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## Foreword: Urban Bioethics

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## FOREWORD

### URBAN BIOETHICS

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On February 26, 1997, the Fordham University School of Law hosted the Sixth Annual Stein Center Symposium on Contemporary Urban Challenges, entitled "Urban Bioethics: A Symposium on Health Care, Poverty, and Autonomy." The all-day symposium, which was sponsored jointly by the Stein Center for Ethics and Public Interest Law and the *Fordham Urban Law Journal*, brought together nationally recognized scholars in bioethics and healthcare policy with leaders from government, civil rights organizations, medicine, law, public health, economics, and anthropology.

This Symposium issue collects the Articles that grew out of that conference. The Articles are presented in three groups, corresponding to three panels at the conference: *The Allocation of Health Care Resources and its Effect on the Poor*; *Mandatory Testing of Pregnant Women and Newborns: HIV, Drug Use, and Welfare Policy*; and *Physician-Assisted Suicide: Rights and Risks to Vulnerable Communities*. "Urban Bioethics"—the title of our symposium—signifies an attempt to merge two (or perhaps three) different fields: bioethics and healthcare policy, on the one hand, and the critical study of the legal rights of urban and disadvantaged populations, on the other. This merger, while entirely natural, is under-explored, and it is to the credit of the Fordham law students who organized this Symposium, Elena Paraskevas-Thadani and Kate Weinstein, to have recognized this topic and brought together such a fine set of contributors to discuss it.

Many themes wind through the different Articles in this symposium, but two particularly merit attention: first, what might be called the *socioeconomic framing* of bioethical and healthcare issues, and second, the *challenge of moral consensus*. The first theme is both compelling and timely. Those who address the con-

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fluence of health care, poverty, and autonomy are faced with the fact that there is not a legal right to health care in this country. While this Symposium is not about whether such a legal right should exist—a delicate question meriting separate attention—it does require us to recognize the reality of the socioeconomic context framing the issues of how to allocate resources in healthcare policy, who should be entitled to make which healthcare decisions for whom, and what sorts of laws, regulations, and ethical norms ought to govern the diverse questions of biomedical law and ethics.

What is this reality? In urban settings, in contrast to the nation as a whole, the majority of people reliant on public assistance are racial minorities. Unemployment and underemployment disproportionately affect African-American and Latino communities. For a person striving to make ends meet, this reality too often means piecing together low-paying part-time jobs that do not provide benefits. Ironically, while this person (more often than not, a woman) may be able to avoid public assistance, she is also least likely to be able to obtain benefits—from an employer or from the government—and rarely able to afford private health insurance.

At the same time, existing government support for people in need is shrinking at unprecedented rates. Medicare is about to change in a way that will surely hurt the elderly. The Medicaid program leaves ever larger gaps in the healthcare needs of the poor. Public hospitals in New York City face the threat of extinction, and even while they remain, they must deal with staggering budgetary pressures. Managed care, in both the public and private sectors, is rapidly becoming the dominant healthcare paradigm, and it is entirely unclear how much space this form of care, evolved out of the very idea of cost-cutting, will leave for the poor.

Our contributors, focusing on allocation of resources, mandatory HIV testing, and physician-assisted suicide, recognize that these issues are especially difficult framed within this context of widespread poverty, a difficulty that is only amplified by the enormous diversity of race, gender, class, age, and disability within urban communities. By combining ethicists and legal scholars with physicians, public health experts, politicians, and civil rights advocates, we hope to indicate our awareness that conceptual questions of, for example, the proper scope of autonomy and confidentiality in the HIV context, are, in many ways, a short distance from the question of how women, men, and children, in certain disadvantaged settings are to be treated by certain social institutions. Conversely, the overtly political nature of the consequences of many bioethical

and healthcare decisions must affect, but need not exhaust, the analysis of the ethical, legal, and constitutional questions that confront us in this area.

A second theme running through these issues is the plurality in moral, religious, and cultural approaches that our society—and particularly our urban centers—bring to fundamental questions of value, for example the importance of health *vis-a-vis* other social goods, the duties owed by a parent to a child and the right of the state to monitor those duties, and the proper attitude toward dying. The liberal strains in our culture and our law push us to leave each to make her own decisions in such matters insofar as that is possible. This bald liberal idea, however, does not provide sufficient guidance, for there are obviously many questions that we must decide collectively.

What many political thinkers, liberal and communitarian alike, have come to recognize is that there is no possibility of functioning as a healthy and legitimate community unless we are at least able to deliberate together about these problems, to find some overlapping consensus on how to deal with these problems. The issues at the core of our three panels raise questions ranging from the fairness of wealth disparities, to the normative structure of families, and the meaning of death. These issues of bioethics, as much as any that our populace faces, indicate the difficulty and importance of finding common ground in order to resolve outstanding issues of concern. It is therefore with pride that we present this series of Articles, written from a wide range of points of view, but together displaying a commendable aim to reach answers together on these difficult questions.

