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"The City of God in the Palace of Nations"

Death and Dignity: New Forms of Euthanasia

A Catholic Perspective on the Human Right to a Dignified Death

With a selection of texts from
the Church's engagement on Euthanasia

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EDITORIAL

Why dedicate a publication to "Death and Dignity" if a right to die is not among the main disputed questions at the United Nations? It is precisely because of the absence of this debate that such a document is crucial! The emerging vocabulary of a human 'right' to a dignified death is discreetly rising in UN texts and reports, establishing its terms as "non-opposed language". Over time, this might become "consensual language".

In this instance, such a consensus is probably better described as most states' mild indifference to or ignorance of the risks at stake of an evolving vocabulary. A change of words - or a subtle change of the meaning of words - is often all that is needed at the UN to land a victory and later impose measures introduced by the alteration in wording or definition. The Special Rapporteur on the Rights of Older Persons adopted the expression: "right to life and to dignified death" in 2014; such troubling terms stimulate a transformation in the very interpretation of human dignity.

The notion of inherent and universal dignity is one of the corner stones of the Human Rights system. To assign levels of human dignity to a type of death is to alter the way it is commonly understood in the U.N. Charter and the Conventions. Dignity does not change or alter with illness or age. If inherent, it is not qualifiable. Are human rights so well respected around the globe that we can afford to undermine this basic principle?

To speak plainly, there is nothing dignified in assisted suicide. The killing of another human being is always a tragedy. In all UN texts, dignity is supposed to be objective, universal and undeniable, not linked to the actual capacity of an individual to perform autonomous acts. This is why children, the demented or persons with disabilities are said to have an essential and inviolable dignity that no state, no group of persons, no piece of legislation can deny. This was one of the great lessons learned as a result of both the World Wars. This was moral progress.

Yet, the push for recognition of legal forms of euthanasia at the national level is quickly transforming the fundamental assumption of inherent human dignity. The fear of terminal illnesses, unbearable pain, incurable degenerative diseases or extreme dependency in old age, all have added up in the present generation, fuelling the call for a "right to die". The fear of a loss of autonomy, of consciousness, of rationality or just the experience of physical or psychological pain is now seen as denting or denying our fundamental dignity. So much so, that a "legal exit" from pain, illness and old age is presented as the truly dignified form of dying. To support this claim, attractive language such as "compassion" and "mercy" is invoked to induce emotionally charged convictions and assent. Likewise, the deeply ingrained fear of the state's encroachment upon individual rights is used to leverage the legal preservation of the supposedly very private and essentially individual wish to die. Instead of safeguarding an objective quality that no amount of pain, illness, rationality, poverty or state sponsored discrimination can deny, this agenda suggests that complete and uninterrupted autonomy is the new basis of dignity and, thus, the new basis for defendable human rights.

Litigation on the right to die in national or international courts show how far and quickly the interpretation of dignity has shifted from a basis in human ontology to a basis in unrestricted personal autonomy. Thus, this working paper raises the question: can we afford to undermine the objective dimension of dignity in international law by recognizing a human right to a "dignified death"? Have we considered the long-term legal and social consequences that will surely result? Are we prepared for the logical repercussions to follow?

Such recognition of a so called "human right to a dignified death" would introduce a new and fundamental tension within the system of Human Rights. Wherever individual autonomy might be threatened, so would human dignity; whenever a restriction to individual choice may occur, it would encroach upon human rights. Under this troubling development, preserving human rights would soon become a fine balancing act, aimed at preserving as much autonomy as possible. Dignity may well be but the maintenance of equilibrium among rights - a mere expression of autonomy.

This is not the road forward. This is not progress, but a regression, a loss of humanity, a painful crawling backwards in term of human rights. This working paper argues from three different perspectives – legal, philosophical and theological – the reasons we oppose such a move. It shows what is at stake and why we should avoid walking down the road towards the recognizing of a human right to "dignified death".

SECTION ONE

DEATH AND DIGNITY – NEW FORMS OF EUTHANASIA

CAN THE "RIGHT TO DIE WITH DIGNITY" BE CLASSIFIED AS A HUMAN RIGHT?

A Caritas in Veritate Foundation Report by

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1. Introduction: a Western Tendency to Raise Questions

In many Western countries, the end of human life has taken on a new face. Medical advances have made it possible to lengthen life to such an extent that they have ended up raising a question: is it worth the trouble to add years to a life without taking into account the quality of the life that has been thus prolonged? This first question prompts a second: when a person overwhelmed by the burdens of old age, sickness or disability wishes to put an end to this life of suffering, shouldn't the law provide a space for his freedom within the traditional prohibition of homicide? On the one side of this space, the suffering person would clearly express his will to end his life; on the other side, the compassionate physician would accede to this demand, either by personally performing the death-dealing act upon that person, or by furnishing him with the means to do away with himself. Everyone knows that several Western countries have started down this path by decriminalizing euthanasia or assisted suicide under certain conditions: the patient's clear and persistent intention (possibly in the form of an advance directive in case he no longer is capable of expressing himself), medical assessment of his hopeless situation, a report of the act of euthanasia to the public authorities, etc.

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Even though it goes against the ban on homicide, which is considered one of the foundations of civilization, this solution nevertheless appears so reasonable to some of its partisans that it deserves to be considered, they say, as a human right, not exactly as a right to euthanasia, for that concept still has negative connotations, but as the right to death with dignity. Whatever name may be given to it, several cases have been brought before the European Court of Human Rights by petitioners claiming that the legislation of their country violated human rights by barring the path to their personal choice of their own death.[1] Certainly, there is a long way to go

before the majority of the member countries of the Council of Europe have been won over to the view that it is opportune to enshrine in their laws an exception to the prohibition of homicide so as to authorize death on demand. At the same time, the Court is obliged, for the moment, to leave to each State considerable room for discretion at the national level; yet, without clearly ruling that the Convention has been violated, the Court nevertheless makes it understood that a State could be guilty of excessive interference in the private life of a person who is "prevented by law from exercising her choice to avoid what she considered to be an undignified and distressing end to her life."[2]

Catholic doctrine, with broad agreement from the humanist traditions, takes a critical view of this tendency to favor the decision that a subject of law might make to end his own life. The Church considers it necessary to avoid the ratification of this contagious virus of euthanasia in the European juridical order and also its spread through the rest of the world, by the two-fold virtue of the prestige that the Western powers continue to enjoy in the countries of the Southern Hemisphere and of the power that they wield to get these countries to follow their views.

Our legal study is developed here in two stages: first the analysis of the vocabulary, then a survey of the rights invoked; it concludes with a discussion of the necessity of an ethical commitment.

2. An Analysis of the Vocabulary

"Can the right to die with dignity be classified as a human right?" Each of the terms in the title of this essay requires careful clarification, since in the discussion of this topic the words are fraught with strong emotion and do not always refer to the same reality.

A. The Law and Death

"Between one person and another, there is no place for death, since the law, by its civil and criminal provisions, penalizes any act (whether intentional or negligent) that causes the death of another. For the legal scholar, this sanction of homicide expresses precisely the respect that the law has for the human person: no one may dispose of his life."

Death is probably the most difficult term to pin down since, from the human perspective, it marks the end of language: how then can one define by means of words the event that renders them all vain? Poorly equipped to resolve this philosophical enigma that is addressed to every human person, the legal scholar falls back onto his own field, in this case on the way that death is experienced socially. Here, the law's answer is clear: between one person and another, there is no place for death, since the law, by its civil and criminal provisions, penalizes any act (whether intentional or negligent) that causes the death of another. For the legal scholar, this sanction of homicide expresses precisely the respect that the law has for the human person: no one may dispose of his life.

No doubt the death penalty existed in the past in all legal systems, but, on the one hand, the execution of this punishment is increasingly disputed nowadays;[3] on the other hand, this severe punishment, when applied to

a murderer, was meant precisely as a reminder to all legal subjects of the seriousness of any act that strikes a blow to human life, which is considered sacred.

This transcendence of human life pertains also to the subject who possesses that life, because although a person who commits suicide cannot be punished, given that his death of course precludes any possibility of applying a penalty to him, the prohibition of the law regains its influence as soon as someone else intervenes: the request formulated by a subject to be euthanatized does not abolish the guilt of the agent who agrees to kill him. In classical law, no one can dispose of human life.

Despite this clear-cut separation between law and death, people have frequently spoken, since the early 1970's, of a legal right to die. This is an odd expression, inasmuch as the purpose of the law is always to protect a value that could be lost. For example, property rights must be protected because it happens that thieves make off with the goods of an owner; similarly with the right to housing, for it happens that persons find themselves without a roof under which to take shelter. But no human being will ever be deprived of his death. Whereas the right to life still has its full meaning, since human life must be protected against all the dangers that threaten it, the right to death, taken literally, has no meaning because it is always granted.

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B. Death with Dignity

In order to have meaning, therefore, the expression "right to die" has to be explained; in reality it designates a certain way of dying that is often called "death with dignity." However, here again, this language is surprising: death itself is not dignified because it causes a human being to go out of existence. Strictly speaking, it would therefore be better to speak about "life with dignity" until the moment of death. But let us accept the telescoped language and ask ourselves what this "right to die with dignity" entails. Three possibilities present themselves in this regard:

- The patient's right to an end of life without therapeutic obstinacy;
- The patient's right to an end of life without excessive suffering;
- The patient's right to decide for himself about his death. This third possibility includes with it, under the heading "Voluntary Death" that we have chosen, euthanasia and assisted suicide.

The first two possibilities pose no particular problem with regard to human rights: even though the cessation of disproportionate treatments and discontinuing palliative care have sometimes and wrongly been called passive euthanasia and indirect euthanasia, respectively, they fall under the category of a dignified death.

This expression "death with dignity," in the sense of a good death, in fact covers a set of conditions in which we find, at the medical level, the

rejection of unreasonable obstinacy in the application of treatments as well as appropriate pain relief and, at the human level, an environment of relationships attentive to the psychological and spiritual expectations of the sick person. It is therefore a question simultaneously [1] of allowing natural death to come without any more artificial delay and [2] of supporting the dying person at the approach of his final passage, by alleviating not only his physical pains but also the existential suffering of having to mourn the loss of all that he was.

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The principles of medical ethics in this regard are well established today. Even though, in certain concrete cases, it is not easy to tell when therapeutic obstinacy begins, nor the point to which it is permissible to take risks in alleviating pain, the current philosophy of end-of-life care consists of accepting the mortal condition of human beings, without however hastening their demise.

