EDITORIAL

BIO-LAW AND HUMANISM: A TRANSFORMATIONAL TURNING POINT

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PART I

At the beginning of September this year I received a message from Maria de Fátima Freire de Sá, a distinguished professor and researcher at the Catholic University of Minas Gerais, announcing that they would dedicate a special edition of the prestigious magazine of that university to highlight the merits of Professor *Carlos María Romeo Casabona*. The news came with an invitation to write some introductory words with the editor; my acceptance was immediate due to the admiration and gratitude I feel for the honoree.

The time was short to undertake a task that sought to comment on his extensive bibliography and review the tasks performed in national and international organizations or to adequately highlight the admirable work done at the head of the Law and Human Genome Chair, in which his vocation as a professor has been generously deployed to accompany young lawyers in the difficult task of undertaking the path of research.

In Latin America, the professor is dear and respected for his written work and for his permanent support to initiatives aimed to deepen the study of biomedical and criminal law issues. Based on this, I have purposefully chosen to elaborate small comments on the first written work that I had the opportunity to read and on a book that is part of the collection of publications of the Center for Studies in Genetics and Law of the Universidad Externado de Colombia in Bogotá. It seems to me they can be useful for those who undertake the task of reconstructing the thread of evolution in the thinking of Romeo Casabona who, by the way, was ahead of many of his Spanish-speaking colleagues in dealing with problems and seeking

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legal solutions in the field of modern genetic techniques which, as everyone knows, occupies the vertex between hope and risk.

The first writings I read from Professor Romeo Casabona came to me from two great friends. First, Jaime Vidal Perdomo, Professor of Administrative Law, gave me a couple of volumes containing some of the works presented at the "International Meeting on Law and the Human Genome Project" held in Bilbao, sponsored by the BBVA Foundation with the collaboration of the University of Deusto and the Provincial Council of Vizcaya in 1993. Then, Enrique Ruiz Vadillo, Judge of the Court of Justice, and his wife Elvira gave me the volumes I still needed to complete the collection, which was not known, at least not widely, in my country, Colombia.

In volume III, I had the opportunity to read the work entitled "Criminal limits of genetic manipulations." Since then, I remain attentive to take advantage of any occasion that allows me to get in touch with new publications - now also with videos - and, if possible, to take part in his lectures. The reason is that I am sure in those I will find accurate descriptions, refined legal techniques analyses, and solutions open to many possibilities around very current issues in the field where the law intersects life and technology.

The fundamental questions that mark his work already appear there: What is this limit of dignity of life that the law should not cross? What is the exquisite calculation of the measures that the law can take when it intervenes in the relationship between life and technology? The answers, not at all simple, will indicate, according to his words

> what should be supported, guaranteed and protected; they will tell us what should be channeled and limited; and, finally, what should be prohibited and sanctioned, if any, and with what legal instruments[2].

His writings reveal the vast amount of hours devoted to the study of scientific aspects: biomedicine, assisted reproduction, genetics, molecular biology, cloning, parthenogenesis, whose understanding in a certain level of depth is necessary to identify the rights, interests, values or legal assets on which the actions of scientists and biotechnologists might reflect, to calculate, as far as possible, the effect they may have, to weigh them against each other and the values and foundational principles of legal systems, to make optimal decisions.

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[2] " lo que debe ser apoyado, garantizado y protegido; nos indicará[n] lo que debe ser encauzado y limitado; y, finalmente, lo que debe ser prohibido y sancionado, en su caso, y con qué instrumentos jurídicos". C.M. ROMEO CASABONA, *Límites penales de la manipulación genética*, El derecho ante el Proyecto Genoma Humano, Fundación BBV, Bilbao, 1994, v. III, pp.173-212

As with a double-edged surgical instrument, in each of his studies, Professor Romeo Casabona shows his readers the subtleties and scientific and legal nuances of the matter under examination. We could almost say that, like Roman jurists, he analyzes all the "possible, possible", explains the issues that may arise, the treatment they have been given in the legal norms of various levels, as well as in ethics and particularly in bioethics, and defends his own solution whenever he believes it is necessary.

