Notes

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2. Annas GJ. *American Bioethics: Crossing Human Rights and Health Law Boundaries*. New York: Oxford University Press; 2005:xvi.
3. Annas GJ. The American right to health. *Hastings Center Report* 2009;39(5):3.
4. See note 2, Annas 2005:160–2. See also, e.g., Jonsen A. *The Birth of Bioethics*. New York: Oxford University Press; 1992.
5. See, generally, Annas GJ, Grodin M. *The Nazi Doctors and the Nuremberg Code: Human Rights in Human Experimentation*. New York: Oxford University Press; 1992; Shuster E. Fifty years later: The significance of the Nuremberg Code. *New England Journal of Medicine* 1997; 337:1436–40.
6. Fenton E. Liberal eugenics and human nature: Against Habermas. *Hastings Center Report* 2006;36(6):35–42; Fenton E. Genetic enhancement: A threat to human rights? *Bioethics* 2008;22(1):1–7.
7. The most persuasive argument on the "inherent" nature of human rights is made by Johannes Morsink in *Inherent Human Rights: Philosophical Roots of the Universal Declaration of Human Rights.* Philadelphia: University of Pennsylvania Press; 2009. *Contra*, Rawls J. *The Law of Peoples*, Cambridge, MA: Harvard University Press; 1999:78–105; and MacIntyre A. *After Virtue*, 2nd ed. Notre Dame, IN: Notre Dame University Press; 1984:62–78.
8. See, generally, President's Council on Bioethics. *Human Dignity and Bioethics: Essays Commissioned by the President's Council on Bioethics*. Washington, DC: President's Council on Bioethics; 2008. See also Fukuyama F. *Our Posthuman Future*. New York: Farrar, Straus & Giroux; 2002:148–77.
9. Rorty R. *Philosophy and Social Hope*. New York: Penguin; 1999:85–6; and see Rorty R. *Objectivity, Relativism, and Truth*. Cambridge, UK: Cambridge University Press; 1991.
10. See note 2, Annas 2005:35.
11. See, e.g., Hanley R. *Is Data Human? The Metaphysics of Star Trek*. New York: Basic Books; 1997.
12. Annas GJ, Andrews LB, Isasi RM. Protecting the endangered human: Toward an international treaty prohibiting cloning and inheritable alterations. *American Journal of Law & Medicine* 2002;28:151–78.
13. See Isasi RM, Annas GJ. To clone alone: The United Nations' human cloning declaration. *Law and the Human Genome Review* 2006;24: 13–26; Isasi RM, Annas GJ. Bioethics and cloning: The ABCs of gestating a United Nations cloning convention. *Case Western Reserve Journal of International Law* 2003;35:397–414.
14. See note 2, Annas 2005:37.
15. See note 2, Annas 2005:38.
16. See note 2, Annas 2005:38.
17. See note 2, Annas 2005:40.
18. See also Harris J. *Enhancing Evolution: The Ethical Case for Making Better People*. Princeton, NJ: Princeton University Press; 2007:23–5.
19. Marcuse H. *Eros and Civilization: A Philosophical Inquiry into Freud*. Boston: Beacon Press; 1966: 52 (originally published in 1955).
20. See note 19, Maucuse 1966, citing Freud S. Why war? In: *Collected Papers* V, 273.
21. See note 1, Fenton Arras 2010;19:127–133.
22. See, e.g., *Physicians for Human Rights*, *Aiding Torture: Health Professionals' Ethics and Human Rights Violations Demonstrated in the May 2004 CIA Inspector General's Report*; available at http://physiciansforhumanrights.org/library/news-2009-08-31.html (last accessed 31 Aug 2009).
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24. Annas GJ. *Worst Case Bioethics: Death, Disaster, and Public Health.* New York: Oxford University Press; 2010.

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Wrong Again—Rejoinder to Annas

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Different Agendas

It is clear from George Annas's response to our arguments that he has misunderstood and misrepresented our positions on several key points. We suspect that this may be due in part to significant

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differences between our respective agendas and points of view, so we begin this exchange with an exploration of these differences.