It is easy to understand why death with dignity—understood in this sense of a good death—is listed among human rights. Every patient has the right to conscientious care: the treatments that he receives must be proportionate to his medical situation; they must also aim to alleviate his pain. In this regard, one cannot overemphasize the importance of making better known and further developing throughout the world the services and palliative care which have as their purpose the medical, psychological and spiritual accompaniment of the sick person, in the most dignified way possible.

Therefore this leaves the third possibility to be examined: is voluntary death a death with dignity?

C. Voluntary Death

Even though, etymologically, euthanasia means good death (eu-thanatos), in contemporary parlance it has become detached from its Greek root to designate the act of another person who aims to put a suffering person to death.[4] To this we add here, by analogy, assisted suicide, which allows the person to do away with himself without someone else directly performing the act of killing. In both cases, in fact, death is not accepted as an event that goes beyond the will of human beings, since, both in euthanasia and in assisted suicide, an act has been willed by two persons who reached an agreement so that one of them, the suffering person, would die at the moment that he has appointed.

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Since this report seeks to determine whether death with dignity (understood in the sense of voluntary death) is a human right, we will add immediately that euthanasia also presupposes the consent (or even the insistent demand) of the very person upon whom the death-dealing act will be performed. Otherwise, we would be talking about eugenic euthanasia and other criminal practices that eliminate the weakest persons against their will, and therefore outside of the law. But it is important to note that the vocabulary is not always settled.

Thus the Opinion [Avis] issued in France on December 21, 2013, by the Conférence des citoyens sur la fin de vie [Citizens' Conference on End-of-Life Issues] introduces confusion in its final report.[5] As a matter of principle, the entire group considers medically assisted suicide as "a legitimate right of the patient who is at the end of his life or suffering from an irreversible pathology" whereas euthanasia is the object of a (rare) exception subject to "the collegial evaluation of a local ad hoc committee that ought to be established." Now, when it comes to defining these two possibilities, the Opinion notes a division within the group. For two thirds of the citizens assembled at the conference (12 out of 18), medically assisted suicide occurs when "the will to die has been expressed by the person," regardless of whether he ingests the lethal substance himself or it is administered by another person; in the opinion of the remaining six citizens, in contrast, "medically assisted suicide excludes the administration of the product by another person." As for euthanasia, the term applies, for the majority group (12 out of 18), to "the case of a medically assisted death when it has not been possible to obtain the direct consent of the person," whereas, for the minority group, euthanasia occurs "when another person intervenes to administer a lethal product resulting in immediate death."[6]

The distinction between the two concepts being used here is inadequate because, for the first group, the criterion for distinguishing between the two categories is the patient's consent, whereas for the second group it is the active intervention of another person. In any case, the example illustrates the fleeting character of semantics: "assisted suicide" does not always prepare for suicide properly speaking, and euthanasia defined as "voluntary" is not always accompanied by consent.... Hence the importance of using words in their strict sense, so as to avoid such ambiguity of the contents as would gradually legitimize behaviors that are increasingly inadmissible with regard to human dignity.

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D. Dignity

In order to designate the properly human character of man, jurists in recent times have used the word dignity, whereas previously this term designated simultaneously the public office held by its occupant (the dignitary) and the moral attitude that was supposed to characterize the exercise thereof (dignified). Directly inspired by Kantian philosophy, which posits an equivalence between humanity and dignity, this new use of the term indicates, in a reaction against the barbarity unleashed during World War II, the inspiration and source of human rights, those rights that intend to liberate mankind both from the terror that threatens it and from the poverty that degrades it.[7]

But when the jurist, who is accustomed to working with precise terms, tries to bring this inspiring principle down to the concrete level of legal texts or court decisions, he runs up against the impossibility of defining

dignity: how, in fact, are we to define the humanity of man? Nevertheless, each one of us knows very well—or is supposed to know—that although some actions or situations are dignified and worthy of a human being, others are not. Hence, in order to preserve the specifically inspirational function of this concept, some legal scholars make it an axiom, in other words a self-evident proposition for which no proof is possible or necessary.[8]

Dignity itself is thus situated high enough not to be confused with the human rights of which it is the source. For human rights, which aim at the welfare of the individual, can come into conflict with one another, calling then for the arbitration of a judge, whereas dignity, which protects humanity as such, cannot be weighed against anything else since it is the supreme value.[9]

Along the same lines, it is important to emphasize that dignity, being an objective characteristic of humanity, therefore does not depend on a subjective evaluation, by an individual, of either the attractive or poor self-image that he has, or of any ability that he may or may not possess: dignity is the characteristic that defines the human subject himself, whoever he may be, and is imperative from the start with respect to him.

"We insist on this objectivity of dignity, because it makes possible the equality of all human beings. Indeed, if the dignity of a human being was confused either with the feeling that he had about himself or with the sorts of performance of which he was (still) capable, this identification would lead to the terrible consequence that human beings would no longer be what Article 1 of the Universal Declaration of Human Rights declares them to be, namely equal in dignity."

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Let us add this also: to the extent to which human dignity is inherent in human beings in their own individual existence, even before they have determined it, respect for this dignity is part of this dignity itself. It is inalienable. Thus, when a criminal imprisons little girls in a basement after abusing them, the little girls are not the ones who lose their dignity, for they remain tragically human to the end, but rather their abuser, in the sense that he has not proved to be morally worthy of his proper dignity as a human being. Now this humanist concept of dignity is not unanimously accepted. Other authors prefer to identify it purely and simply with personal autonomy.

E. Autonomy

Some liberal authors say that since human dignity remains a concept about which there is no unanimous agreement, it is better to allow each individual the freedom to define it for himself. How are we to understand, for example, the human dignity that the Oviedo Convention for the Protection of Human Rights and Dignity of the Human Being with

regard to the Application of Biology and Medicine (4 April 1997) means to defend? For Gilbert Hottois, the author of several works dedicated to bioethics, one distinction is imperative: "If one postulates that it is up to each individual to decide about his or her dignity, the link between human rights philosophy and the Convention [of Oviedo] will be secured. But if one considers that individuals and communities must be protected in regard to attacks or offenses to human dignity even against their will (their conception of dignity and humanity), then any dogmatism or repression becomes possible on behalf of the 'true values.' The danger is that a part of society (or of humanity, for instance a religion or an ideological trend) defines and imposes on the others its conception of the dignity of the human being."[10] For this author, therefore, as for many specialists in bioethics, dignity is confused with personal autonomy, in other words, with the person's ability to decide for himself what is good for him. In these conditions, human dignity loses its objective character: it is left up to the freedom of each individual. Its contours therefore will be determined in keeping with the idea that each subject has of his own image: reaching such an advanced age or such a physical loss will be deemed undignified...

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This discrepancy between concepts of dignity—the humanist concept with reference to humanity as such; the liberal concept with reference to autonomy—of course affects our understanding of death with dignity. In the first sense, it means a good death (of allowing a patient to die); in the second sense it includes voluntary death (of making a patient die as in euthanasia or assisted suicide). This difference is important because, taken in the first sense, death with dignity indisputably deserves to be a human right, but not when taken in the second.

F. Human Rights

Human rights, considered as inherent to human nature, are nonetheless the historical products of a certain culture. Whereas the natural law of the Ancien régime [in France, approximately 15th through late 18th centuries] imposed respect for an order that affected life, the difference between the sexes, the procreation of children, and many other facts that were considered natural, Enlightenment reason, inspired by the Protestant Reformation, highlighted the autonomy of the individual subject. In this typically Western perspective, nature refers less to the regularity of an objective order than to the dispersion of subjective rights in the state that is called precisely the state of nature. Now, in order to assure the peaceful coexistence of these natural rights, interested parties resolved to pass a Social Contract among themselves that allowed them to design, in the so-called social state, the authority responsible for guaranteeing and arbitrating the rights of each individual. This system, founded on the natural liberty of citizens and their equality as joint contractors, gave rise to the first-generation human rights, which are called civil and political rights.

Everyone knows, however, the extent to which this individualistic approach was disputed in the nineteenth century both by various currents of socialism and by the very young Social Doctrine of the Church. Shutting the individual up in the midst of his subjective rights is not in keeping with the eminently social nature of the human person. Hence, the recognition of the second-generation human rights, so-called economic, social and cultural rights.

In the following century, the countries of the Southern Hemisphere upended the international order by claiming the right of peoples to self-determination and the other collective rights that make up the third generation: the right to peace, to a clean environment, to sustainable development...

The purpose of this rapid aerial view of our Modernity is to recall the tensions running through human rights themselves, which the U.N. tries to resolve by affirming, with just cause incidentally, the indivisibility and universality of these rights. Now the moment one asks the question of whether death with dignity (understood in the sense of voluntary death: euthanasia or assisted suicide) should be listed among human rights, it is appropriate to keep in mind the lessons taught by history so as not to look too one-sidedly at the system of human rights.

Having thus clarified the concepts and terms as much as possible, we will now survey the different paths which, under the current positive law of human rights, could lead to the recognition of a right to voluntary death.

3. Survey of the Rights Invoked

In the list of the human rights that were declared in 1948, six deserve to be examined with regard to death with dignity. We find them, in the order in which they appear in the Universal Declaration, in articles 2 (non-discrimination), 3 (life), 5 (inhuman treatment), 12 (privacy), 18 (freedom of thought) and 25 (health). But our analysis will refer more often to the corresponding articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, since the jurisdiction of Strasbourg is the one that has developed the most substantial jurisprudence on the issue under discussion.[11] It should be noted in any case that each of the articles analyzed is susceptible to a twofold interpretation, as we already saw earlier with regard to dignity. Therefore, it will be necessary to conclude this analysis by addressing the ethical commitment that will make it possible to decide between the humanist view of a good death and the autonomist view of voluntary death.