The document to which we refer raises, among others, the interesting matter of the possible existence of collective assets, such as those belonging to the species or the humanity, and their protection with penal law tools. At first glance, our attitude is suspicious about the inclusion of subjects not sufficiently characterized as holders of assets protected with the legal sanctions inherent to this area of the law because they could restrict individual freedom beyond what is justifiable. However, we cannot fail to recognize that the author makes a meticulous analysis of the risks the manipulation of genes could bring to individual descendants and future generations. Moreover, that he is in favor of protecting "the inalterability of certain characteristics of the human species and, at the same time, protecting their genetic plurality and variety" and, what we could call a political reflex, "protecting at the same time democratic values based on pluralism and equality"[3].

In this context, he inquires about the possibility of overcoming the apparent dilemma posed by the recognition of the right to inherit an unmodified genetic heritage with the right - also possible - to inherit a genetic patrimony free of serious diseases[4]. His response advocates the assessment of all scientific, philosophical, ethical, and health aspects present in the tension between the two of them to achieve a regulation that does not compromise the benefits that could be achieved, for example, with germ line gene therapy.

Within the brevity of a presentation, the author enunciates other scientific possibilities on which criminal law should put the magnifying glass because they involve legal assets of transcendence for the species as a whole: cloning in those variants that violate the identity and unrepeatability of human beings, the deprivation of double genetic endowment (male and female), ectogenesis, and the creation of biological weapons; at the same time, he states that it is necessary to persist in the multidisciplinary debate since freedom of scientific research is constitutionally protected, and the innovations achieved by science and technology have brought great benefits to humanity, but the law has the responsibility to prevent them from

[3] *Ibidem*, p. 205
[4] In its judgment in Costa and Pavan v. Italy (28 August 2012), the European Court of Human Rights made clear the difference between claiming the right to have a healthy child - which is impossible - and the right to have a child who is free from a fully identified genetically transmitted disease in the family.

being used to facilitate the temptation of totalitarianism to standardize or hierarchize humans. It is worth quoting it literally:

> We can advance that the limitations or prohibitions that could be established in genetic research aimed primarily at the acquisition of knowledge... should be determined exclusively by their collision with other fundamental rights or constitutionally protected legal assets... when such a collision has not occurred or its resolution in favor of research has been possible because it does not substantially affect such rights, the public authorities - but not only them - should take responsibility for promoting science and scientific and technical research in the general interest[5].

Another constant in Romeo Casabona's writings then appears: the importance of the international community's involvement in the search for an appropriate regulation to contain genetic tourism whenever this leads to the existence of "paradises" that facilitate the insurgence of new factors of inequality or endanger rights and freedoms on whose existence there is broad consensus.

The publisher of the Universidad Externado de Colombia, where I have been teaching for many years, published Romeo Casabona's book Del gen al derecho in 1996, and it has had many readers among Latin American lawyers. In the seven chapters that compose the book, the author analyzes the topics that have since then occupied the attention of jurists, particularly to human beings, but not only, that are related to genetic research and its application.

We emphasize the suggestive presentation that the author makes about the advances in genetics, unfolding the wide range of their possibilities and leading the reader, notably if they are lawyers, to analyze both their luminous and opaque faces and, of course, repeating his profession of faith: it is up to the law to identify with the utmost diligence the assets and values that deserve to be protected and weigh the rights and interests involved to adjust the form and measure of such protection.

With unquestionable wisdom, he indicates many of the attitudes or responses that should be avoided because, if not, the desirable balance between the promotion of scientific progress and the protection of people, their fundamental rights, and the values on which democracy was based would break.