Although we agree with Annas that bioethics must "go global" and expand beyond its traditional (domestic) domains, our principal concern is whether and to what extent human rights are the appropriate *methodology* for this expansion. We do not deny that human rights are, and ought to be, an important part of our thinking on issues of global justice, global health, and global bioethics and in no way advocate, as Annas repeatedly and inexplicably suggests that we do, a wholesale rejection of human rights. As philosophers concerned with methodology in bioethics, we do not deny that human rights may have a place in that methodology; rather, our concern is to ask both *how* human rights might provide a framework for the extension of bioethics into such areas as public health and global justice, and how human rights might be misapplied to global bioethical issues.[1]

By contrast, Annas's perspective on this project is not that of a philosopher or scholar, but might best be described as that of a lawyer and activist, head of his own human-rights-related nongovernmental organization (Global Physicians and Lawyers for Human Rights). This difference in perspective may partly explain Annas's confusion about and blatant misrepresentation of our position. His dual claim that we represent a provincial, narcissistic, and outdated version of "American bioethics" and that we reject the human rights framework for global bioethics is based on his inability to take "Yes, but . . ." for an answer. We are fully on board with Annas's goal of enriching "American bioethics" by moving it from a (supposedly) "self-absorbed and self-referential worldview to a global one that reaches outward rather than inward."[2] This goal animates both our current research and the teaching within the bioethics program at the University of Virginia, which strongly emphasizes public health and global ethics. It has also animated John Arras's consulting at the National Institutes of Health and the Centers for Disease Control on such issues as international AIDS research, public health ethics, and the ethics of emergency preparedness and response. Annas's view of himself as a uniquely enlightened Moses figure leading American bioethicists out of the desert of their domestic concerns has distorted both his understanding of our arguments and his understanding of the state of contemporary American bioethics. To claim that American bioethics embraces a "self-absorbed and self-referential worldview" for which the human rights perspective is the cure is to ignore the important work being done by American bioethicists and philosophers whose work exhibits a strong global focus.[3] The picture that Annas paints of blinkered and ignorant American bioethicists in need of someone like him to show them the light is a self-serving misrepresentation.

Because we have had the effrontery to pose some hard questions about the limits or helpfulness of human rights in various contexts, Annas charges that we have "missed the big picture of the budding relationship between American bioethics and human rights."[4] At the risk of repeating ourselves, we emphasize that we do not argue that human rights have no role to play in bioethics, but rather that as mere slogans or manifestos, or as part of sloppy moral arguments, human rights will not suffice as a framework for global bioethics. Our primary concern is with the claim that human rights provide a *fully adequate* framework for moral analysis in public health ethics, global bioethics,

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and global justice. In the absence of a good argument, we are not reassured by Annas's glib insistence that "Human rights really is the *lingua franca* of global bioethics," and we are disappointed that Annas could claim that "both bioethicists and the inhabitants of our planet could profit, and perhaps more likely survive, if American bioethicists turned off their televisions long enough to engage in this new and evolving language,"[5] as he did in the galley proofs of his piece to which we were invited to respond.

Although we are flattered by Annas's suggestion that the fate of humanity might pivot on the TV-watching habits of American bioethicists, we will simply ignore the implicit claim in this statement that Annas includes us among that number of American bioethicists allegedly spending too much time in front of their televisions and too little fighting egregious human rights violations. (In fact, Annas's deep and impressive knowledge of both *Seinfeld* and *Curb Your Enthusiasm* decisively proves that he watches a lot more TV than we do.) Setting that unworthy accusation aside, it is worth noting that our use of the phrase "curb your enthusiasm" in the title of our paper was not intended as an endorsement of the bioethics-related views of the main character of the television show of the same name, but rather as a succinct expression of our concern about the way in which the claim that human rights are the *lingua franca* of global bioethics is too often hyped up and unsubstantiated. That is all we meant to convey by that subtitle, but Annas has somehow found it necessary to implicate us in a long, totally irrelevant riff on American popular culture. We suppose that if one is attempting to defend a wildly implausible position, it is always best to simply change the subject.

Although human rights are often a very helpful framework for addressing issues of global justice and are without question an important medium of political and legal enforcement of justice worldwide, we see value in asking foundational questions about human rights, serious questions of a sort that Annas the lawyer and NGO activist belittles, particularly in relation to their application to issues such as genetic technology and the allocation of scarce healthcare resources. To merely repeat without qualification that human rights "really is" the *lingua franca* of global bioethics is to ignore the significant problems raised by honest and pressing contemporary debates over human rights, debates that involve widespread skepticism about human rights (which we do not share), proliferation of rights claims that devalue the currency of human rights,[6] and disagreements about the addition of new rights and the precise content of established rights.[7] We argue that unless these foundational issues are addressed, it is misguided and overly simplistic to rely on human rights as the unqualified *lingua franca* of global bioethics.