A. The Right to Life (UDHR 3)

Paradoxically, the first right invoked to justify the right to die concerns it apparent opposite, the right to life.[12] By a sort of semantic shift, the right that protects the life of a legal subject against all ex-

terior threats becomes the right that allows that same subject to dispose of his own life, which means, no doubt, to continue living if that is his wish, but also to retreat from life if that is his preference. This was the argument used, in two different contexts and thirteen years apart, by two women, both afflicted by an incurable degenerative disease: Diane Pretty demanded that her husband help her to commit suicide without thereby incurring the penalty foreseen by the law of the United Kingdom;[13] Gloria Taylor wanted Canadian law to allow her to be euthanized when the day came when her state of physical debilitation would no longer allow her to commit suicide alone.[14]

Before English courts, counsel for Dame Pretty maintained, with regard to Article 2 of the European Convention of Human Rights ("The right of every person to life is protected by the law") that "the purpose of the Article is to protect individuals from third parties (the State and public authorities). But the Article recognises that it is for the individual to choose whether or not to live and so protects the individual's right to self-determination in relation to issues of life and death."[15] To illustrate her thesis, the Applicant invoked the comparison between suicide and the refusal of treatment: "Thus a person may refuse life-saving or life-prolonging medical treatment, and may lawfully choose to commit suicide. The Article [2] acknowledges that right of the individual."[16]

A coin may have two sides, but English courts, followed by the Court of Strasbourg, have been unwilling to allow, as part of the right to life, the negative "reverse" that is seen in the "obverse" of other freedoms, for example, to associate (or not to associate), to express one's views (or to remain silent), to marry (or to remain single), etc. No doubt, "the Court observes that the notion of a freedom implies some measure of choice as to its exercise," but it immediately adds: "Article 2 of the Convention is phrased in different terms. It is unconcerned with issues to do with the quality of living or what a person chooses to do with his or her life."[17] The conclusion is unavoidable: "Article 2 cannot, without a distortion of language, be interpreted as conferring the diametrically opposite right, namely a right to die; nor can it create a right to self-determination in the sense of conferring on an individual the entitlement to choose death rather than life."[18]

As for Mrs. Taylor, she likewise invoked the right to life before the Supreme Court of Canada, in the form of a dilemma: since "she would be unable to request a physician-assisted death when the time came, because of the Criminal Code prohibition and the fact that she lacked the financial resources to travel to Switzerland, where assisted suicide is legal and available to non-residents," she was faced with "the 'cruel choice' between killing herself while she was still physically capable of doing so, or giving up the ability to exercise any control over the manner and timing of her death."[19] This hastening of her suicide therefore undermined her right to life.

Here the Canadian Court approved Appellant's reasoning by deciding that the prohibition of assisted suicide was too broad in scope, since it extended to all subjects of the law a protection that aimed, the Court thought, to protect only the most vulnerable persons. Hence, by forcing the Appellant to put an end to her days before the disease had rendered her incapable of doing it herself, Canadian law did indeed undermine her right to life. According to the Court, therefore, a person's right to life also includes his right to decide the moment of his death, provided only that the physicians have been able to assess reliably that person's "competence, voluntariness and non-ambivalence."[20]

The last-mentioned position, which now has official approval in Canada, deserves a serious evaluation because it contradicts "the sanctity which attaches to [human] life."[21] Indeed, the incontrovertible facts show that the human being is there, alive, and that his life was given to him without the subject himself having decided it. Life thus transcends individual subjects, and this explains the irreversible character of the right pertaining to it. Life as such necessarily implies some support [adhésion] of himself by the subject, and strictly speaking this support is the foundation of the right.

It is true that the system of human rights implies a priority of the individual over the State [indeed, the French expression for "human rights" is "les droits de l'homme," "the rights of man"], but that does not make the individual the source of his right, to the point where he could destroy himself and his right with him. The law rejects voluntary death because of the this-worldliness [l'en-deçà] that keeps all subjects of the law in each other's presence, which we call life. The individual right is not what gives life (or takes it away); life is what gives (or takes away) the right. Life is a primary fact, which of course calls for the right precisely so as to organize the coexistence of subjects, but there is no previous authority for the appearance of life such that those subjects could suppose that they had a right to dispose of it. Since it is the foundation of the existence of those subjects, life is also the foundation of the ties that bind them to one another, including legal ties and rights.

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We insist on this point. As their name indicates, human rights are "human," they pertain to man, but that does not make them subject to the good pleasure of the individual subject, for they are also called "rights," in other words, they are inevitably formulated at the heart of a relation. Now how could anyone, without contradiction, rely on the relation (the right of the human being) in order to claim the right to eliminate the life and consequently the relation? The legal relation between a subject and his own life is not that of an individual possession, abstracted from all social context, because this life is endowed with human dignity and therefore necessarily concerns, in a sort of public order, its ties with others. The right to die is the death of the right.

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B. Inhuman Treatment (UDHR 5)

Whereas in Dame Pretty's argument in favor of euthanasia, the right to life shifted from a system of protection (of oneself) to a system of disposing (of oneself), another shift takes place with regard to Article 3 of the European Convention.[22] Surreptitiously we move from degrading treatment inflicted by man on his fellow-man to the degradation wrought by the ailment itself. Now, although the Convention can forbid a human being from behaving inhumanely, what can it do against nature that strikes every mortal with his share of ills and misfortunes?

In any case, the Court of Strasbourg answers the Appellant Pretty that the State is in no way responsible for the painful situation in which she finds herself because, on the contrary, she is receiving adequate care. Can anyone claim that the State is nevertheless responsible, inasmuch as it fails to protect the sick woman from the sufferings that she will endure if her disease enters its final stage? For the Court, this claim "places a new and extended construction on the concept of treatment, which... goes beyond the ordinary meaning of the word."[23]

Of course, the European Convention is a "living document" which allows for "flexibility" in interpretations thereof, but the Court nevertheless cannot damage the coherence of the protective system that the Convention establishes. Thus, Article 3 of the Convention (on inhuman treatment) cannot be detached from Article 2 (the right to life), which "is first and foremost a prohibition on the use of lethal force or other conduct which might lead to the death of a human being and does not confer any right on an individual to require a State to permit or facilitate his or her death."[24]

The law, in effect, can only combat inhuman and degrading treatments that are due to the culpable behavior of others. It cannot promise that a human being will never be affected by sickness or death. Indeed, how could it? Once again, the system of human rights may cause human beings to dream about a world without pain and suffering, but we must beware that this dream does not turn into a nightmare. For the real question about rights posed by sickness is whether human beings will act towards one another with a mutual intention of making bearable the physical degradation that strikes one of their fellow human beings who is afflicted with illness, or whether they will prefer tragically to start down the road that identifies human dignity with the image of perfection that they make for themselves.

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To tell the truth, human dignity, as we said, does not depend on the way in which a person imagines it subjectively, nor on his more or less diminished performance: it always belongs to the human being, however frail he may be. In contrast, a person may fall from his dignity when he adopts behavior that is unworthy of a human being, for example when he kills a fellow human being. It is appropriate therefore to reverse the proposition: to someone who claims that euthanasia must be authorized so as to put an end to the degrading treatment that is sickness, we must respond that the

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Here again it is necessary to recall the importance of making better known and further developing palliative care methods that are intended precisely to enable the patient to bear as peacefully as possible the trying burden of his illness. Therefore, when people justify euthanasia by citing the patient's "unbearable sufferings," we must not lose sight of the existence of palliative medicine and recent advances in this field.[25]

C. Health (UDHR 25)

After the protection of life and the prohibition of degrading treatment, the right to health care could possibly be invoked in order to justify euthanasia. We will not dwell on this third distortion inflicted on legal vocabulary, because it is of no current interest in human rights jurisprudence. But insofar as health, according to the World Health Organization, "is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity,"[26] a day may come when, paradoxically, euthanasia will be demanded as one of the normal means of obtaining the absence of suffering, and therefore "the state of complete well-being," and therefore the "health" to which everyone has a right. Even though, for the moment, it seems too paradoxical to equate killing with healthcare, vigilance is essential.

Similarly, have we not witnessed more than once, within the precincts of the United Nations Organization, attempts to classify abortion (which puts an end to the life of an embryo) among the rights to sexual and reproductive health? Now this connection between health and abortion could perhaps someday lead people to think that the euthanasia of some would promote the health of others. The cost of healthcare, indeed, has become so great that economic pressure to curtail it has grown too. Now, it is not an even match between a patient who takes a long time to die, on the one hand, and families, insurance companies and public authorities concerned about defending simultaneously their financial interests and the future health of the population. But this is certainly no longer an argument about human rights.

The following human rights that are invoked to justify voluntary death focus less on the object of the right (life, integrity, health) than on the person who holds it, who is protected in his privacy as well as his opinions, and is acknowledged to be equal to every other person.

D. Privacy (UDHR 12)

Classically the right to privacy as formulated in Article 12 of the Universal Declaration of Human Rights essentially aims to defend the private life of the subject.[27] This protection is just as important in our age when new information and communication technologies

multiply the threats of indiscretion. However, in the jurisprudence of the European Court of Human Rights, the right to privacy[28] had assumed a more active connotation to designate the subject's freedom to make with complete autonomy the decisions that concern his personal fate.

Thus, in the aforementioned Pretty case, the Court of Strasbourg, which had not accepted the transformation of protecting oneself into disposing of oneself with regard to the right to life, proved to be more sensitive, as we said, to the Plaintiff's invocation of the right to privacy, considered as the freedom that she possesses to evaluate her own quality of life: "The very essence of the Convention is respect for human dignity and human freedom. Without in any way negating the principle of sanctity of life protected under the Convention, the Court considers that it is under Article 8 that notions of the quality of life take on significance."[29]

Yet although the Court found the Appellant's strongest argument in her invocation of privacy, isn't its response to this argument the weakest? Whereas the Court could have recalled the coherence of the protective system established by the Convention, by refusing to allow either the "reversibility" of the right to life (art. 2 ECHR) or the expansion of "inhuman treatment" to include sufferings due to illness (art. 3 ECHR), here it was unwilling to invoke the contradiction between respect for the right to life and respect for the right to privacy. After a formal nod to article 2 ("While in no way denying the principle of the sacredness of life protected by the Convention"), the Court acknowledges that: "In an era of growing medical sophistication combined with longer life expectancies, many people are concerned that they should not be forced to linger on in old age or in states of advanced physical or mental decrepitude which conflict with strongly held ideas of self and personal identity." Impressed by this observation, the Court admits that "the applicant in this case is prevented by law from exercising her choice to avoid what she considers will be an undignified and distressing end to her life." Hence its conclusion: "The Court is not prepared to exclude that this constitutes an interference with her right to respect for private life as guaranteed under Article 8 § 1 of the Convention."[30]

The Court does not specify how it could resolve the insoluble conflict that pits this admission in principle of the possibility of violating the Appellant's privacy, on the one hand, against the inviolable character of the right to life, on the other hand.[31] It should be noted, however, that, in the Court's view, the justification for State interference is not based purely and simply on the prohibition of homicide committed against any person whatsoever, but rather, as we saw earlier in the Carter decision handed down by the Supreme Court of Canada, on the protection of the frailest persons. Indeed, according to the Court, the English law being condemned "was designed to safeguard life by protecting the weak and vulnerable and especially those who are not in a condition to take informed decisions against acts intended to end life or to assist in ending life."[32]

The Court admits, certainly, that not all persons seeking assistance in suicide are vulnerable (as demonstrated probably by the personal example of the combative Dame Pretty) since the state of persons suffering from a disease in its terminal stage varies from one case to another. But State interference in the private life of citizens is nevertheless legitimized by the fact that "many will be vulnerable and it is the vulnerability of the class which provides the rationale for the law in question." Now, the State is better positioned to assess the contours of such a general law: "It is primarily for States to assess the risk and the likely incidence of abuse if the general prohibition on assisted suicides were relaxed or if exceptions were to be created."[33]

To hear the Court explain it, the rationale for prohibiting assisted suicide is therefore no longer based on respect for life as such. On the contrary, a person less liable to be influenced could therefore exercise his right to privacy, combined with his own assessment of his quality of life, so as to have the right to assisted suicide. Moreover, as we have seen, this is the lesson taught, thirteen years after the Pretty decision (Strasbourg), by the Carter decision (Canada). Now, with that, have we not returned to the pure and simple self-determination that the European Court nevertheless intended to exclude from the field of protecting the right to life?

