

This response was submitted to the consultation held by the Nuffield Council on Bioethics on Emerging biotechnologies between April 2011 and June 2011. The views expressed are solely those of the respondent(s) and not those of the Council.

10 What evidence is there that ethical, social and policy issues have affected decisions in (i) setting research priorities, (ii) setting priorities for technological development, and (iii) deploying emerging biotechnologies, in either the public or private sector?

It depends from the concrete ethical, social and cultural context. The case of regulation of embryonic stem cell research in Italy may be particularly paradigmatic. Legislator does not provide for a specific regulation: it is not explicitly forbidden, even if it is forbidden both research on embryos and any experimentation or intervention on the embryos. This is due to the ethical approach to this kind of research expressed by the Italian society: better said, it is due to the representation of the social attitude made by the Italian decision makers, which goes to conditioned the decision making process and the content of the law. It generates a lack of certainty within researchers, because it is hard to deduce the concrete rule regulating the issue. According to an interpretation consistent with the Constitution, the research is permitted, however, exclusively with imported stem cells, even if its public financial support has been excluded in a recent call for public funding by the Italian Government, in which exclusively research with stem cell not derived from embryos may be admitted.

Ethics

11 What ethical principles should be taken into account when considering emerging biotechnologies? Are any of these specific to emerging biotechnologies? Which are the most important?

From a legal perspective, it is crucial to determine the space to be recognised to ethical principles when legislator (or decision makers in general) intervenes in regulating these issues. Ethical values may have access to regulatory discourse exclusively whether it is possible to translate them into legal principles – grounded on the constitution or common law (for the common law systems) – by means of a “secularization” process. It can be defined as the process through which ethical values – such as human dignity, human nature and so on – acquire a legal dimension, a legal content: accordingly, reference to human intervention in nature *ex se* has not a legal relevance, because any human intervention potentially is able to intervene in natural development of reality (within biomedical context, for instance); it may acquire a concrete legal relevance whether human intervention – expression of freedom of research or freedom of private enterprise – conflicts with other relevant constitutional goods, such as right to health, public health, right of self determination, right to a preserved (safe) environment and so on.