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[5] "Podemos adelantar que las limitaciones o prohibiciones que pudieran establecerse sobre la investigación genética dirigida primordialmente a la adquisición de conocimiento…deben venir determinadas exclusivamente por su colisión con otros derechos fundamentales o bienes jurídicos constitucionalmente protegidos…cuando tal colisión no se haya producido o haya sido posible su resolución en favor de la investigación por no afectar de forma sustancial a tales derechos, los poderes públicos -pero no solo ellos- deben asumir la responsabilidad de promover la ciencia y la investigación científica y técnica en beneficio del interés general." C. M. ROMEO CASABONA, *Del gen al derecho, Bogotá,* Universidad Externado de Colombia, 1996, p. 41

He points out, for example, that one of the risks of such attitudes would be trying to link behavior, and even ways of thinking to genes, in a reductive and deterministic way because this would lead societies headlong into reprehensible discrimination. The fullness of the human being is limited neither to the map of his genome - individual or species - nor to the laws of genetics or the law.[6]

In this line of principles, the author develops a judicious study on genetic analysis in each of the great milestones of the vital parable of people, emphasizing that genetic information - in a permanent expansion process, both in terms of knowledge of the individuals, as well as their families and social groups - is a powerful tool, especially in health and sanitation, but devastating if used against freedom, equality and solidarity and, for this reason, these principles and values shared by law and bioethics, must set the course for their development.

On the other hand, one of the great debates in the theory and philosophy of law lately has been about the categories[7] used by the different legal systems, the revision[8] of those considered more solid since the 19th century, and the overcoming of many of them. The problem, with no univocal solution so far, also appears in the mental horizon of Romeo Casabona, which, with keenness, shows it as a result of the legal status that may correspond to the embryo in vitro, the human genome, future generations, among others.

Whenever the author examines the limits of the legislator's freedom of configuration, when it is necessary and indispensable the legal regulation of matters related to scientific and technological issues -especially biotechnology -, he establishes three guiding elements of significant importance which must nevertheless be kept silent in legal writings: consensus, graduality, and temporality.

Consensus, which is what this concept means for theory and practice in the formulation of legal instruments specific to democratic countries that currently assign a transcendental role to pluralism, as well as for the international community. The legislation is not based on the greater influence of some group; on the contrary, it seeks to reconcile the interests of all of them; in this case, for example, researchers, sponsors of research projects, society, individuals, etc.

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[6] E. GONZÁLEZ DE CANCINO, *Genes y derecho*, en Asociación para el avance de la ciencia, El genoma humano, Bogotá, Panamericana, 2001, pp.161-173

[7] Recently S. SCHIPANI studied the macro categories that, based on the institutional tradition that emerged from Roman law, have guided the thinking and language of jurists and, consequently, the systematic divisions of law and codes of private law. (S. SCHIPANI, *Las macrocategorías de las Instituciones y los principios generales de derecho*, Bogotá, Universidad Externado de Colombia, 2019)

[8] R. ESPOSITO, *Las personas y las cosas*, Buenos Aires – Madrid, Katz, Eudeba, 2016

Graduality, which implies, among other things, the study of scientific or technological issues, calculation of the risks they may present and the rationally expected benefits, interdisciplinary exchange of ideas, elaboration of public policies to ensure universal access to knowledge and the elements of well-being derived from it and, only based on the results of these processes, establish normative measures that do not mean, for example, appealing to the argument of the slippery slope, prohibiting or sanctioning what should not be or should not be yet, with the supposed purpose of preventing any damage that its future development could bring to the individual, society or the species. As might be expected, the author, a professor of criminal law, insists on the role of this branch of law, of this sector of the legal system, whose sanctions are usually restrictive of fundamental rights: these should only be applied when others are manifestly useless or insufficient.

Temporality, because the scientific context within which the law moves at this point is singularly variable, transient, and sometimes contradictory. So is the so-called social conscience that, in periods that are increasingly difficult to measure, expresses in different ways its appreciation of new developments in the field of science and technology. Thus, positive law must frequently adapt its norms to new realities being up to jurists to leave behind the nineteenth-century ideal of having regulations that last for centuries.

The author makes it very clear that he proposes these three elements as a guide for the process of identifying the values to be protected and for calculating the "role that the law can or should play" but not concerning the "essentiality of these values" since fundamental rights constitute the essential reference[9].