"Plainly, whereas life must be understood as an objective reality which transcends each of the subjects concerned and thus maintains between them the tie of dignity which will last until death, privacy becomes over the course of time the personal space within which a subject, evaluating by himself his quality of life, disposes of his own life so as to put an end to it."

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E. Thought (UDHR 18)

The same subjectivization of human rights can be found in the utilization of the right to freedom of thought—guaranteed by Article 18 of the Universal Declaration, Article 9 of the European Convention,[34] or else by the First Amendment to the Constitution of the United States of America[35] —to justify the right to voluntary death.

Thus, this freedom of thought was the basis for the argument developed in 1997 by six famous American philosophers who submitted Amici Curiae briefs to the Supreme Court of the United States, that had to rule on assisted suicide, which was demanded on behalf of a seriously ill man who could not inflict death upon himself.[36] In their opinion, these professors "ask the Court to recognize that individuals have a constitutionally protected interest in making those grave judgments for themselves, free from the imposition of any religious or philosophical orthodoxy by court or legislature."[37] But the United States Supreme Court did not follow that interpretation of the constitutionally-protected right to freedom of thought.[38]

Similarly, in the Pretty case submitted to the European Court of Human Rights, the Appellant claimed that the law of her country prevented her from acting upon her conviction as to the legitimacy of assisted suicide. But the Court responded that not all convictions are protected by the Convention.[39]

The European Court is to be commended for the wisdom of this observation. We can only regret that it was not manifested earlier, precisely in the examination of the argument drawn from the violation of Argument 8, for the concept of "privacy" too can cover various stances, not all of which are consonant with respect for life and, therefore, do not deserve to be considered human rights.

Indeed, it is important to recall the necessary coherence of human rights. What good would it do to establish a list of them and to safeguard them if an individual could simply invoke his right to freedom of thought (or his right to privacy) in order to contradict them? In any case, the final article of the 1948 Universal Declaration deserves to be recalled here (art. 30): "Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein."

F. Discrimination (UDHR 2)

One last right held the attention of Dame Pretty in her fight to have her right to assisted suicide recognized: the right to equality, recognized by Article 14 of the European Convention.[40] Indeed, given her helplessness, the unfortunate Applicant did not possess, as other citizens do, the freedom to put an end to her life by herself.[41]

The Court did not uphold this latter claim either, but here again it ruled by taking the side of national discretion, with the help of analogous reasoning. Just as, with reference to Article 8 (privacy), "the Court has found that there are sound reasons for not introducing into the law exceptions to cater for those who are deemed not to be vulnerable," so too, with reference to Article 14, there are "similar cogent reasons... for not seeking to distinguish between those who are able and those who are unable to commit suicide unaided." This is because "the borderline between the two categories will often be a very fine one."[42] Ultimately, it would not be appropriate, under the pretext of fighting against discrimination, to grant a right to assisted suicide to persons who were deemed incapable of committing suicide themselves.

Now given that the Carter ruling, handed down thirteen years later by the Supreme Court of Canada, condemns a law that does not allow persons reputed to be non-vulnerable to commit suicide, because it is too broad in scope, one may wonder whether, for similar reasons, a jurisdiction might not decide that a law is discriminatory if it does not clear a path to assisted suicide for persons who are incapable of ending their own lives.

4. Conclusion: Ethical Commitment

"Can the right to die with dignity be classified as a human right?" In order to answer this question, we intend to summarize the lessons learned from our survey of terminology, on the one hand, and of human rights, on the other hand, before proposing our decision, in the name of reason and then of faith.

A. The Lessons from the Survey

"If "death with dignity" means a good death, in other words an end of life in which the sick person, accepting the inevitability of his demise, does not undergo disproportionate therapies but on the contrary benefits from palliative treatments for his pain, then death with dignity can unquestionably be part of the legal order, which requires respect for the life and dignity of every human being and demands that conscientious, attentive care be provided for him."

The first part of our presentation showed that when talking about death with dignity it is essential to make a distinction between a good death and voluntary death. If "death with dignity" means a good death, in other words an end of life in which the sick person, accepting the inevitability of his demise, does not undergo disproportionate therapies but on the contrary benefits from palliative treatments for his pain, then death with dignity can unquestionably be part of the legal order, which requires respect for the life and dignity of every human being and demands that conscientious, attentive care be provided for him. In this respectful accompaniment of the dying person, indeed, the intention of Article 1 of the Universal Declaration of Human Rights (1948) is fulfilled: "All human beings... should act towards one another in a spirit of brotherhood." In contrast, if the expression means voluntary death—either in the form of euthanasia or in the form of assisted suicide—this "death with dignity" in no way deserves to be included among human rights, because such inclusion would impair both rights and human beings.

Certainly, the jurisprudential survey set forth in the second part of this essay helped us to see that some human rights are occasionally invoked in order to legitimize voluntary death, but at the price of terrible semantic shifts that imprison the person in his individuality without taking into account his human environment. Thus, a human being's right to have his life protected becomes his right to dispose of that very life; the ill treatment from which he must be preserved comes from his own fleshly condition ravaged by sickness or disability and no longer from the wickedness of others; the health care to which he has a right turns into its opposite—killing; his right to privacy descends down the same slippery slope as his right to life itself: understood as self-protection, it authorizes his absolute disposal of himself; his right to freedom of conscience justifies any opinion whatsoever that he may harbor concerning himself; finally, the discrimination against which he should be protected in the exercise of his rights covers the possibility in which he would be likened to a vulnerable person whereas he fully possesses the ability to will his own death. But doesn't the picture that emerges from this survey lead us back to the state of nature that preceded the establishment of the Social Contract mentioned earlier? This coinci-

dence could in any case lead reason to reflect once again on the common life of human beings.

B. The Choice of Reason

Indeed, in this state of nature imagined by the Enlightenment thinkers, the human being is understood, as we said, as a mere monad: born of no one and without ties to others, he is nevertheless endowed with all possible freedoms. That is allegedly his profound nature. Now the simple juxtaposition of all individual freedoms, which are considered equal to one another, would give rise to a veritably unlivable situation if no law existed to arbitrate conflicts between them. At the same time, individuals decided to go by way of the rational artifice of the contract in order to superimpose upon their state of nature a social state in which the law would safeguard as much as possible their original freedoms, which were considered as equal among themselves. According to this concept, the law's only mission is to unfold, without discrimination, the freedom of all individuals; its purpose is not to maintain a tie of fraternity that already existed among human beings by the mere fact of their common human nature. Indeed, the law, in the state of nature, is merely subjective and results, in the social state, only from the free decision of the lawgiver (who, for example, decriminalizes voluntary death). But, is this really how human beings are born and how they live?

"According to this concept, the law's only mission is to unfold, without discrimination, the freedom of all individuals; its purpose is not to maintain a tie of fraternity that already existed among human beings by the mere fact of their common human nature."

Since we have already recalled how this liberal root of first-generation human rights had to be rebalanced over the course of history by the addition of second- and third-generation human rights, it is worth the trouble to prolong this reflection on rights and human beings with regard to death with dignity.

If we agree that a human being is defined essentially by his ties to others (since he is born from the union of a man and a woman, lives from the start in a Civilization and participates, by his own dignity, in humanity as a whole), should we not identify "death with dignity" as good death, in other words, an end of life that allows the sick person to go to his natural death, with adequate medical, psychological and spiritual accompaniment: only death—which does not come from us—will break this tie of fraternity which binds us to others and which we, for our part, want to respect until the end.

In contrast, if we opt for the sort of dying with dignity that is identified with voluntary death, then we must keep in mind the terrible consequences that such a choice brings with it, both in the psychology of the sick person and of those around him and, more generally, in healthcare policy and even in the entire social body, including international relations.

"In the mindset that equates death with dignity and voluntary death, the only thing left connecting someone who is seriously ill to those who are near and dear to him is his own will, because his very life, which previously was a transcendent imperative for all relatives and friends, now depends on him alone."

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was a transcendent imperative for all relatives and friends, now depends on him alone. Imagine, then, how heavily anguish will weigh on that human being whom illness has already made so vulnerable: will he not constantly feel guilty about living?

As for his family, the recognition of a close relative's right to die can only trouble them by putting them in a dilemma, either of approving the sick person's wish and therefore objectively telling him that his presence is no longer preferable to his death, or else not approving of it, and therefore apparently not loving that relative.

Insofar as the life of an individual thus loses its transcendence with regard to his relatives and friends, this cannot fail to have repercussions on healthcare policy as a whole. Medical ethics, which hitherto has revolved around the defense of life, will learn to relativize this properly human value so as to balance it against other imperatives. We must note, for example, that the promotion of euthanasia, which is tempting from the economic perspective, will necessarily hinder the promotion of palliative care, which has a philosophy radically opposed to the former.

Of course, people will say that the sick person consented to the death-dealing procedure (or even, in the best case, that he insisted on having it), but ultimately this consent is dangerous because it sends a signal to the rest of society that human life as such is disposable. Through a sort of interplay of communicating vessels, the power to dispose of himself that an individual claims as his own when he asks someone else for death unduly increases the power both of that other person who performs the homicidal act and of society that supports this act by its law.

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Finally, there is every reason to fear that legislative authorization for voluntary death, based on the Western myth of an individualistic right, might become a temptation elsewhere. Fortunately, the other continents, generally speaking, foster philosophies that assign greater importance to familial solidarity, as well as to the ties of human fraternity and to the very life that supports these ties. But will they be able to fight much longer against the universal introduction of a custom that is surely unworthy of human beings yet is presented as a human right?