Annas claims that our disagreement revolves primarily around his reliance on human dignity as the foundation for human rights.[8] Although we believe that there are other disagreements just as serious (and equally damaging to his position), it is important to address this one, which raises difficult questions not only about dignity, but also about the foundations of human rights. We do not reject the notion that human dignity (however this notion might be defined) is a foundation for human rights, but we would point out to Annas, who apparently has no use for foundational inquiries with regard to human rights, that some interpretations of dignity, including those ex-

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hibited in *American Bioethics*, would appear to mistake a sufficient condition for the possession of human (or personal) rights for a necessary condition.[9] Such a mistake could be attributed to those misguided future souls who would misinterpret the absence of a standard human genome (in the form of additional eyes, ears, or limbs or the emergence of new features, such as gills) as evidence of a lack of human nature and, hence, a lack of human rights. We would argue, by contrast, that any being with the usual attributes of personhood, agency, or Nussbaumian basic capabilities should be considered to be a bearer of human or personal rights, no matter how many eyes, ears, or gills they might have.

It is this problem that makes further analysis of the concept of dignity necessary. Our identification of this concern is based on a deeper and more nuanced understanding of the nature of human rights than Annas gives us credit for, as we have elsewhere investigated and criticized the difficulties in insisting on both a superficial pragmatic refusal to engage in debate on the foundations of human rights, on the one hand, and, on the other, the equally problematic difficulties associated with embracing any particular "comprehensive" foundational account.[10] Rawls, whose political philosophy inspired many versions of the standard "overlapping consensus" approach to the foundations of human rights, himself opts for a pragmatic functional or prudential account of human rights in *The Law of Peoples* that is supposed to make human rights more pluralistic and less "politically parochial."[11] Rawls's position, however, comes at the cost of endorsing a very short list of human rights that is seriously impoverished in comparison to the declarations and covenants that Annas himself champions.[12] Annas's claim that Rawls is "right" both descriptively and substantively not only contradicts his own expansive view of human rights and allegiance to the Universal Declaration, but suggests a lack of familiarity with Rawls's actual conclusions that undermines Annas's credibility as a self-appointed expositor of "what human rights are" for America's benighted bioethicists.

Human Rights and Genetic Technology

We have identified two strands in Annas's rights-based argument against genetic technology. On the one hand, Annas makes the argument that genetic technology, particularly forms of the technology that introduce inheritable alterations,[13] will undermine the edifice or system of human rights, because that system is grounded in human dignity, which in turn is grounded in human nature, understood in terms of the kinds of traits that could be altered by genetic technology: "[A]ltering our nature threatens to undermine our concepts of both human dignity and human rights."[14] We agree with Annas that understanding life, or what it means to be a bearer of human (or, better, personal rights), is not a matter of "understanding our lives or our bodies at the molecular, atomic, or even the subatomic level,"[15] but *unless* Annas understands human nature in this way, there is no way for him to sustain the claim that genetic technology, which operates at this level, threatens human nature, then human dignity, and finally human rights. We concluded in our original argument that this first strand in Annas's rights-based objection to genetic technology fails, because there is no good reason to reduce human nature down to the kinds of traits that could be altered by genetic technology. Without this

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reduction, however, this version of Annas's human-rights-based argument cannot get off the ground. If Annas wants to revise or abandon his reductionistic view of human nature, as he suggests in his response, then he loses the force behind this first line of objection.

There is, however, another way to understand Annas's argument here. The worry that genetic technology will alter human nature, thereby undermining human dignity and human rights, is *also* the worry that unenhanced humans—that is, humans as they currently are, unaltered by genetic technology—would be vulnerable to new human rights abuses motivated by their differences from enhanced humans. We are already vulnerable to abuse based on gender and racial differences; genetic technology simply provides yet another outlet for our discriminatory and genocidal tendencies. Whereas the first strand in Annas's argument is philosophical, concerning the nexus of human dignity, human nature, and the foundations of human rights, this second strand is practical and prudential. It expresses the concern that the use of genetic technology will "predictably lead to major human rights abuses."[16] Genetic technology, Annas predicts, will lead to the creation of two groups of humans, the enhanced "posthumans" and the unenhanced "standard issue" humans who will not be able to get along well together.

