because they do not know better. Those who have these views, or other views, may have an inaccurate understanding of death, but the important point which these examples highlights, is that *we need to address metaphysical issues concerning the nature of reality and the self in order to analyse the issue of death adequately.*

Metaphysical issues as regards the nature or reality and the self matter to the kind of understanding of death that we consider plausible. These metaphysical issues are important to analyse not only in order to understand arguments for or against a certain understanding of death in the cultures of some orthodox Jews, some Buddhists, Japanese groups or the Malay people on the island of Langkawi. They are also important to examine in order to understand other arguments, possibly more common in the West, for or against different concepts of death.

Consider one more example. Assume, as suggested by Georg Khushf (2006:60), that I consider that the “the subjectively perceived unity of experience has no status beyond the experience itself, and [that] when the biographical continuity integral to perceived self-unity is lost, then nothing of the person remains.” This is a philosophical stand-point, not a medical one. Certainly, I may combine this understanding of the person with different understandings of death, but it will suit some understandings of death better than others. This particular understanding can effectively underpin the view that the death of the human person, “occurs at a certain stage of brain disintegration, when neuronal traces of experience can no longer be united with the self-resonant dynamic associated with the ‘I’” (Khushf 2006:61). Then, some version of brain-death becomes plausible – more so than the traditional heart-lung death definition.

My aim here is to make plausible that the question “when is a human person dead” is a partly metaphysical question and a philosophical and/or religious question and that metaphysical views matters for which understanding of deaths that we consider convincing. If the exact time

of the death of the human person is a metaphysical, philosophical and/or religious question, diversion as regards views on the issue should not be a surprise. Furthermore, I claim, if this is the case, a certain kind of pluralism as regards death concepts and their implications is not only unsurprising but something that a global bioethics with positive view of cultural differences can welcome.

Arguments for a certain kind of pluralism as regards death concepts and their implications can be elaborated from within a modified Rawlsian framework (Zeiler 2008). Here, however, I will discuss what respect for the other as the same and different would imply if applied to this discussion. In order to understand the other who has a different view on death than I have, I need carefully listen to her or his thoughts, ideas and stories. In order to understand the view among some Orthodox Jews, I need to listen to stories of why breath is interpreted as crucial in determining the death of the person, told by those who have this view. I need also to engage in well-meaning questioning of this view – and well-come a well-meaning questioning of my own view. Why do I have the particular view that I have? Which are my taken-for-granted assumptions, which make me more inclined to a particular understanding of the death of the person than to other understandings?

Respecting the other as the same, I suggest, would mean that I do not force my own view upon others, just as I don't want someone else's view to be forced upon me. Respecting the other as different would mean that I assume that other human beings, with a different metaphysical/religious/philosophical understanding than I have, can hold other reasonable understandings of death that should be respected when applied to their own death. Respecting the other also implies, I suggest, that if someone embraces a certain reasonable death definition, this definition is only acceptable if its effects do not harm the lives of others to an intolerable extent. As noted by Robert M Veatch (2005), this is also the position that is often taken regarding religious dissent.

This reasoning builds on the idea of reciprocal recognition. It also allows us to acknowledge the asymmetry in self-other relations. In the death concept discussion, this asymmetry is evident when certain views – such as the views of those Orthodox Jews who do not accept the whole-brain death concept or the view of some Japanese persons – become marginalised in the bioethical debate.

Please note that I am *not* saying that there are not better or worse arguments for a particular death concept, that there is no bad metaphysics or that any understanding of death should be accepted. I am saying that there is no culture-independent version of death, at present, that can

be taken as a golden standard and there are variations in views not only between but also within societies. For this reason, and if we want to respect the other as both the same and different, the New Jersey Law and the Japanese Law are interesting examples. The principle of respect for the other as the same and different opens up for a positive view on cultural differences. In the discussion of death concepts, it can encourage us to critically examine our own conception of what it means to be a person.

It is also important to note that the principle of respect for the other as the same and different does *not* settle the debate of what death definitions should be accepted. In order to settle this issue, other arguments and criteria need to be elaborated and critically examined. This, however, should not be seen as a weakness of this principle, but as a condition for any discussion of specific issues in global bioethics. In discussions of how to distribute medical care for patients with HIV/AIDS justly, on a global level, we need to define and elaborate a set of criteria for just distribution. In discussions of what qualify as a sustainable development in the field of environmental ethics, we need to define sustainable development and elaborate a set of criteria for when this development is attained. The important points are that different death definitions need to be critically examined and argued for *and* that the death definition that I, personally, take to be the accurate one should not be the only starting-point for discussion.

III. CONCLUSION

Global ethics, it has been claimed, needs to avoid the failure of an ethics that either “obligates respect for others as a matter of principle, but, for that very reason, arouses no curiosity about, or respect for, the otherness of the other” or recognizes the otherness of the other but, when conceived in absolute terms, transforms this recognition “into a claim that perspectives cannot be compared – a claim that amounts to irremediable mutual ignorance” (Beck 2004:141). Indeed, this can be done by recognising the other as both the same and different, and by acknowledging respect for the other as both the same and different. This is not a principle that fails to respect the otherness of the other, nor does it result in mutual ignorance, as feared above. The otherness of the other is still acknowledged and recognised – and the sameness of the other makes communication possible.