In this same work, the author analyzes the questions open to the law regarding the collection, storage and use of genetic information and data, as well as the answers of Spanish and European legislation[10]. New at the time of this publication (1996), issues such as the decision to communicate to the patient or subject under investigation the so-called accidental discoveries, the communication of the patient's data to their relatives, the emerging right of "not knowing", the responsibility for damages caused by the information leak, or the identification of factors that may legitimize the interference of the State in private life to access the data considered sensitive, all of which analyzed with insight by Romeo Casabona, continue to concern jurists and bioethicists.

[9] C. M. ROMEO CASABONA, *Del gen al derecho*, cit., p. 43

[10] When this work was published, the UNESCO International Declaration on Human Genetic Data of October 2003 had not yet been promulgated, nor had REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the protection of individuals relating to the processing of personal data and the free movement of such data; nor had Colombian Law 1581 of 2012 on data protection.

In Chapter IV of this 1996 publication, the author expresses a judgment that may well apply to recent and highly publicized news about the birth in China of twin girls who would not be susceptible to HIV infection thanks to the manipulation of one of their genes by Chinese researcher Hi Juankui of the Southern University of Science and Technology in Shenzhen. Romeo Casabona refers to experiments like this one - provided they are carried out according to the rules of scientific probity and integrity - as preventive eugenic interventions and advises to resort not to a definitive prohibition but to a moratorium that allows us to know more precisely its possibilities and effects. That is a position that can be criticized by many as it seems to be related to terms of mere technical effectiveness and safety; however, it is a declaration of prudence and hope, since we know that preventive health measures are considered preferable to the treatment of diseases after their symptomatic manifestation and, in addition, that they deserve a positive ethical evaluation; Consequently, if it is demonstrated that it is possible to prevent diseases, which cause enormous suffering to those who suffer them and their families, through interventions in the human germ line, without putting the individual or the species at risk, it would be difficult to find arguments to deny this possibility to those who wish to have children free of a sufficiently identified disease.

For many years, the international community has reached consensus - says Romeo Casabona - on identifying certain assets whose violation affects humanity as a whole or, in the words of UNESCO Universal Declaration on the Human Genome and Human Rights[11], the great human family, for example, in relation to the law of nations and the crimes of genocide, and that this would be a valuable precedent to continue to follow a path to try to reach agreements with binding force that guarantee all human beings, the inalterability and intangibility of the non-pathological genetic heritage, the "right to individuality and to the condition of being oneself and distinct from others," the double genetic endowment - female and male - as well as the survival of the human species through the prohibition of the development of biological weapons or the modification of the environment through genetic engineering techniques that involve undesirable risks and are incompatible with human life - we would say that in these cases the risk would be borne by life itself as a whole-.

An interesting theme outlined in this book is that of the possible existence of human duties, without correlation with already recognized human rights, simply based on values of solidarity and co-responsibility that emanate from the awareness of sharing species, genome

[11] UNESCO, Universal Declaration on the Human Genome and Human Rights 1997.

and facing common risks that put them in serious danger. The questions remain open, but they do not lose importance:

> Would such an approach involve the introduction of an indirect route of undesirable restriction of human rights? Would it perhaps go too far? Should they remain moral duties, but whose undeniable value would force their promotion by the appropriate public or private bodies?[12]

In the current years, the conviction seems to be gaining ground that it is up to the education and media sectors to create awareness of the need to protect the conditions of survival of life on Earth and the optimal strategies to achieve it.

Another issue that attracts the attention of jurists and has provoked endless debate is the existence of embryos outside the maternal womb. In which legal category should they be placed? Are they rights holders? What protection should be granted to them? Who is entitled to make decisions that affect them? After the publication of the book we are commenting, Romeo Casabona has dealt several times with its study and analysis always using the rigorous method that we appreciate in all its work: it combines the simple scientific exposition, the description of the turning points that can be distinguished in the biological development, the identification of the values deserving legal protection in each one of the different biological situations, the criticism to the current legal solutions and the proposal of some own ones duly argued.