Two possible scenarios result from this situation, both of which concern human rights. On the one hand, the creation of a new species or subspecies of human beings (the posthumans) will, Annas suggests, make standard-issue humans vulnerable to slaughter and subjugation by posthumans, in which case the human rights of the standard humans are clearly violated. On the other hand, the creation of posthumans raises the question of whether these new beings possess human rights, forcing us to confront our notion of what it is to be human and so to possess human rights. As Annas points out in *American Bioethics*, alterations like the addition of wings or gills or extra limbs could create a person who "would likely be viewed as a new species or subspecies of humans, and thus not necessarily a possessor of human rights."[17]

Annas's call for a "human species protection" treaty indicates that he is primarily concerned with the first scenario, in which unenhanced humans are subjugated and slaughtered by posthumans. It is important to note, however, that in both of these scenarios Annas imagines, we think wrongly, that the changes brought about by genetic technology will create beings whose membership in the human species is seriously in doubt. Moreover, even if we did create beings whose gills, wings, or extra eyes made them properly a subspecies of humans, it is far from clear that those beings would not still possess human (or personal) rights. As Annas admits, they could still be *persons*, and, so, presumably, possess the kind of dignity necessary for the possession of human rights. Annas's claim that we do not need to settle the question of what it is to be human before enacting a "human species protection treaty" is unhelpful, because we need some definition in order to know what the treaty is protecting, and clearly most, if not all, of the beings that Annas imagines will be created by genetic technology will still have what it takes to be possessors of human (or personal) rights. Thus an answer to that question could help to address Annas's concerns about the second scenario above, as well as making the notion of the "human species protection" treaty more comprehensible.

Focusing on the first scenario, in which genetic technology makes

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unenhanced humans vulnerable to human rights abuses as serious as genocide, we suggest two broad lines of criticism. First, and most seriously, we call into question the slippery slope reasoning that is Annas's principal mode of argumentation and which depends for its power on the likelihood of his nightmare vision of subjugation and slaughter. Second, we raise some difficulties for the notion of a "human species protection" treaty, which Annas invokes as a means of forestalling this nightmare.

The Slippery Slope

The success of slippery slope reasoning of the sort employed by Annas in his arguments about genetic technology and genocide is contingent upon the likelihood of the predicted negative outcome and the likelihood of the first step (in this case the use of certain forms of genetic technology) to lead to that outcome. It may be the case that genetic technology has the *potential* to lead to human rights abuses of the sort that Annas predicts, but where is the evidence that this outcome is any more likely than a more positive outcome? Our "pragmatic optimism" about genetic technology suggests that the technology has as much potential to benefit human beings as it does to harm them—better immunity to disease, better memories, and improved brainpower are all potential outcomes of genetic technology that could make human life go better. We should not forget that the standard issue human genome often harbors genetic misinformation that precludes human flourishing and engenders great suffering. It is also highly likely that some of these enhancements will have important dual uses—for example, the development of memory enhancements might have significant spinoff benefits for the treatment of conditions such as Alzheimer's disease. Such dual use technologies that would yield both enhancement and treatment at least weaken the case against the development of enhancement technologies and may strengthen the case for them.

Moreover, even with the most pessimistic outcome awaiting us at the bottom of the slippery slope, there are clearly braking mechanisms that could be applied if we find that genetic technology is taking us in a bad direction. For example, there could be a requirement that access to genetic technology be equitably distributed, so as to prevent the species bifurcation that Annas predicts. Given current inequalities in access to even the most basic forms of healthcare, this suggestion may seem implausible, but it is at least as plausible as Annas's H.G. Wells-inspired scenario of subjugation and slaughter.[18] Further, it is important to note that even *without* the benefits of genetic technology, the standard issue human genome is quite capable of taking us down a well-trod path to suffering, pain, illness, and inequalities of many kinds. What reason do we have to think that *not* taking advantage of the potential benefits of genetic technology will be any better or less costly than exploring those benefits more fully? It is worth noting here that, whereas Annas's argument that the use of genetic technology will result in a nightmare scenario of subjugation and slaughter rests only upon his fervid imagination and the opinions of Lee Silver, there is a significant body of work by serious scholars emphasizing the moral significance of the potential benefits of enhancement technology. This body of work casts doubt upon the persuasiveness and philosophical cogency of Annas's slippery slope argument.[19]