Global bioethics is possible and desirable *if* it acknowledges that the other is both the same and different. It is possible and desirable when it takes both that which we have in common *and* that upon which we differ as crucial elements. Critical hermeneutics is important in global bioethics, since it provides a theoretical basis for the understanding of the other as both the same

and different. This means, for example, that a certain pluralism in terms of ethical standpoints needs to be allowed – but that there also is a core principle of global bioethics: the principle of respect for the other as both same and different. This principle can serve as a basis for a radical self-reflection and self-criticism. It implies a calling into question of my own particular ethical practices as well as a questioning of others' practices. The benefit of this kind of global bioethics is that it allows a positive view on cultural differences, without leading to relativism.

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Footnotes

¹ The idea of moral neo-colonialism is described by Widdows (2007:306): “unlike moral colonialism of the past, values are not presented as superior, but as universal, requiring not conversion to an alternative (presumably better) value system, but recognition of universal values.”

² Holm and Williams-Jones (2006) both describe and criticise this view.

³ This is also the case if some will “find their relations defined by similarly socially structured differences of gender, race, class, nation or religion” (Young 1997: 347). This conception of the other is, then, different from the Other in Simone de Beauvoir's *The Second Sex*, where the Other is defined as that which the One is not – and where the Other becomes devalued (de Beauvoir 1952).

⁴ Young (1997:347) emphasises that the relation between self and other is never or most rarely symmetrical (we need to take into account structured social difference of sex, class, ethnicity, religion etc. And, even if we do so, different persons “bring different life histories, emotional habits and lifeplans to a relationship, which makes their positions irreversible”). Claiming the relation to be symmetrical merely obscures differences.

⁵ In this discussion, the other as both the same and different is not only a factual description. The other as same and different is of significance with regard to how we interact and what understanding and critical reflection we can engage in. The other should be respected in both these regards within certain limits.

⁶ For this reason, it may seem to be particularly problematic to question and critically examine that which the *other* says from my own point of view: reflection can destroy understanding. Some have even concluded that the “very attempt to reach a critical perspective would go against the authenticity of the experience of openness as Gadamer has defined it” (Rasmussen 2002:509). This view, I believe, is partly due to a misconception.

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- ⁷ This is a questioning where one “does not go about identifying the weakness of what the other person says in order to prove that one is always right, but where one seeks instead as far as possible to strengthen the other’s viewpoint so that what the other person has to say becomes illuminating” (Gadamer 1989:55). This is also what Iris Marion Young (1997) tries to capture with her “respectful stance of wonder” as a basis for ethics. It involves an openness towards the other where she or he is conceived as “irreversible” (not as a mirror of the self); it also involves a response to the other where I neither impose my own views on her or him nor perceive the other as exotic (which either can “turn their transcendence into a human inscrutability [or] become a prurient curiosity”)(Young 1997:56). The concept of the other as the same and different can be used to highlight this dual concern.
- ⁸ In this sense, reading novels make us meet fictional concrete others. However, the very strength of these others are that they can act in ways that we as readers did not thought they would or could.
- ⁹ Indeed, Gadamer (1989:25) says, “being which can be understood is language,” implying that “that which is can never be completely understood.”
- ¹⁰ It is important to distinguish between *concepts* of death, which must involve *definitions* of death, corresponding *criteria* for death and *tests* for death. However, when I discuss death concepts, death definitions, death criteria and tests for death, I will allow myself to refer to this as death concepts and their implications.
- ¹¹ According to the heart-lung death definition, death has been assumed to occur at the moment of irreversible cessation of respiration and circulation. If the higher-brain death definition is used, death is defined as the irreversible loss of higher cognitive functions or it is claimed that death takes place when the integration of bodily and (higher) mental functions are irreversibly lost.
- ¹² The traditional view of Judaism is that death occurs upon the separation of the soul from the body. The question *when* this takes place is debated. The Babylonian Talmud (tractate Yoma) states that in order to determine whether someone is dead one should examine the person’s respiration (“his nose”). The Babylonian Talmud also adds that examination of cardiac activity may be necessary (“some say: Up to his heart.”) Nowadays, some rabbis accept the whole-brain death definition and the whole-brain death criterion, whereas others hold that death occurs when there is an irreversible cessation of respiration (i.e. they apply a heart-lung death criterion). Still others argue that in Medieval Jewish thought, cessation of respiration was only considered to be indicative of prior cessation of cardiac activity. Indeed, respiration without cardiac activity was thought to be impossible. In line with this reasoning, both the irreversible cessation of cardiac activity and the irreversible cessation of respiration are necessary criteria of death. Rabbis who hold this view do not accept the whole-brain death definition or the whole-brain death criterion. See J.D. Bleich (1977: 372-393), F. Rosner (1999: 210-221).

¹³ However, if organ donation is to be allowed to take place, the donor must have expressed which death concept and criteria she or he wanted to be used, the wish to donate organs must have been written beforehand, and the family must agree both on the death concept and organ donation. For a discussion of this law, see Morioka (2001).

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