In this case, it applies the concept of viability to both *in vitro* and *in utero* embryos. The hierarchy to recognize values worthy of protection is established as follows: first, the embryo or fetus "capable of continuing its vital process without the concurrence of the mother" (extra-uterine viability); second, the viable embryo as soon as it meets the conditions to continue its development, either in vitro or in utero, but has not yet been nested (biological viability); third, the non-viable embryo, that is, "unable to develop due to abnormalities incompatible with life"[13].

The author accepts that the in vitro embryo is not the holder of rights, but that it possesses dignity and its life is a protected legal asset[14]. When it comes to distinguishing the actions that should be allowed and those that should be prohibited and even sanctioned, the

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[12] "¿Implicaría tal enfoque introducir una vía indirecta de restricción no deseable de los derechos humanos? ¿Se iría tal vez demasiado lejos? ¿Deben permanecer como deberes morales, pero cuyo innegable valor obligaría a su fomento por las instancias públicas o privadas oportunas?" C. M. ROMEO CASABONA, *Del gen al derecho*, cit., p. 348

[13] C. M. ROMEO CASABONA, *Del gen al derecho*, cit., p. 361

[14] This was also stated by the Colombian Constitutional Court in sentence 355 of 2006, but referring to the embryo in the mother's womb.

touchstone is the benefit of the "future new being"[15]. Therefore, in their opinion, interventions with therapeutic purposes should be admitted.

A more problematic aspect is represented by research and experimentation with embryos as they involve discussions about the ethical and legal status of the in vitro embryo. Those who consider that from the moment the egg is fertilized by the spermatozoon it is a person whose dignity imposes on the law the obligation to recognize their dignity and rights are far from admitting the possibility of authorizing research or experimentation that puts the embryo's life at risk. At the other extreme, those who consider that the embryo is nothing more than a pile of cells like any other one do not consider the possibility of prohibiting scientific actions on the embryo, even when they may imply its elimination. In the middle, multiple positions, which are not the case here, are defended[16]. Romeo Casabona recognizes the need to grant protection to these embryos, according to the evaluation and weighting criteria that he reiterates throughout his works.

The book we are remembering is not limited to the study of human genes, as they are not the only ones of interest to the law. Thus, it dedicates a specific chapter to the limits and legal protection of biotechnology in this promising but risky field, of the production of genetically modified microorganisms, their use in research and industry, and patent protection for inventions made from them. It is known that patents to protect products and processes related to life and health are subject of intense discussion, as they are elements of the market economy, often referred to as a system that deepens inequalities between people and countries. However, the European Directive on the Legal Protection of Biotechnological Inventions, for example, considers both the total and the partial sequences of a gene as patentable inventions, "even if the structure of that element is identical to that of a natural element"[17].

Regarding plant and animal microorganisms, the author states that the norms that regulate their obtaining, production, transport, confined or open release, must guarantee the protection of the environment and the conservation of biodiversity and biosafety. Issues that during the 24 years that distance these pages from the publication of Professor Romeo

[15] The literal interpretation of this expression opens several unknowns: Does being mean person? Is the embryonic biological reality not a being in itself? Hence the importance of the application of the concept of viability that we have qualified as biological.

[16] An exposition of the various positions can be consulted en P. J. FEMENÍA LÓPEZ, *Status jurídico del embrión humano con especial consideración al concebido in vitro*, Madrid, 1999

[17] Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions, Article 5.

Casabona 's book have been the object of national, international, and community norms, but that were then in a merely embryonic state.

At the end of this book, the author gives us his opinion on how the control and responsibility regulation in the field of genetic techniques, in particular, and biotechnology in general, should be addressed. They constitute, using a metaphor, the rods of a fan that are open and extended in a staggered way to complement each other and thus constitute a harmonious and effective whole.

First of all, there would be the guidelines of ethical self-control that influence the morale of each researcher and the entire community they form[18]. Romeo Casabona positively values the action of biomedical ethics committees and national bioethics committees; also the international declarations, for the time of its writing, for example, the Marbella Declaration on the Human Genome Project. From then until now, he has had the opportunity to actively participate in projects and follow-up initiatives and documents of this type at the European and international level.

