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Saving Us From Ourselves: The Interaction of Law and Science-Technology: Comment

Philip L. Bereano

COMMENT

BY PHILIP L. BEREANO

PREPARATORY to the main comments I wish to make, let me say that I have a somewhat different definition of technology than Dr. Curlin. I look at it as encompassing more than just applied science, and tend to include within it organizational and informational relationships. Also, running through the discussion of technology, either implicitly, or sometimes explicitly, is a very strong notion of elitism, to which I react very negatively. I see elitism entering into decisionmaking in two contexts. The first is the managerial sense — who decides and how. The second is the problem of allocation, or in other words, to what problems do we devote our resources. For example, the majority of people at this conference have focused on what I would call the problems of elite groups.

We have been concerned, as Dr. Curlin's paper indicates, with the problems of heart transplants and definitions of death. I would submit that these problems are trivial in the present social context. To concentrate our resources on genetic manipulation, rather than on the problem of infant mortality, or the problem of child malnutrition, seems to me to be folly, or even criminal. Similarly, to concentrate the resources, as our private sector largely does, on muscular dystrophy, which affects far fewer people than sickle cell anemia, seems to me to be inexplicable, except when one realizes that sickle cell anemia is a disease that is largely restricted to blacks. Similarly, references to abortion and the liberalization of the abortion statutes should be made with the realization that the experience in New York State, in the 6 months since the abortion law was liberalized, shows that the right and the ability to get an abortion remains essentially a privilege of upper class, white women.

I submit that our society must begin to deal with problems such as the above and not with the questions of heart transplants or genetic manipulation — which are intellectually interesting, but which are usually problems of elite groups. This is essentially why I have a very negative opinion about much of "futurism." My argument is essentially that futurists work with the false premise that our social problems are largely due to surprise, while I believe that they are due to indifference. Therefore, I do not think we should be preoccupied with eventual dilemmas of the future, when apparently we are unwilling to handle present, contemporary problems which, in fact, we are capable of handling.

I would define technology assessment in somewhat broader terms than Mr. Coates. I perceive it as "technological planning." Planning has

evolved from an architectually based setting, to questions of economic development, and then, subsequently, into questions of social programs, health care, and so on. I would submit that technology offers a suitable, substantive area to which planning, as a process and as an intellectual tool, can devote its attention. I believe that technology assessment is in fact the application to technology of theories that have been developed in the planning process.

One of the strongest theories that has been developed within the planning literature is the choice theory associated with Paul Davidoff and Tom Reiner. Very clearly, the whole notion of values, as well as the whole concept of normative considerations, is central to this theoretical framework. Briefly, they see the planning process as one in which goals are selected through a normative process, and means are either ascertained, or better still, created, so that they produce options and alternatives which involve some normative consideration. Thus, I feel that the value question is not sterile; in fact, it is fundamental. I consider technology assessment to be a broad concept in which mixed social-technological questions are to be asked.

The fact is that decisions must be made, in spite of the theoretical difficulties. That is to say, even though we cannot perform analyses which are clean and neat, politically and socially we are making decisions. If we cannot justify these decisions "rationally," because they are not clean and analytical, we have to look to other criteria, of which one of the most important is that these decisions must be accepted by people as being legitimate, accepted, most importantly, by those people affected by the decisions. How can decisions be accepted as being or having a sense of legitimacy? Each of us probably has our own notion, but I would suggest that the idea of advocacy, as discussed by Professor Jones, can play a central function in this area.

I see the ideas of advocacy and the adversary process within technology assessment, or within any planning operation, as having merit in at least two main ways. One is the explicit recognition and acceptance of the value component. The second is that advocacy increases the possibility of participating in the process of making social decisions, thereby enhancing the legitimacy of the decisions made. As a result I think that the criteria we should use for persons who are involved in this advocacy is not just expertise, but something quite different, and that is wisdom. This is not an original thought on my part by any means, but I think that it is an important one.

This participation aspect is, I believe, the major way to counter the elitism in the processes that we have been discussing. Within a democracy the facilitation of increased participation is the only way to allow the posing of the correct question, which I see as a much more important and a more fundamental step than attempting to find the

correct answer. If we accept the fact that posing the correct question must come before ascertaining the correct answer, value considerations necessarily enter into the assumptions we must make in considering the various alternatives.

Everyone, it seems to me, gets assistance in deciding upon possible alternatives except the public. Mr. Huddle told us about the increased assistance that Congress is going to get. The Executive Branch has many operations, such as OST and the Science Advisory Committee, to do this. I would like to see a "P"SAC with the "P" standing for Public, *i.e.* the Public Science Advisory Committee. In this regard I see the activities of people like Margaret Mead and those of the Scientist Public Information Movement, as being extremely important methods by which scientists are attempting to bridge the gap from the technical to the public policy dimension. Unfortunately, for some unknown reason, such activities are usually played down at conferences such as this. And yet to my mind, this is one of the few sane developments on the national scene.

Ralph Nader has remarked, in one context, that the era of intermediaries is over. I think he is right in the sense of intermediaries being independent entities through which people are expected to channel and funnel their activities. But I do not think the era of advocates is over in the sense of the advocate being the agent, and assisting his client, group, or person, whomever they may be. I feel that the era of advocates is actually just beginning.