In addition to Annas's dubious slippery slope reasoning, we are concerned that the lack of a clear target for Annas's

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arguments detracts from any force they may have. He suggests in his response that his principal concern is with inheritable genetic alterations, because those are the ones, he thinks, that pose the greatest risk of genocide.[20] Presumably this is because only inheritable alterations could lead to the kind of species bifurcation that Annas envisions in the future.

There are two problems with this focus on inheritable alterations. First, this broad focus rules out even those inheritable alterations that could have very positive results, such as improved disease immunity or even germline therapy for disease conditions. Although Annas suggests that those forms of genetic engineering that are "not aimed at changing the nature of the species" would not be outlawed by his proposed "human species protection" treaty[21] (improved memory and immunity are included in this group), this attempt at a distinction between alterations that do and do not change the nature of the human species is unsustainable. We will not rehearse again here our argument against the reduction of human nature to biological characteristics that is implicit in this distinction. Suffice it to say that Annas's broad-brush rejection of germline enhancements is too crude, because it cannot accommodate germline enhancements or therapies that have obvious benefits.

The second problem with this focus on inheritable alterations suggests that noninheritable, or somatic, alterations are morally unproblematic, ignoring the possibility that somatic alterations could, just as easily as germline alterations, exacerbate the already dire inequalities between the "haves" and the "have-nots." Annas acknowledges that somatic interventions aimed at curing or preventing disease would also not be ruled out by his human species protection treaty,[22] but if his primary concern is with the possibility that genetic engineering might lead to intraspecies warfare, there is no good reason to suppose that vast differences in health status in the future, brought about by differential access to somatic interventions, would be any less of a spur to this form of conflict than inheritable alterations. If Annas wants to sustain his objection to germline alterations on the grounds of a slippery slope toward inequality, then he had better address similar objections to somatic alterations.

We thus reject Annas's slippery slope argument against genetic technology. Despite the fact that humans have a dismal track record of intraspecies genocide, the evidence that the development and use of genetic technology will lead to or cause genocide is too thin to support at this time a blanket ban on such technologies, particularly given the potential *benefits* of genetic technology, which are wholly unacknowledged by Annas. It is entirely fallacious to claim that, because of the *possibility* that the use of genetic technology will lead to egregious human rights violations in the future, the use of that technology itself is a human rights violation (a "crime against humanity" no less!) here and now, and therefore ought to be outlawed. It is also important to note that Annas's cavalier invocation of the precautionary principle in this context is not self-evident or unproblematic. As Cass Sunstein has argued, following an unqualified precautionary principle can lead to the avoidance of one catastrophe at the cost of inviting a host of other negative consequences.[23] Outlawing the use of genetic technology to avoid a distant and highly speculative subjugation and slaughter scenario could preclude substantial benefits to be gained from that technology—for example, ways to combat the gradual

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decline of the human species in the face of ever more invasive diseases.[24]

Do We Need Yet Another Treaty?

Annas argues that a treaty is required to protect existing human beings from the ''crimes against humanity'' entailed by genetic technology in the distant future and from the supposedly predictable genocide that would result from the use of such technology. The genocide is predictable, according to Annas, because the use of genetic technology would lead to the development of a new species or subspecies of human beings, the members of which would be perceived, most likely erroneously, as not possessing human or personal rights, and therefore would be vulnerable to genocide.

We suggest that there are several important problems with this argument and with the invocation of a treaty in this context. First, as was noted above, Annas's reluctance to settle on a definition of what it is to be human makes it unclear exactly what the treaty is supposed to be protecting and what it is supposed to be protecting us *from*. If it is possible, as Annas suggests, that ''exotic sentient life forms'' could be accorded human rights,[25] and that beings genetically engineered to have wings or gills could still be *persons*, then it is not clear that genetic technology will create beings so different from us that we need protection from them. This would be especially true if future enhancements could make members of the human species less violent, selfish, and xenophobic and engendered a greater capacity for social cooperation. Annas's argument simply fails to convince us that genetic technology necessarily entails more or greater human rights violations.

