

**Firb 2006**

**The impact of Biotechnological Innovations on Fundamental Rights: An Interdisciplinary and Comparative Survey**

**Abstract**

1. Law (not only in Italy) seems to be constantly “taken by surprise” by biotechnological innovation and always “short of breath” in regulating it. For example, the birth of bio-law is certainly much later than that of bio-ethics. As a consequence, the possibilities of scientific research have gone well beyond the level of legal reflection and elaboration, which still remains highly uncertain, incomplete, and not very coherent.

2. The weakness of biolaw is particularly evident with reference to the protection of the rights of the human being. Contemporary constitutionalism should be founded precisely on these rights, but the speed of biotechnological innovations, and the field in which the latter intervene, make the very content, basis and limits of these fundamental rights uncertain. In the area of “end-of-life”, a paradigmatic subject dealt with by the research unit of the University of Naples, great moral and legal issues require difficult, and rarely shared, decisions. The latter deal not only with rights and interests of individuals but also with the importance of human life itself and, on the one side, with the interest of the State to protect life and, on the other, with the principle of self-determination.

3. The research unit of the University of Trento deals with genetics, another subject in which the problems of law dealing with biotechnologies arise in a paradigmatic way as well. Apart from some general, but often vague, declarations on the protection of the human being and its dignity, more specific themes and cases challenge in vain biolaw with reference to the handling of genetic data, to the issue of the genetic identity of individuals, to the knowledge of the genetic profile of accused persons within the criminal justice system, to biopiracy and to predictive medicine.

The relationship between theoretical research and concrete experimentation in genetics is another very complex conundrum. On the one hand, freedom of research constitutes a fundamental principle embedded in strongly protected fundamental liberties (freedom of expression and of teaching); on the other hand, experimentation consists in a material activity heavily affecting health, security, privacy etc. of the persons involved in. In the post-genomics era, issues like these need a legal in-depth analysis which is to be an interdisciplinary one, seeing the contribution of lawyers and biologists in order to reach concrete and applicative results.

4. On these basis, the research project puts forward a critical analysis of the problems concerning the protection of fundamental rights in the field of biotechnologies with a multidisciplinary and comparative approach. The objective of the research, which will have a highly practical and operative content, is: (i) to build models for possible legal frameworks in the field of genetics, (ii) to identify weaknesses and strengths of the existing legal frameworks in Italy and abroad (iii) to propose practical normative solutions to specific problems.