C. The Choice of Faith

The argument presented thus far about dignity, rights and death has deliberately remained on the human level, in keeping with a strictly rational legal logic and philosophy. But the reason why Christians employ with such conviction this human rationality, which is capable of touching the minds and hearts of all human beings, is because they have received, in the faith that they profess in God the Creator and Savior, the light and the strength that causes them to say: "Choose life!"

In his Encyclical Evangelium vitae, Pope John Paul II warned the world and Christian communities about the "culture of death," which no doubt is

based on a perverted concept of freedom but also, to get to the heart of the tragedy experienced by contemporary man, on "the eclipse of the sense of God and of man, typical of a social and cultural context dominated by secularism."[43] The Church wants to remind all human beings of the meaning of their own dignity by relying on the revelation that God made of himself (and of man) in Christ.

The reader will have understood that, for the Church, this is not a matter of spreading a particular doctrine so as to increase the number of her members—a motive that is always somewhat suspect. Rather, in her view, it is a matter of sharing a common doctrine that touches the very truth about man and about his human rights, of which the faith offers him a keener awareness. In recalling that every human being keeps his dignity until the moment when he dies a natural death, the Church also makes a commitment to offer her services to the nations so that the dignity of all human beings may be honored more in respect for the life of each of them.

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Translated by Michael J. Miller

Notes

1. See for example European Court of Human Rights, Dame Pretty v. United Kingdom (no. 2346/02, 29 April 2002); Haas v. Switzerland (no. 31322/07, 20 January 2011); Gross v. Switzerland (no. 67810/10, 30 September 2014). For a commentary on these decisions, see Gregor Puppinck and Claire de La Hougue, "Le droit au suicide assisté dans la jurisprudence de la Cour européenne des droits de l'homme," available on the website http://www.academia.edu/6103699/Le_droit_au_suicide_assist%C3%A9_dans_la_jurisprudence_de_la_Cour_europ%C3%A9enne_des_droits_de_l_homme (last verified on 23 May 2015).

2. Pretty v. U.K. decision, no. 67.

3. From the Catholic perspective, see the Catechism of the Catholic Church (2003), no. 2267: "Assuming that the guilty party's identity and responsibility have been fully determined, the traditional teaching of the Church does not exclude recourse to the death penalty, if this is the only possible way of effectively defending human lives against the unjust aggressor. If, however, non-lethal means are sufficient to defend and protect people's safety from the aggressor, authority will limit itself to such means, as these are more in keeping with the concrete conditions of the common good and more in conformity to the dignity of the human person...."

4. Incidentally, this is not necessarily the suffering of a patient whose death is imminent. Thus the Belgian euthanasia law dated May 28, 2002, foresees, without any mention of imminent death, the decriminalization of homicide committed when "the patient is in a hopeless medical situation and reports constant, unbearable physical or psychological suffering that cannot be alleviated and is the result of a serious, incurable accidental or pathological complaint."

5. Cf. http://www.ccne-ethique.fr/sites/default/files/publications/avis_citoyen.pdf

6. From the above-cited Opinion [Avis], pp. 6-9.

7. See two examples in the Universal Declaration of Human Rights (1948): Preamble: "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world"; Article 22: "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality..." (emphasis added).

8. See, for example, Muriel Fabre-Magnan, "Le statut juridique du principe de dignité," Droits 58 (2013): 167 ff.

9. On this topic, see Bernard Edelman, "La dignité de la personne humaine, un concept nouveau," Recueil Dalloz (1997): chronicle, 186.

10. Gilbert Hottois, "A Philosophical and Critical Analysis of the European Convention of Bioethics," Journal of Medicine and Philosophy 25/2 (2000): 137.

11. Unless we are mistaken, neither the United Nations Human Rights Committee nor the Inter-American Court of Human Rights nor the African Court on Human and Peoples' Rights has addressed, in their jurisprudence, the question of voluntary death.

12. Is this how we are to understand the expression "the rights to life and to a dignified death" used by the Independent Expert on the rights of the elderly, Rosa Kornfeld-Matte, in her 2014 Report, §35 (A/HRC/27/46)? Given the terrible consequences that such lack of rigor in the use of concepts may have, the expression would require clarification, in any case.

13. See the above-cited decision in Pretty v. U.K., European Court of Human Rights, 29 April 2002 (no. 2346/02).

14. Supreme Court of Canada, 6 February 2015, Carter v. Canada (Attorney General), 2015 CSC 5, no. 35591.

15. Pretty v. U.K., no. 14, reporting the decision handed down by the Chamber of Lords (Lord Bingham of Cornhill) to confirm the decision of the Divisional Court rejecting the Applicant's claim.

16. Ibid. We will not discuss here the argument to justify assisted suicide or euthanasia based on the legitimacy of refusing treatment, because it errs by confusing matters: the refusal of a medical treatment is part of the patient's exercise of his individual liberty with regard to the ailment that afflicts him; it in no way legitimizes the participation of a third part in a homicidal act. Indeed, the third party is not an ailment. A similar confusion is evident also in the argument pertaining to inhuman and degrading treatment (see below).

17. But then the Court makes the following clarification, which we will speak about later on: "To the extent that these aspects are recognised as so fundamental to the human condition that they require protection from State interference, they may be reflected in the [other] rights guaranteed by other Articles of the Convention, or in other international human rights instruments." (Ibid., no. 39).

18. Pretty v. U.K., no. 39.

19. Supreme Court of Canada, Carter v. Canada, no. 13.

20. Ibid., no. 104. We will find again below in the Pretty decision, concerning the right to privacy, this argument that the protection of the law should be limited only to the most vulnerable persons.

21. The expression is reported before the English courts: Pretty v. U.K., no. 14, subparagraph 5.

22. Art. 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

23. Pretty v. U.K., no. 54.

24. Ibid., no. 54. In the following number, the Court can only express its sympathy for "the applicant's apprehension that without the possibility of ending her life she faces the prospect of a distressing death." Aware "that she is unable to commit suicide herself due to physical incapacity and that the state of law is such that her husband faces the risk of prosecution if he renders her assistance," the Court adds nonetheless that the measure solicited by the applicant does not really address the pain from which she is suffering because "the positive obligation on the part of the State which is relied on in the present case would not involve the removal or mitigation of harm" (no. 55).

25. The contrast between patient listening to suffering and the harshness of euthanasia is nicely drawn by Doctor Rivka Karplus: ".".. true 'compassion' demands time, the patience to walk with the sick person, to listen to his pain and his rebellion. It implies accepting our own helplessness in the face of sickness and death, our own mortality.... Euthanasia rejects this compassion by placing an act that no longer allows room for listening, for the development of the person. Rather than affirm the humanity of the other by accepting one's own vulnerability, someone who deals death separates himself from the one who undergoes it, by offering him an external 'response'—the response of death" ("Euthanasie: réflexions d'un médecin," Nouvelle revue théologique 136/4 [2014]: 600).

26. Preamble to the Constitution of the World Health Organization, as adopted by the International Conference on Health, New York, June 19-22, 1946.

27. UDHR, Art. 12: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

28. European Convention on Human Rights, Article 8, "1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in

accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

29. Pretty v. U.K., no. 65.

30. Pretty v. U.K., no. 67.

31. The Court considers itself exempt from this examination since, in its opinion, the degree of discretion allowed to the national State authorizes English law to give priority to Article 2 of the Convention over Article 8.

32. The law in question is the 1961 Suicide Act, Article 2 §1 of which states: "A person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, shall be liable on conviction on indictment to imprisonment for a term not exceeding fourteen years."

33. Pretty v. U.K., no. 74.

34. "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in teaching, practice, worship and observance." The wording of Article 9, §1 of the ECHR is practically the same as the U.N. text.

35. First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

36. The professors in question were Ronald Dworkin, Thomas Nagel, Robert Nozick, John Rawls, Thomas Scanlon and Judith Jarvis Thomson, with regard to the cases Vacco v. Quill and Washington v. Gluckberg. Cf. "The Brief of the Amici Curiae," in Daniel A. Leone, ed., Physician-Assisted Suicide (San Diego: Greenhaven Press, 1998), 33 ff.

37. Ibid., 39.

38. The reader will find an incisive critique of the opinion expressed in the Amici Curiae brief in Gilbert Larochelle, "La dignité du mourir: un défi pour le droit," in: Thomas De Koninck and Gilbert Larochelle, La dignité humaine: Philosophie, droit politique, économie, médecine (Paris: Les Presses universitaires de France, 20051), 71-83.

39. Cf. Pretty v. U.K., no. 82. The Court adds that "To the extent that the applicant's views reflect her commitment to the principle of personal autonomy, her claim is a restatement of the complaint raised under Article 8 of the Convention."

40. "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status." Here again, this wording of the European text is very close to the formulation of the Universal Declaration (art. 2).

41. This argument was used also in the above-cited American cases Vacco v. Quill and Washington v. Gluckberg.

42. Pretty v. U.K., no. 89.

43. John Paul II, Encyclical Evangelium vitae (1995), no. 21.

DEATH AND DIGNITY : THE ETHICAL AND SOCIAL STAKES

A Caritas in Veritate Foundation Report by

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Human beings have ceaselessly dealt with death by endorsing various attitudes for the purpose of making it less brutal, at least in appearance. These attitudes generally testify to a humble acknowledgement of the helplessness that they feel toward the thing that so brutally takes from them their existence and the life of those whom they love. But our contemporaries in the West increasingly refuse to live "in the presence of death," to confront it in thought, or to consider life as an apprenticeship in our future death. Instead, they adopt an attitude of flight—"other people" or "they" are always the ones to die—or of control, so as not to have to be unsettled by the existential questions that it raises. This desire to control death springs from the fear of losing autonomy, which is understood now as independence.

The contemporary attempt to "control" death and dying is just one part of a vast program of domesticating nature, including human beings themselves, that was established by the French philosopher René Descartes in 1637 in his famous programmatic work, *Discourse on Method*: the goal is to become "master and possessor of nature."[1] Hence it is a matter of domesticating not only the human environment and social structures through science and technology, but also human beings themselves through education. In a parallel contemporary development, nowadays this is the role of biotechnology, which aims at liberating man from his imperfections and handicaps, from sickness and suffering itself.

"Hence it is a matter of domesticating not only the human environment and social structures through science and technology, but also human beings themselves through education."