The administrative regulations would be a second stick that should indicate the procedures for obtaining authorizations and point out the competencies, proceedings, and sanctions regarding the control function that corresponds to public administrations. The preventive function of these measures is evident and reinforced because responsibility can emanate to the State from the failures in the control procedures.

Then there would be the configuration or reinforcement - depending on the case - of civil protection instruments and, only if it is strictly necessary, the establishment of criminal offenses.

Regarding civil responsibility, the emphasis is on errors in prenatal genetic diagnoses, either because they are not ordered when indicated according to medical experience, or because the result is contrary to reality - false positives and false negatives - or because it is communicated to the mother untimely in countries where voluntary termination of pregnancy within specific periods of time does not constitute the crime of abortion.

One of the big problems presented by the author on this matter that has had abundant jurisprudential development after Del Gen al Derecho's publication consists in the identification of the elements of civil responsibility, especially the causal nexus and the damage when the compensation of the damage is claimed by the affected person, since, in

[18] ROMEO CASABONA gives them preference over the rules that regulate only the deontological control.

reality, the disability or illness suffered has not been caused by the action or omission of the doctor and the birth or life cannot be considered damage in itself[19].

The examination of the infringements and administrative sanctions refers to those contemplated in Spanish Law 35 of 1988 on Assisted Human Reproduction Techniques and Law 15 of 1994 establishing the legal regime for the confined use, voluntary release, and marketing of genetically modified organisms to prevent risks to human health and the environment.

The book ends with a reasoned, in-depth, and detailed critique of the criminal offenses established in the respective code by the Spanish legislator: genetic manipulations, cloning, and procedures for the selection of the breed, formation of embryos without procreative purposes, production of biological weapons and non-consensual assisted reproduction.

The criminal offense of genetic manipulation receives profound criticism from the author; we will limit ourselves to highlighting some of them: The scope of the description of the typical action that could encompass "the manipulation of cells taken from any part of the human organism".

The reference to altering the genotype, without clarifying who is preaching its alteration, could also lead to the absurdity of punishing innocuous conduct; censorship which, otherwise, could also be made to article 132 of the Colombian Penal Code.

In analyzing the objective type of action, Romeo Casabona raises a hypothesis that should have deserved the direct attention of the criminal legislator: the fertilization of a human gamete with another animal if it were used for reproduction[20].

The author makes a considerable effort to outline the interpretation of the criminal offense that best suits the Spanish system as a whole, but notes that the most important crime within the title of "related to genetic manipulation" is "probably the most imperfect".

The author makes a considerable effort to outline the interpretation of the criminal offense that best suits the Spanish system but notes that the most significant crime within the title of "related to genetic manipulation" is "probably the most imperfect.

In the following article, the author identifies two distinct offenses: cloning and the use of other procedures aimed at selecting the race.

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[19] A. MACÍA MORILLO, *La responsabilidad médica por los diagnósticos preconceptivos y prenatales*, Valencia, Tirant lo blanch, 2005.

[20] The United Kingdom is not authorized to create these hybrid embryos, but through the Human Fertilisation and Embryology Act 2008, the production of what the same law called Admixed human embryos obtained through the nuclear transfer technique for research purposes was authorized.

In the following article, the author identifies two distinct offenses: cloning and the use of other procedures aimed at selecting the race. He does not enter into the discussion - which he has already presented in other sections of the same paper - about whether or not the terms human being and person coincide in the light of Spanish positive law, whose civil code includes the natalist thesis on the beginning of legal personality; thus, he concludes that before the birth of two human beings with genetic identity, the obtaining of embryos with this characteristic would remain in the realm of the attempt.

Regarding the procedures oriented to race selection, it is interesting yet simple the argument to distinguish it from the crimes of genocide and genetic manipulations.

The analysis of the crime of formation of embryos without procreative purposes is well adjusted to most of the legal systems in force in the year of publication of this book; The authorization in the United Kingdom of the creation of mixed human embryos (human admixed embryos) makes us think that there are precisely hypotheses in which the related criminal offenses cannot be structured based on the prohibition of obtaining them without reproductive purposes, since this purpose would be the basis of the prohibition and the sanction in the case of mixed embryos (cybrids), to safeguard the interests of the very species. Or would it be the ones of the current species?