The second problem is Annas's faith in the ability of a treaty to do what human rights (also treaties) apparently cannot. He claims that we miss the point in suggesting that whether or not a human being reproduces sexually is irrelevant to whether or not it possesses human rights; what matters is ''whether changing this fundamental characteristic in the existing human species would predictably lead to major human rights abuses, in this case, genocide.''[26] But suppose we are confronted with an asexual being—not exactly our cup of tea, but we will play along for the sake of argument—who clearly has the dignity or personhood necessary to be the bearer of human rights. Annas insists that even if this being *does* possess human rights, those rights alone (and the treaties in which they are set out) cannot protect her from abuse. Why should we suppose, then, that his proposed treaty will offer any greater protection than that already offered by human rights treaties? As Annas himself points out in the gallery proofs of his piece to which we were invited to respond, the human rights movement is ''fragile,''[27] as, presumably, the ''human species protection'' movement would also be.

Finally, Annas's appeal to a democratic vote on such a treaty assumes that the correct choice would be self-evident. But who is to say that the outcome of such a vote, assuming for the sake of argument that it could be fairly and effectively staged, might not express whole-hearted *support* for the so-called crimes against humanity promised by genetic technology? The result of such a vote would clearly depend on the way in which the ballot question is framed. Were the question to be ''Should scientists be allowed to engage in unregulated experiments and develop technology that will alter the human species in a way that predictably endangers it and create beings

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who will subjugate and slaughter one another?'' then the prudent vote would be a negative one. On the other hand, were the question to be ''Should scientists be allowed to engage in experiments with a positive risk/benefit ratio and develop technology that has the potential to change human life for the better, and in such a way that risks are minimized and regulations enforced?'' the result might be very different. Annas just assumes that there will be a global convergence on his desire to outlaw genetic technology. We suggest that the predictability of such convergence is heavily dependent on the thin reed of Annas's hysterically negative visions of the future, and that a global vote, were such a process possible, should be based on a far more balanced examination of the likely offerings of genetic technology.

We suggest, then, that pragmatic optimism, tempered by a deep understanding of the evils of which humans are capable, will give the debate over genetic technology some much needed balance, such that the predictable benefits of the technology are taken into consideration as a counterpoint to the predicted scenario of subjugation and slaughter. When the possible benefits are considered, it is much less clear that this technology will inevitably lead to human rights violations amounting to genocide. Our pragmatic optimism is still cautious, however, and we can agree with Annas that caution in this, as in all uses of new technology, is the best way to proceed. But even if Annas is right that the real question is ''whether inducing inheritable genetic alterations poses a realistic threat of genocide,''[28] and even if we agree with him, as we obviously do, that genocide is an egregious human rights violation, it is simply not obvious that inducing inheritable genetic alterations now poses a threat of genocide, nor is it clear that the distant *threat* or *possibility* of genocide is itself a human rights violation in the way that actual genocide clearly is. To outlaw germline genetic engineering until the world is ''able to go for a significant period of time, a century or more, without a genocide''[29] is to tie the connection between genetic engineering and genocide too tightly and to deny humans potential benefits as a bizarre punishment for previous infractions, as if we must prove ourselves worthy of the benefits before being allowed to enjoy them. We could as easily argue that people be denied the benefits of new developments in healthcare until they are able to distribute those benefits equally, so as to prevent the development of an unhealthy underclass. But this objection would obviously be a nonstarter. Why not simultaneously make the benefits of new developments available while continuing to work to eliminate injustice from the healthcare system? Similarly for genetic technology: Unless one wants to maintain that there are *no* potential benefits to be had from this technology, which is manifestly false, or that the likely burdens far outweigh the likely benefits, which remains to be seen, one has to acknowledge that a wholesale rejection of the technology on the ground of entirely speculative nightmare scenarios is unsustainable, costly, and short-sighted.

Notes

1. Annas's obduracy in misrepresenting our position is difficult for us to fathom. We state very clearly both in our original essay and in an unpublished version of this very response to his rejoinder, which Annas has supposedly read, that our problem is not with the human rights movement per se or its merger with bioethics, but rather with specific misapplications to global bioethical problems and with some limitations of human rights as a method for thinking about allocation issues.

