Charity Scott, Bioethics, and Health Law

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As Steve Kaminshine said in his comments at the symposium honoring Charity Scott, I was recruited to come to Georgia State University as a "Law and Bioethics" scholar who had spent more than sixteen years shuttling between an office in a hospital and another in a law school. But when I first visited Georgia State Law, I did not know that more than ten years earlier Charity Scott had spent the better part of an academic year living and breathing clinical ethics at Grady Memorial Hospital.[1] Because of her usual habit of immersion in all learning experiences, in that year Charity gained more insight into how hospitals work and how physicians behave when they are knee deep in their professional milieu of life and death decision-making than many full-time bioethics academics do in a career. For the rest of her career Charity kept one foot well planted in the medical context, as an advisor in problems of research ethics, as a teacher in her own medical-legal partnership structured around real-life clinical problems, and as an ethical analyst who could never be accused of mouthing a mantra of phrases, the "vacuous incantation of abstract principles"[2] that might pass for bioethics discourse in some circles.

In another lifetime, Charity's reputation as a health law expert might just as easily have included the label "bioethicist." Her scholarship certainly justified such a descriptor. She published regularly on the topics that have engaged people in bioethics for decades, writing about the paradigm cases of Karen Quinlan, Baby Doe, and the infamous studies at Tuskegee, as well as subjects as varied as vaccine policy, reproductive decision-making, and end of life care. She analyzed the necessary connection between law and bioethics, noting that "Law pervades medicine because ethics pervades medicine, and in America, we use the law to resolve ethical dilemmas in health care."[3] A conversation between law and bioethics takes place in the courts, where conflicts between patients, doctors and the state often play out. Scholars in ethics are cited by the courts, just as they cite, analyze and criticize the reasoning in legal decisions in their own publications. Charity knew that the practice of bioethics in the clinical setting might very well make reliance on courts less necessary, and she

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wrote about how to use bioethics as a kind of alternative dispute resolution mechanism to avoid conflicts that might otherwise devolve into legal actions.[4]

One of her most read articles appeared in the flagship journal for bioethics, *The Hastings Center Report*. "Belief in a Just World: A Case Study in Public Health Ethics"[5] is an article used by many people who teach bioethics, as well as people who identify more particularly as health law teachers. It describes how an *Atlanta Journal-Constitution* story detailing the saga of a Georgia family whose loss of medical benefits under a state health insurance program prompted heated reactions from readers. Why, said Scott, "did portraying a married, working, loving, family-oriented, and religious couple with a disabled child prompt such consistently negative public reactions?"[6] The answer Charity offered relied on a study of public attitudes toward people in poverty. According to one line of scholarship, people who believe in a "just world" focused on the "personal responsibility" of people who fall into poverty and echoed age-old distinctions in Anglo-American history between those considered the "deserving poor" as contrasted to others thought unworthy of public beneficence in the form of income or health care subsidies.

After explicating the origins of such public attitudes, Charity moved smoothly from addressing the significance of them in public health ethics to her chosen vantage point as a lawyer. Her conclusion was ultimately pragmatic, and she pointed out how an effective advocate would take such sentiments into account to frame support for state health programs considering the likely reaction of the public. Charity knew that thinking through issues in bioethics was both interesting and necessary, but she also realized that relevant knowledge of those issues could be a great help when one attempted, through advocacy, to move the levers of public policy.

My late colleague and friend John Arras was fond of reminding students who often came to him wanting to focus their studies in bioethics that they should cultivate a fundamental expertise in a specific discipline before engaging in bioethics. Strictly speaking, said Arras, bioethics was not a single discipline, but a much broader field made up of many more discrete disciplines. Over the years, as I watched Charity build the health law program at Georgia State Law, I remembered John's comments. Charity embodied interdisciplinarity.

In the legal academy we often think of specific "doctrinal" areas, like Torts, Contracts, or Constitutional Law as if they were independent lenses we could use to analyze the law more generally. Charity knew that in the U.S., the law — spanning out from each of these more focused areas — filled as large a role in bioethics as did philosophy and other areas of study. As Arras also had said "The language of law has had an equal, if not greater, impact on the field of bioethics [than philosophy]. Indeed, I think it fair to say that philosophers have often played the role of conceptual custodians, sweeping out and tidying up the results of the day's court decisions."[7] With comments like this in mind, Charity appreciated that a solid grounding in the law was a critical prerequisite for those who wished to study bioethics in this country.

It is my good fortune to have benefited from Charity's expansive view of both health law and bioethics. I thank her for the opportunity of working in a context where interdisciplinarity is appreciated and rewarded, within a nationally recognized faculty in the award-winning program that she built.

Charity's version of "health law," like those broader definitions of bioethics, had few boundaries. She understood that in an economy where more than $4 trillion is dedicated annually to health-related expenditures, it was easy to see how every enterprise of any type would need help with issues ranging from health and safety regulations, to employee medical benefit plans, to the details of worker's compensation. In the massive arena now regularly designated as the "medical industrialist complex" the particulars of Medicare, Medicaid, health practice financing, medical facility regulation, and the license defining role of physicians and other health professionals all could reasonably be covered as part of the study of "health law."

So when we began formalizing a curriculum for students who wished to receive certificates in health law, six clusters of study and research emerged. Those clusters became the categories in which we grouped course offerings and experiential opportunities. Along with Public Health and the Environment, Social Justice and Human Rights, Health Care Regulation and

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Financing, Global Health, and Health Sciences & Technology, Charity insisted that we include Bioethics. The curriculum she imagined incorporated the interdisciplinarity that characterized the conversation between law and ethics, and it included even more elaborate exchanges with fields as seemingly disparate as finance, safety, and scientific technology.

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Note

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