The work criticizes the offense of biological weapons production for not including in the prohibition the production of biochemical weapons obtained by procedures other than genetic engineering. In any case, the sanctioning of such conduct is part of the struggle of the entire international community to avoid the horror of considerably cruel extermination wars.

In interpreting the article that recognizes the crime of "application of assisted human reproduction without the woman's consent", Romeo Casabona presents the controversies related, for example, to the protected legal good, thus establishing exact differences between it and the crime of coercion; to the meaning given to the expression "assisted human reproduction" because outside the specialized field of criminalists, the definitions and the amplitude of its understanding are very varied. There is also the understanding of the expression "without their consent" and the possible interpretation coming from the civil law about the vices of consent, or the delimitation of the results required by the offense.

Romeo Casabona will return to all the topics mentioned in the 1996 publication in later writings, among them a book entitled Genetics, Biotechnology and Criminal Sciences, also published in Colombia in the international collection of the Faculty of Legal Sciences of the Pontificia Universidad Javeriana, printed by Grupo Editorial Ibáñez in 2009, for which I

have special affection, but on which I have not dared to comment given the depth of criminal knowledge it requires and which I do not have.

PART II

I had the opportunity to meet Professor Emilssen González de Cancino when I participated, between 2007 and 2009, in an important legal research project on Biobanks, called Latinbanks - Study on the Legal and Social Implications of the Creation of Banks of Human Biological Material in Latin America, a project coordinated by Professors Carlos María Romeo Casabona and Jürgen Simon, financed by the European Commission.

Since that first contact, my academic, professional, and personal admiration has not stopped growing. In this sense, inviting her to join me to present the dossier in recognition of Professor Romeo Casabona's work reveals the consolidation of the ties strengthened through my admiration and our mutual respect.

I am sure that Professor Emilssen is the one who best represents Latin America in this deserved tribute, both for her brilliant trajectory in the field of law and for the friendship she dedicates to the honored.

From the extensive, yet not exhaustive, bibliography presented above, commented on in-depth and notorious knowledge by Professor Emilssen, I would like to turn my attention to a fragment of the preface by Pedro Laín Entralgo to the book *El derecho y la bioética ante los límites de la vida humana*, which lent the title to the dossier:

> It is indeed admirable that a professor of Criminal Law, with already a solid prestige as an advocator of his university discipline, should have wanted to become a doctor of medicine with no other purpose than the correct possession of the medical knowledge required to the theory and practice of that field of law. And more admirable are, if it is possible, the vast bibliography that gives foundation to this study, the unequivocal intelligence with which the author has used it, and the wise consideration with which he has known to offer his conclusions before such controversial and thorny problems.[21]

This paragraph summarizes Romeo Casabona's dimension: a tireless researcher and teacher, always attentive to the realization of the dignity of the human person. A doctor of law

[21] "Admirable es, en efecto, que un profesor de Derecho Penal, ya con sólido prestigio como cultivador de su disciplina universitaria, haya querido hacerce doctor en Medicina, sin otro designio que la correcta posesión de los saberes médicos exigidos por la teoría y la práctica de esa rama del Derecho. Y más admirables son, si cabe, la amplísima bibliografía que da fundamento a este estudio, la clara inteligencia con que el autor la ha utilizado y la sabia ponderación con que ha sabido ofrecer sus conclusiones ante problemas tan controvertidos y espinhosos."

and medicine with successful humanistic activity. His writings are avant-garde and this statement is easy to verify: his book *El derecho y la bioética ante los limites de la vida humana* dates from 1994 and the themes worked on there, as well as his text, continue to be current: biomedical sciences, bioethics, and law; the right to life and its protection; the right to life and procreation; the right not to procreate and preventive procedures; interventions on the human genome and the juridical protection of the embryo and the fetus; the right to death itself.

