Germany's past still casts a long shadow

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Germany's approach to bioethics has been hesitant and uncoordinated — a fact that should surprise no-one. For debates on whether such a discipline exists separately from ethics, whether Germany should ratify the Council of Europe's Convention on Human Rights and Biomedicine, and even whether it should set up a central bioethics committee, still rage with an intensity unknown elsewhere.

Inevitably, German attitudes remain influenced both by guilt over the abuse of medical research in the Nazi era, and by the so-called Nuremberg code, which was drafted in 1947 to ensure that experiments on non-consenting humans should never happen again. Despite this code, many Germans fear that any venture into the realm of genetics could reopen the door to the abuses of the Nazi era — a fear largely responsible for molecular biology's slow start in Germany.

Recently, however, the commercial and medical benefits of molecular biology being enjoyed by its main economic competitors has jolted Germany into making a concerted effort to catch up. Bioethics is not far behind, spurred partly by an awareness that difficult issues need addressing if these benefits are to be enjoyed, and partly by a desire to fall in line with other European nations.

Frequently heated debate on bioethical issues involves a wide range of church groups, environmentalists and patients' rights groups. Much of the efforts of these groups is presently focused on the Council of Europe's Convention on Human Rights and Biomedicine, which was approved by its parliament in April.

Germany has not yet signed the convention because of a clause allowing research on the brain to be carried out on individuals incapable of giving consent, which many feel undermines the constitutionally 'inviolable' human dignity, and another clause allowing a limited amount of embryo research.

Bringing round the churches

The German government, keen to fit in with the rest of Europe, has negotiated long and hard with the most influential opponents of the convention, including the churches. While neither of the two main churches positively support the convention, the Roman Catholic church has now agreed not to actively oppose signing, and the protestant church is maintaining a neutral stand. The government will probably sign before the end of the year.

But it remains uncertain whether parliament would ratify the convention. The two main parties are split on the issue, while the Greens are unanimously opposed, arguing that signing could open the door to abuse. The Greens were among the many pressure groups that persuaded the Council of Europe to change the name of the convention from its working title of 'bioethics' to 'human rights and biomedicine'.

The intensity of the debate over the convention reflects the emergence of a bioethics movement. This has had to graft itself on to the traditional system of medical ethics. This system takes as its fundamental principle the first article of the German post-war constitution — that "the dignity of humans is inviolable" — and has until recently remained firmly in the hands of physicians.

"We used to simply follow the advice of the German Chamber of Physicians," says Ludwig Honnefelder, director of the Bonn Institute for Science and Ethics, and one of Germany's few bioethics specialists. "Even now genetic counselling is only carried out by physicians alone, not with the advice of biologists as is common elsewhere."

In the 1980s, it was already clear to politicians that some of the issues raised by developments in biology had become too complicated for physicians to solve on their own. In 1984, the ministries of research and legal affairs set up an ad-hoc committee to make recommendations for legislation, particularly in the areas of *in vitro* fertilization and genetic analysis and gene therapy.

A second commission issued a set of recommendations relating to genetic engineering in 1987. This body was called for by the German parliament and headed by Munich-based molecular biologist Ernst-Ludwig Winnacker, currently the president of Germany's main research grants council, the Deutsche Forschungsgemeinschaft (see *Nature* **388**, 507; 1997). A third committee, set up by the federal and Länder (state) governments to consider ethics and reproductive medicine, reported in 1988.

These reports eventually led to legislative decisions more restrictive than most scientists serving on the committees would have liked, because of the moral concerns of some parliamentarians. The 1991 law on protection of the human embryo forbids any form of embryo research, and the 1990 gene laws were so restrictive that they were modified in 1994 (see *Nature* **359**, 93; 1992).

Germany's approach to bioethics problems continues on this ad-hoc basis. So the cloning of the sheep Dolly caught the government unprepared. Research minister Jürgen Rüttgers asked seven scientists, led by Hubert Markl, president of the Max Planck Society, to produce an immediate position paper on human cloning.

Need for a forum

But the Dolly affair brought home to Rüttgers the need for an established forum to give guidance on bioethical issues. He promised to "consider what to do to strengthen the position of applied ethics in science". A spokesman for the ministry makes clear that Rüttgers does not intend to create a central committee, however, preferring to tap expertise in Germany's half-dozen or so ethics institutes.

This reluctance is partly linked to Germany's federal structure, and partly to the fear of scientists and the research ministry that bioethics could become over-regulated. Scientists such as Markl and Detlev Ganten, director of the Max Delbrück Centre for Molecular Medicine in Berlin, believe the Central Committee on Ethics of the Chamber of Physicians remains sufficient for consideration of ethical issues at federal level.

But ethicists such as Honnefelder believe that an independent federal ethics committee is now needed, both to raise the status of bioethics in the scientific community and to nominate a national representative to attend the regular meetings between the bioethics committees of all European Union states.

Details of a proposed national bioethics advisory group, similar to that in France and elsewhere in the union, are being developed by the opposition Social Democrat party. "We have a lively discussion about bioethics in Germany," says Wolf-Michael Catenhusen, secretary of the party's parliamentary group, "but no focus for it."

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