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2. Annas GJ. Human rights and American bioethics: Resistance is futile. *Cambridge Quarterly of Healthcare Ethics* 2010;19:133–141, at 134 (this issue).
3. See, e.g., the work of Dan Brock, Allen Buchanan, Daniel Callahan, James Childress, Norman Daniels, Carl Elliott, Ezekiel Emanuel, James Dwyer, Ruth Faden, Christine Grady, Bruce Jennings, Nancy Kass, Loretta Kopelman, Alex London, Thomas Pogge, Ruth Macklin, Gopal Sreenivasan, Jeremy Sugarman, Dan Wikler, and many, many others.
4. See note 2, Annas 2010:134.
5. See note 2, Annas 2010:galley proofs.
6. According to the *International Covenant on Economic, Social and Cultural Rights*, there is a human right to "Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays." See Part III, Article 7, d at http://www1.umn.edu/humanrts/instree/b2esc.htm. Even some of the most sympathetic commentators on human rights have criticized this provision as mistaking a laudable social goal for a human right.
7. See for example James Griffin, "First Steps in an Account of Human Rights." *European Journal of Philosophy* 9 (2001); John Tasioulas, "Human Rights, Universality and the Values of Personhood: Retracing Griffin's Steps." *European Journal of Philosophy* 10 (2002); Michael Ignatieff, *Human Rights as Politics and Idolatry,* ed. Amy Gutmann (Princeton: Princeton University Press, 2001); Joshua Cohen, "Minimalism About Human Rights: The Most We Can Hope For?" *Journal of Political Philosophy* 12 (2004); Thomas Pogge, ed. *Freedom from Poverty as a Human Right: Who Owes What to the Very Poor?* (Oxford: Oxford University Press, 2007); Charles Beitz, "Human Rights as a Common Concern." *American Political Science Review* 95 (2001).
8. See note 2, Annas 2010:136.
9. Annas GJ. *American Bioethics: Crossing Human Rights and Health Law Boundaries*. New York: Oxford University Press; 2005:41.
10. Fenton E. Overlapping consensus and human rights. [dissertation]. Charlottesville: University of Virginia; 2008.
11. Rawls J. *The Laws of Peoples*. Cambridge, MA: Harward University Press; 1999, at 65.
12. Rawls's list excludes, for example, human rights to freedom of religion and expression, and it also fails to secure political equality and equal rights for women within religiously dominated, patriarchial societies. For criticism of Rawls's minimal list see particularly Buchanan A. *Justice, Legitimacy, and Self-Determination*. Oxford: Oxford University Press; 2004.
13. See note 2, Annas 2010.
14. See note 9, Annas 2005:37.
15. See note 9, Annas 2005:35.
16. See note 2, Annas 2010:138.
17. See note 9, Annas 2005:41.
18. In Wells's futuristic novel *The Time Machine* (1895), two species exist that are both descended from human beings, and one is under constant threat from the other.
19. See, for example, Harris J. *Enhancing Evolution: The Ethical Case for Making Better People*. Princeton, NJ: Princeton University Press; 2007; Green R. *Babies by Design: The Ethics of Genetic Choice*, New Haven, CT: Yale University Press; 2007); Buchanan A, Brock DW, Daniels N, Wikler D. *From Chance to Choice: Genetics and Justice*. Cambridge, UK: Cambridge University Press; 2000; Buchanan A. Human Nature and Enhancement. *Bioethics* 2008;23(3):141–50; Buchanan A. Enhancement and the Ethics of Development. *Kennedy Institute of Ethics Journal* 2008;18:1–34; Glover J. *Choosing Children: The Ethical Dilemmas of Genetic Intervention*. Oxford: Oxford University Press; 2006.
20. See note 2, Annas 2010:139.
21. See note 9, Annas 2005:41.
22. See note 9, Annas 2005:41.
23. Sunstein C. *Worst-Case Scenarios*. Cambridge, MA: Harvard University Press; 2007.
24. In "Enhancement and the Ethics of Development," Allen Buchanan argues persuasively that the genetic enhancement debate needs to be substantively reoriented to take account of the many foreseeable benefits that the technology could have and which carry a significant opportunity cost if forgone.
25. See note 2, Annas 2010:137.
26. See note 2, Annas 2010:138.
27. See note 2, Annas 2010:galley proofs.
28. See note 2, Annas 2010:137.
29. See note 2, Annas 2010:140.

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