These are some of the great themes on which Professor Romeo Casabona has been dedicating himself throughout his rich and brilliant career, and the objective of this dossier is to bring to light texts written by many of his disciples all over the world. Six texts have been selected to compose this volume, along with the leading text which is Professor Romeo Casabona's insignia:

Our honoree signs the article entitled *Covid 19 and European policies on human rights*. The text begins with an approach to the evolution of the legal asset protected against the COVID-19 pandemic, with public health analysis to the protection of the human species. The author analyses the obligations of states in the face of the pandemic, focusing on solidarity among them and respect for citizens' rights. The text confronts public health and human rights and brings informative criteria to establish the prevalence of public health over fundamental rights. In the end, the question: what does the return to normality mean?

Iñigo de Miguel Beriain and Emilio José Armaza have written the text *Considerations on the crime of cloning* in which the authors address the crime of cloning foreseen in article 161.2 of the Spanish Penal Code and offer doctrinal proposals in order to stimulate debate. The text begins by addressing the evolution of the protected legal asset in the face of the COVID-19 pandemic, with an analysis of public health and the protection of the human species. The author analyzes the obligations of States in face of the pandemic, focusing on solidarity among them and respect for citizens' rights. The text confronts public health and human rights and provides informative criteria to establish the prevalence of public health over fundamental rights. What does a return to normality mean?

In *End of life decision-making: current situation and future perspectives in the Spanish law* authors Pilar Nicolás Jiménez, Sergio Romeo Malanda and Asier Urruela Mora analyze the legal contours of legislative projects presented by the Spanish Chamber of Deputies with the aim of regulating decision-making at the end of life. What will Spain decide in this regard?

Aliuska Duardo Sánchez and Ekain Payán Ellacuria, in the article entitled: *Ethical-legal implications of gene editing* investigate the ethical acceptability of gene therapy, focusing more specifically on the possibilities revealed by the CRISPR/Cas tool9 . The topic is approached taking into account the bioethical principles of autonomy, beneficence, non-maleficence, and justice. What is the limit for its use?

The use of CRISPR/Cas9 technology was also analyzed by Ana Thereza Meireles Araújo and Rafael Silva Verdival dos Santos. The arrival of this system represents a great evolution in the field of gene therapy because it is a more precise, efficient, and accessible procedure. Under the title *Bioethical-legal implications of using genetic editing as a therapeutic alternative in health relations in Brazil* the authors seek to answer the following questions: What are the ethical and legal implications of using genetic editing, using the CRISPR/Cas9 technique, as a relevant therapeutic alternative? How should the Brazilian legislation discipline the use of this technique?

Elena Atienza Macías and Aitziber Emaldi Cirión contribute with important reflections on the global health crisis that has occurred in the world due to COVID-19. In the article entitled *Ethical and legal implications of a global health crisis on sports law: from the Ebola threat to Covid-19* the authors analyze the ethical and legal implications of COVID in sports law. What is the extent of this impact?

The authors Ana Paula Myszczuk and Jussara Maria Leal de Meirelles subscribe to the article *Human Genome, scientific development and the 21st century: building bio-juridical interpretative foundations enlightened by the work of Carlos María Romeo Casabona*. The text aims to demonstrate the ineffectiveness of classical legal forms in answering the current questions of biotechnology in the 21st century and, to this end, proposes new bioethics interpretative bases. What are they?

Once the texts that make up this dossier are presented, it is necessary to remember, with nostalgia, the 1st Spain-Brazil International Congress (2010), when Professor Romeo Casabona received from PUC Minas the title of Doctor Honoris Causa. With a short excerpt of my greeting letter on that occasion, I close this editorial:

> Professor Romeo Casabona, this title also reflects the most vehement expression of our faith in the friendship that you dedicate to us and for which we try to return to you, even though it is far from your merits. Another meaning that we have gathered at this moment is in the very construction of your relationship with PUC Minas – "mineira" and international; innovative and discreet; coherent and unswerving in your principles; parsimonious and judicious in your homage, but which manifests itself in an explosion of generosity towards a legitimate partner of ideas. [...] Thank

you for sharing your experience and capacity with us. Our dear University, honored and moved, embraces you.