This project implies that everything is feasible and possible for the human will, which is more and more often thought to be liberated from any preexisting order, whether ecological or moral. Supposedly nothing escapes from its mastery—at least in the utopia of this worldview—including suffering and finally death, which are the thorns to be removed at all costs so that human beings can enjoy a truly happy life. Thus supporters of the contemporary transhumanist movement prophesy that in some near future suffering and death will no longer exist, because they will have been sub-

dued by technology. In the meantime, Western societies are gradually organizing a "therapeutic" control of death through the medical community.

Initially, this desire to control sickness and death assumes the form of unreasonable or disproportionate treatments—an expression preferable to "therapeutic obstinacy." This same desire to control appears in a new form in the individual's will to decide autonomously and alone the moment of his death: the current claim of a right to assisted suicide and euthanasia.

1. From Unreasonable Treatment to the Right to Determine one's Death

Death is perceived in the West in an increasingly reductive way. Now it is a mere quantifiable, measurable event; science is thought to be in a position to grasp its causes. This medical science, as a new power over the body, will allow us to control death and to postpone its occurrence. So we see the emergence of social and medical pressure, made possible now thanks in particular to the dazzling advances in medical technology, demanding that everything possible be done to ensure that people no longer die a so-called "accidental" death, in other words, one that occurs before the natural end of life. The only death considered "good" is one that coincided with life expectancy. Such pressure led to the development of unreasonable treatment. This "domestication" of death by medical technology resulted in a depersonalization of the human being at the end of life. More and more often we die under the ever-expanding influence of a technological system and of an almost totalitarian medico-social power. Since it could not accept its defeat vis-à-vis death, this system aimed to push the limits of human life ever farther by using the dying patient as a guinea pig on which to test new medications and operations. Hence, the human being found himself prevented from living his own death as an eminently personal act. He has been robbed, so to speak, of his own death, because he is reduced to a mere means for the benefit of technological equipment that imprisons him on all sides and tries to control him at all costs. We could even go so far as to say that he no longer dies, strictly speaking, but rather perishes.

"This "domestication" of death by medical technology results in a depersonalization of the human being at the end of life."

In reaction to this seizure of personal death by the biomedical and social power, a demand has come to light that a person at the end of life should demand and claim the freedom to decide—in the name of his autonomy—to stop undergoing disproportionate medical treatments, to refuse medical care. In short, the individual demanded and claimed a right to die, in the sense of *a right to be allowed to die*, as defended by the German philosopher Hans Jonas.[2] Human death passes from the responsibility of a biomedical and societal power to the choice of an individual who thus refuses to let himself be imprisoned in a totalitarian system of medical technology. The biomedical power bows before the personal will that decides to stop treatments if it deems them unreasonable.

This demand for the *right to die*, however, has undergone in recent decades a subtle shift and has been transformed into what some call a '*right to death*'. Patients no longer claim merely the right to refuse treatments—the *right to die*—but also the right to determine the very instant of their own death. As a right, it implies a correlative duty imposed on society: to make possible this desired death. Some demand very specifically the *right to deal death to themselves with the help of others* (assisted suicide, in which someone else gives me a deadly poison that I myself ingest) or the *right to put a human being to death legally if he explicitly requests it* (euthanasia, in which someone else kills me). By extension, euthanasia is also demanded when the person is not or is no longer in a position to make such a request, as in the case of a newborn, a child, a person with a severe mental handicap or profound dementia.

"Patients no longer claim merely the right to refuse treatments—the right to die—but also the right to determine the very instant of their own death."

The main argument for assisted suicide and euthanasia is based, on the one hand, on a certain understanding of the notions of dignity, autonomy, and "quality of life," and, on the other hand, on a consequentialist, utilitarian ethics, accompanied by an ethics of subjective desires, interests and preferences.

2. The Notion of Dignity and Autonomy

The proponents of assisted suicide and euthanasia presuppose that true autonomy is independent of all objective values, including and especially any so-called "ontological" dignity, one that is essential to the human being. True autonomy is the autonomy of an independent, high-achieving subject who is well and determines for himself what dignity does or does not entail. This notion of dignity, identified with the autonomy of an independent subject, proves to be fragile and relative, for it depends solely on the maintenance of this autonomy. The sole legitimate limit to the subject's liberty, then, is the liberty of another subject: everyone is master of himself and can therefore freely decide what he wants to do with his life, as long as that does not affect someone else's liberty. This limit that the other sets to my autonomy disappears when there is consensus of the subjects involved. Hence, everything is permissible from an ethical perspective.

The intrinsic dignity of the human person, which ought to be imposed as an objective, moral limit to the actions of the autonomous subject (including those that hypothetically concerned himself alone), is perceived by supporters of euthanasia as totalitarian and thus unacceptable. The French philosopher Ruwen Ogien thus maintains that references to a human nature or to an ontological human dignity, "contest our freedom to do what we want with our life and with our body, even when we harm no one, or nobody except ourselves."[3] He explains that this notion of human dignity "serves to justify paternalistic interventions"[4] that are coercive because they

forbid the autonomous subject to do what, subjectively speaking, he considers good on the ethical level. Similarly, Olivier Cayla and Yan Thomas state unambiguously in the preface to their book entitled *The Right Not to be Born: about the Perruche Affair*, that reference to the concept of ontological dignity would be tantamount to "denying in its principle the heart of human rights from the viewpoint of modern political thought, in other words, radically disputing the freedom of the individual in his relation with himself."[5]

The reference to the principle of dignity in the argument of supporters of euthanasia and assisted suicide presupposes therefore a certain understanding of dignity, which is reduced to its subjective dimension, deliberately omitting its objective dimension. From this perspective, to acknowledge the objectivity of ontological dignity is to acknowledge that the independent subject is ultimately not free to do what he wants.

In order to contextualize the argument, it is absolutely necessary to clarify the various meanings that the notion of dignity can have.

A *first* meaning of the notion of dignity is *social in nature*. It is about the respect and prestige resulting from the social rank occupied by a given person within society. The dignitary receives marks of respect that are due to his social position, but a certain sort of behavior is required of him also. This kind of dignity can be acquired just as it can be lost, since it depends only on the circumstances and on the good will of others. The *second* meaning refers to *self-control* by reason and will. It denotes being up to a situation while controlling oneself and not showing one's confusion. It implies self-control, which allows a person to endure the trials of life stoically. Enduring a situation with dignity means not complaining, displaying decency and reserve despite suffering, without bothering others. The *third* meaning corresponds to the image that we present to ourselves and to others in terms of various societal and personal norms. Indeed, one does not want to show one's failure and dependence, to lose face in the estimation of others. Presenting such an image to others, as well as to oneself, is uncomfortable and embarrassing. Dignity consists of being presentable according to the norms in force.

Every human being, and especially one who is profoundly vulnerable, may find himself in a situation where he loses his subjective dignity in the three abovementioned senses. First, *the sense of no longer fulfilling a role within society*, of being as good as "dead already," socially speaking, or else feeling that one is regarded as a "social burden" or even a "dead weight," in short, a sense of being "undesirable," "unwelcome." Think of the elderly, the profoundly handicapped, or those who are excluded from high-performing society. Secondly, *the sense of no longer being in control of one's thoughts and actions* through the loss of the exercise of one's faculty of discernment and one's autonomy. One example of this is the person with dementia. Thirdly, *the feeling of no longer being able to present an acceptable self-image*, for ex-

ample, in the case of an extremely sick and vulnerable person who does not want to be seen in that state, because it contradicts the image that he or she wants to present to others. The loss of the sense of one's dignity in one of these three senses can lead a person to consider his life undignified and no longer worth the trouble of living.

There is however a *fourth* meaning of the notion of dignity, which is intrinsic to every human being constitutionally, as a human being, regardless of whether or not the three abovementioned subjective senses of dignity are present. This *intrinsic dignity* means and affirms the singular place of the human being in the order of nature, because of his faculties of reason and self-determination, that is, free will. His status within the hierarchy of living things and the intrinsic dignity that is a constitutive part of him imply a responsible moral obligation toward the other creatures within the natural world. The ontological dignity eludes all calculation aimed at quantifying or measuring life and its quality in terms of criteria of profitability, efficiency or usefulness, because his "value" is not a matter of social convention. The human being does not need to serve any particular purpose at the social level or to be "high-performing" in terms of rationality and autonomy in order to be assured of this dignity.

This is why this dignity cannot be acquired or lost. A human being cannot be replaced, nor used merely as a means to an end, in other words, as a piece of merchandise that has a utilitarian price. The German philosopher Kant correctly makes a distinction: "Whatever has a price can be replaced by something else as its *equivalent*; on the other hand, whatever is above all price, and therefore admits of no equivalent, has a dignity."[6] Every human being, including one who no longer voluntarily expresses desires, interests and preferences or who is deprived of the exercise of reason or free will, has a *constitutive* desire in being treated as a person in the name of his intrinsic dignity, independently of his voluntary expression.

"A human being cannot be replaced, nor used merely as a means to an end, in other words, as a piece of merchandise that has a utilitarian price."

Indeed, we can distinguish between constitutive desires of a human being as such, to which universal human rights refer, and particular and subjective desires. Constitutive desires are prior to particular desires. Just as mankind moves within an ecological environment that conditions its existence, aware that it must accept the natural order if it does not want to go to its doom, so too a human being can exercise his autonomy only within an objective, preexisting framework that conditions his existence. In other words, a human being's autonomy is conditioned by the objective context that preexists him, which he discovers with the aid of reason, which is capable of universal concepts and knowledge of what is true (or probable). If, on the contrary, the absolute criterion were subjective desire (the sheer autonomy of a perfectly independent subject), the notion of dignity would be relative, and so would all moral norms. Similarly, human rights would then simply be the expression of a mere positive convention that was subject to change, because they were relative to the consensus of the authorities that

recognized them. Universal rational discourse would give way to the law of the strongest and to arbitrariness.

Proponents of a *right to determine one's own death* also put the debate about the end of life on the level of a quality-of-life ethics. Thus, from a utilitarian and comparative perspective, they calculate the positive and negative consequences of the continuation of a human being's life. If the sum total of future experiences is be considered negative, death is then seen as a morally good act. Such a calculation, however, is simply impossible. It results from the illusion that everything can be measured and controlled, and reduces reality to what is quantifiable. The human future cannot possibly be known with certainty. It belongs to the realm of uncertainty, because a human being is fundamentally free, not predetermined.

"It results from the illusion that everything can be measured and controlled, and reduces reality to what is quantifiable. The human future cannot possibly be known with certainty. It belongs to the realm of uncertainty."

Thus the judgment to be made about the story of a human life always and radically eludes a final judgment by the subject himself on the so-called fullness of his existence. As long as there is human life, there is still room for the appearance of an unexpected event. This implies an attitude of willing, welcoming receptivity to things that elude human reason and the dream of total control. This attitude is at the heart of life itself, inasmuch as it is a gift. This attitude also corresponds to the principle of hope, which corresponds to our liberty.

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Indeed, no moment of human life encloses all possibilities, because there are not only foreseeable events but also and always surprising factors to contend with, and thus there is room for fundamental hope. Hope is a non-controlling stance that is open to what does not depend on the subject. All human life, including life which no longer seems to offer many positive possibilities, is always capable of offering bits of life and of being open to the dimension of hope that transcends all anticipation and has the nature of a gift. "The future," the French philosopher Emmanuel Levinas remarks, "is that which has not been seized, which falls on us and takes hold of us. The future is the other. Our relation with the future is the same as our relation with the other."[7] This is the logic of a living human being, which puts us in an attitude of open availability that sets no condition and abandons itself confidently to whatever is to come. Here all attempts at control are doomed to failure.

It is up to well people to clarify this dimension of the surprising in which everything is still possible. It is up to them to establish conditions for the emergence in society of this fundamental hope that is implicit in the intrinsic dignity of the other.[8] A society remains human, law remains human only if they make such a hope possible, if they promote it. This hope allows a person tempted by despair to confide in another in an intersubjective relationship that confirms him in his existence. Society owes it to itself not to let its message be one of despair—implying that some lives are not or are no longer worth the trouble of living—but of hope. The latter can flourish only if it is rooted in a living relationship between persons, in other words,

as the French philosopher Gabriel Marcel puts it, in the attitude: "I hope in thee for us."[9]

3. Hope and Conversion of the Way we Look at Others

Hope is possible only for someone who is able to give credit to others. It implies a form of relationship to others that testifies to the responsibility on the part of those who are well to those who are not. Hope is a relation that allows human beings to be in a state of vulnerability. It is a relation that accepts them as they are and confirms them in their being and their existence and assure them that they are never unwelcome.[10] In other words, a human being grappling with an apparently hopeless situation can hope only to the extent that someone else responds to him with an act of generosity and love—in short, to the extent that a community takes responsibility for its weakest members.

Now, the right to determine one's own death presupposes a refusal to abandon the control of the will. This attitude deliberately shuts itself off from additional meaning that would come from someone else, from "somewhere else." It rejects an understanding of free will that is characterized also by a "passive" availability, as exemplified by hope and human life understood as a gift. Indeed, a human being whose ideal is control is afraid to move beyond what is in his power; he fears the loss of autonomy, which in his view implies the loss of control over his environment. Such an idea of dominating freedom reduces the subject's autonomy to the realm of what is controllable and excludes in advance the whole dimension of the gift, including the gift of life. As the American philosopher Michael Sandel correctly remarks in speaking about the desire to liberate the human being from his imperfections: "But that vision of freedom is flawed. It threatens to banish our appreciation of life as a gift, and to leave us with nothing to affirm or behold outside our own will."[11]

The characteristic feature of the will is to decide not to be in a position to control everything, to consent to be vulnerable. The characteristic feature of human will is to make itself available to receive a gift from somewhere else. As Clive Stapes Lewis puts it metaphorically: "We have been like bathers who want to keep their feet—or one foot—or one toe—on the bottom, when to lose that foothold would be to surrender themselves to a glorious tumble in the surf. The consequences of parting with our last claim to intrinsic freedom ... [include] real freedom."[12] Such an attitude of welcoming, humble availability is marvelously exemplified by the hope whose fulfillment does not depend on the subject but can only have the nature of a gift. The Canadian philosopher Kenneth Schmitz points out "that hope is grounded in a recognition of a certain transcendence in things that carries us beyond ourselves and our new-found power. The proposal, then, is a call to thoughtful conversion through an approach to the world about

"Such an attitude of welcoming, humble availability is marvelously exemplified by the hope whose fulfillment does not depend on the subject but can only have the nature of a gift."

us that responds to it as a gift and not simply as a given."[13] Confrontation with death does not imply an attitude of despair that rejects all possibility of the gift, but rather an attitude of openness to this otherness of death, an attitude which consists, to quote an expression by François Cheng, of "receiving life as a gift of priceless generosity."[14]

4. The Community is Gauged by the Wellbeing of its Weakest Members

The presence in our midst of human beings in a situation of vulnerability raises the central question: Is our Western culture still capable of affirming unambiguously that such persons have an inalienable dignity? Even if they are no longer capable of formulating a thought, making a so-called "informed" decision, exercising their free will, and even if their appearance is nothing more than nakedness that reveals how worn-out, poor and fragile they are?

Indeed, ontological dignity appears most clearly and most powerfully when a human being is no longer "good for" anything, when he is unrecognizable and deprived of the exercise of his autonomy; when he is plunged into a situation of vulnerability and dependence. This fundamental dignity can no longer boast about the appearance of dignity conferred by a role and a function, or by decency and self-control. The intrinsic dignity of the human being is then revealed in its sheer nakedness, and his presence demands a response, not only on the part of other people, but especially of society, so as to assure him and confirm for him that he is never "unwelcome" despite the situation he is in, that he is neither "dead weight" nor a "parasite," but rather that his existence is marvelous, that his presence is a privilege, in short that he possesses a value in himself, even if he will never again be high-performing and is costly for society. In the words of the German philosopher Josef Pieper: "The lover gazing upon his beloved says... It's good that you are; how wonderful that you exist!"[15]

Given such an acknowledgment of our dependence, not only at the level of the body but also of the reason and the will, an authentic solidarity can be developed. This solidarity is founded on human dignity emancipated from the tyrannical demand for performance that permeates liberal Western culture and drives people to think of dependent, feeble human life as cause for despair. An authentically human world is characterized by acceptance of the fact that the other person, just like me, can and must live with his personal limits and handicaps, even when he has nothing left but his extreme vulnerability in the dying process. In other words, *the right to life does not depend on the quality of life*. The flourishing of the human community can come about only

"An authentically human world is characterized by acceptance of the fact that the other person, just like me, can and must live with his personal limits and handicaps, even when he has nothing left but his extreme vulnerability in the dying process."

if no member is regarded as unwanted—in short, only if each one has his place.

The humanization of a society is measured by the way in which it takes care of human beings in situations of vulnerability. Taking responsibility for the weakest contributes to the development of an authentic culture that contributes to the common good of the human community. This common good underscores the authority of the intrinsic dignity of the human being, independently of his subjective desires, or of his achievements, which certainly manifest his fulfillment but in no way constitute his value. When this order is reversed, in other words, if what is useful becomes the *goal* of human existence, instead of being relegated to the level of a means to an end, then the human being cannot be fulfilled and the culture, as a vehicle for humanity, declines. "To take care" of the weakest person is to affirm that he is never "unwelcome" and to allow him to rediscover his intrinsic dignity. The greater the momentary distress, the greater is the subjective feeling of having lost one's dignity; greater must also be, therefore, the affirmation of the inalienable dignity of each person. "Taking care" implies confirming the helpless person in his existence by maintaining that it is good that he exists and that he should continue to be. The important thing in humanistic public policy is to establish structures that allow society to accompany the human being until the natural end of his life, and to develop also a culture imbued with hope which promises that life is a gift that has been received.

This common good underscores the authority of the intrinsic dignity of the human being, independently of his subjective interests and desires, or of his achievements, which certainly manifest his fulfillment but in no way constitute his value."

Translated by Michael J. Miller

Notes

1. René Descartes, *Discourse on Method*, ed. F. E. Sutcliffe (Middlesex: Penguin, 1968), 78 [*Discours de la Méthode*, Paris, Flammarion, 2000, chapter 6, 99 : « maître et possesseur de la nature »].

2. Hans Jonas. The German title of his short work is explicit: *Techniken des Todesaufschubs und das Recht zu sterben* [Techniques for postponing death and the right to die] (Frankfurt am Main: Insel Verlag, 1985).

3. Ruwen Ogien, *L'éthique aujourd'hui: Maximalistes et minimalistes* (Paris: Gallimard, 2007), 60 : « contestent notre liberté de faire ce que nous voulons de notre vie et de notre corps, même lorsque nous ne nuisons à personne, ou à personne d'autre que nous-même. ».

4. Ruwen Ogien, *La Morale a-t-elle un avenir?* (Nantes: Éditions Pleins Feux, 2006), 55 : « sert à justifier des interventions paternalistes ».

5. Olivier Cayla and Yan Thomas, *Du droit de ne pas naître: À propos de l'affaire Perruche* (Paris: Gallimard, 2002), 13 : « renier dans son principe le cœur des droits de l'homme du point de vue de la pensée politique moderne, c'est-à-dire à contester radicalement la liberté de l'individu dans la relation qu'il entretient avec lui-même. ».

6. Immanuel Kant, *Foundations of the Metaphysics of Morals*, translated by Lewis White Beck (Indianapolis: Bobbs-Merrill Educational Publishing, 1969), 60 [*Grundlegung zur Metaphysik der Sitten*, in Werke (Darmstadt: Wissenschaftliche Buchgesellschaft, 1983), vol. 6, 68 : « Was einen Preis hat, an dessen Stelle kann auch etwas anderes, als Äquivalent, gesetzt werden; was dagegen über allen Preis erhaben ist, mithin kein Äquivalent verstattet, das hat eine Würde. »].

7. Emmanuel Levinas, *Le Temps et l'Autre* (Paris: Presses Universitaires de France, 1983), 64 [« [L]'avenir, note le philosophe français Emmanuel Levinas, c'est ce qui n'est pas saisi, ce qui tombe sur nous et s'empare de nous. L'avenir, c'est l'autre. La relation avec l'avenir, c'est la relation même avec l'autre. »].

8. Levinas confronts suffering and explains: "Is not the evil of suffering—extreme passivity, helplessness, abandonment and solitude—also the unassumable, [and thus, through its non-integration into the unity of an order and a meaning,] the possibility of a half-opening, and, more precisely, the half-opening that a moan, a cry, a groan or a sigh slips through—the original call for aid, for curative help, help from the other me whose alterity and whose exteriority promises salvation? ... For pure suffering, which is intrinsically senseless and condemned to itself with no way out, a beyond appears in the form of the interhuman." Emmanuel Levinas, "Useless Suffering," chapter 8 in: *Entre nous: On Thinking-of-the-Other*, translated by Michael B. Smith and Barbara Harshav (New York: Columbia University Press, 1998), 91-101 at 93-94. [Bracketed words are omitted in the published English translation.] [« [L]e mal de la souffrance – passivité extrême, impuissance, abandon et solitude – n'est-il pas aussi l'inassumable et, ainsi, de par sa non-intégration dans l'unité d'un ordre et d'un sens, la possibilité d'une ouverture et, plus précisément, de celle où passe une plainte, un cri, un gémissement ou un soupir, appel original à l'aide, au secours curatif, au secours de l'autre moi dont l'altérité, dont l'extériorité promettent le salut ? […] Pour la souffrance pure, intrinsèquement insensée et condamnée, sans issue, à elle-même, se dessine un au-delà dans l'inter-humain. », « La souffrance inutile », *Entre nous. Essais sur le penser-à-l'autre* (Paris: Grasset, 1991), 100-112, 102-103].

9. Gabriel Marcel, *Homo Viator*, translated by Emma Craufurd (Chicago: H. Regnery Co., 1951), 60 [« j'espère en toi pour nous », *Homo Viator. Prolégomènes à une métaphysique de l'espérance* (Paris: Aubier Montaigne), 81].

10. "In the interhuman perspective of *my* responsibility for the other, without any concern for reciprocity, in my call to help him gratuitously, in the asymmetry of the relation of

one to the *other*." Emmanuel Levinas, "Useless Suffering," 101, emended [« La perspective interhumaine de *ma* responsabilité pour l'autre homme, sans souci de réciprocité, [c'est dans] mon appel à son secours gratuit, [c'est dans] l'asymétrie de la relation de l'*un* à l'*autre* », 112].

11. Michael Sandel, *The Case against Perfection. Ethics in the Age of Genetic Engineering*, (Cambridge, MA: The Belknap Press of Harvard University Press, 2007), 100.

12. Clive Staples Lewis, *The Four Loves* (New York: Harcourt Brace Jovanovich, A Harvest/ HBJ Book, 1991), 131.

13. Kenneth L. Schmitz, *The Recovery of Wonder: The New Freedom and the Asceticism of Power* (Montreal and Kingston: McGill-Queen's University Press, 2005), xiii.

14. François Cheng, *Cinq méditations sur la mort autrement dit sur la vie* (Paris: Albin Michel, 2013), 37: « recevoir la vie comme un don d'une générosité sans prix ».

15. Josef Pieper, *About Love*, translated by Richard and Clara Winston, reprinted in *Faith: Hope: Love* (San Francisco: Ignatius Press, 1997), 170 [*Über die Liebe* in *Werke in acht Bänden*, Berthold Wald (éd.), Hambourg, Felix Meiner, vol. 4, 1996, 296-414, 408: « daß nämlich der Liebende, zu dem Geliebten gewendet, sagt: Gut, daß du da bist; wunderbar, daß es dich gibt! »].

HELPING TO LIVE RATHER THAN TO DIE

A Caritas in Veritate Foundation Report by

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This reflection is intended as a look at euthanasia, and in particular the euthanizing of vulnerable persons, from the perspective of Christian social ethics. It will be developed in two stages. First we will recall the basic elements of the Catholic Church's teaching that may shed light on this subject. Then we will address it in a more fundamental way, paying attention to the following axes of interpretation: life, suffering, gift, and community life.

1. The Teaching of the Catholic Church about Euthanasia

Prior to being normative discourse, the teaching of the Church seeks to declare the positive character of human life, whatever the circumstances may be, and therefore the attentive respect that this life ought to inspire. The difficulty often encountered when one refers to Church teaching in matters of morality is of a hermeneutical sort. How should the Church's words be understood and integrated into the way in which we attempt to go forward in our lives? How do they help us to preserve the full richness of humanity in our lives and to protect them from deadly excesses?

"Prior to being normative discourse, the teaching of the Church seeks to declare the positive character of human life, whatever the circumstances may be, and therefore the attentive respect that this life ought to inspire."

In approaching these Magisterial documents, it is imperative to have on hand several hermeneutical keys so as to avoid misinterpretations and hasty oversimplifications. Such mistakes result too often from viewing the Church's Magisterium as a normative authority whose task is to approve or disapprove of certain behaviors. Thus, in the present context, the first question that one poses about euthanasia is whether or not the Church approves of it. Now the Church's disapproval of euthanasia is merely the consequence of a much broader view of the reality of life and of our ability to journey together through it. This broader vision is what should be emphasized and correctly understood, so as to interpret the norms in their proper context.

In support of this method of addressing Church teaching, we must recall that the Second Vatican Council assigned to moral theology, not the task

of constructing a system of norms, but in the first place the task of helping Christians to live their "exalted vocation... in Christ" and to fulfill "their obligation to bring forth fruit in charity for the life of the world."[1]

The centrality of life received as a gift, love, and life in community: these must be the keys for reading and interpreting the moral norm. The Encyclical Evangelium Vitae has often been considered in a reductive way, as though it were a normative Magisterial document forbidding abortion and euthanasia. Now such a reading skips over the principal message of this document. In it John Paul II describes life as a gratuitous gift from God, which we should receive with thanksgiving and wonder, even when it springs up in the least expected places. The first interpretive key is the one that directs our sights toward life and its positive character, and not toward death. Death has no positive character in itself; it is merely the absence of life. No one desires death, although some reject life.

"In terms of rights, this means that every human being has a "first and fundamental" right to life; (...) This right is not granted to him by the human community but rather by the fact that this life comes to us from the Creator. (...) Therefore we cannot dispose of it—neither in our own case nor in the case of others."

In terms of rights, this means that every human being has a "first and fundamental" right to life; John Paul II insists on this at length. This right is not granted to him by the human community but rather by the fact that this life comes to us from the Creator. Life is something that we receive and that others receive. Therefore we cannot dispose of it—neither in our own case nor in the case of others. In this sense, it is not possible to speak about a right to death, whether it assumes the form of a right to abortion or a right to euthanasia. That would be a right not to receive the gift of life, or else the right to deprive someone else of it. Since the right to life comes before all other rights, the "right to death" can only amount to an impossible contradiction thereof.

To love is to will the good of another, in other words, to will that he may live, that he may manifest as well as possible what he is called to be, even if the circumstances are difficult. To will the good can only mean to will that the other person may live. "To love someone is to say to them: you will not die,"[2] the philosopher Gabriel Marcel says very lucidly. To love is to hope in the other person, to hope that life will spring again from him and from me, and that we will be able to live it together, that we will be able to accept together the ever-new surprises of this gift. That is when we can say, again with Gabriel Marcel: "I hope in you for us."[3]

This last quotation points to the fact that there is no such thing as an isolated life; rather we are always interrelated by our "same care for one another" (1 Cor. 12:25). The notions of solidarity, fraternity, and communion exist to remind us constantly of our duty not to leave our neighbor alone with his suffering and with the ultimate expression thereof, death.

A. The Rejection of all Euthanasia as a Consequence of Love for Life

The Church's position with respect to euthanasia results from the importance that she assigns to the three elements described above: the gift of life, love, and the community. In this sense we can say

that the Church seeks not so much to condemn euthanasia as to promote life. In rejecting this practice, she does not mean to forbid it peremptorily but rather seeks to confront everyone with the contradiction between that act and life. The normative discourse functions as a marker buoy. It aims to prevent drifting into dangerous waters, either through a misunderstanding of what the structure of one's life signifies, or else through over-emotionalism that considers all suffering intolerable.

The norm condemning all euthanasia has always been upheld by Christian tradition, and it was repeatedly expressed by several popes in the second half of the twentieth century. The words of Pius XII, spoken during the darkest hour of Nazi barbarity, remain for us astonishingly relevant and warn us prophetically that the greatest evil is not simply deeds that are "monstrous," as Hannah Arendt put it.[4] It threatens us all because it can appear at any time in the midst of us or within us, when a person ceases to be "sufficiently present to himself in order to hear and follow the voice of his conscience."[5] In the Encyclical Mystici Corporis (1943), the pope's description of what is unacceptable should challenge us, because it can also refer to present-day practices. It questions, then, the commonly accepted idea that there is a perverse sort of euthanasia—that of the Hitler regime, which we can keep at a distance because we are not monsters like them—and our sort of respectful euthanasia: "to our profound grief we see at times the deformed, the insane, and those suffering from hereditary disease deprived of their lives, as though they were a useless burden to Society; and this procedure is hailed by some as a manifestation of human progress, and as something that is entirely in accordance with the common good.... The blood of these unfortunate victims, who are all the dearer to our Redeemer because they are deserving of greater pity, 'cries to God from the earth' (Gen. 4:10)." [MC 94]

This opposition to the practice of euthanasia is not denied in later Magisterial teaching, and it is expressed even more strongly in lines penned by John Paul II when, in the 1995 Encyclical Evangelium Vitae, he reaffirms with great solemnity, in the name of the whole Church, that since euthanasia is "the deliberate and morally unacceptable killing of a human person," it is a "grave violation of the law of God."[6]

As the Church sees it, this is not about unduly restricting man's freedom by denying him some of his rights, but on the contrary about enabling him to remain on firm ground where he can truly deploy his freedom. Nor is it a question of insensitivity to the suffering that surrounds death—suffering that has never left the Church indifferent. In this sense, although she rejects the existence of a "right to procure death either by one's own hand or by means of someone else," she nonetheless recognizes a "right to die peacefully with human and Christian dignity."[7]

B. The Right to Die with Dignity and Peacefully

Two things seem quite clear in Church teaching: the rejection of all "vitalism" and of all "dolorism." In Magisterial documents there is no "vitalism"—the belief that a person's bodily life has a value in itself and has to be "protected" in the sense of prolonging it maximally or without limit.

On the contrary, there is a very explicit rejection of the hubris of a certain style of medicine in which the will to conquer death at all costs is expressed in therapeutic obstinacy or unreasonable treatment. Pius XII, in 1957, at the very moment when medicine was developing its new potentialities (intensive care, transplantation, dialysis, etc.), refers to "extraordinary" treatments that should be used with discernment inasmuch as they may be "burdensome" for the patient.[8]

Nevertheless, that language qualified the treatment itself. Now the inopportune character of a treatment is connected not solely with the characteristics thereof, but depends also on the overall condition of the patient. And so, in 1980, the position taken by the Congregation for the Doctrine of the Faith replaced the binomial ordinary-extraordinary with proportionate-disproportionate, which allows physicians to take into account many factors contributing to the complexity of the clinical situation. The document explains: "It will be possible to make a correct judgment as to the means by studying the type of treatment to be used, its degree of complexity or risk, its cost and the possibilities of using it, and comparing these elements with the result that can be expected, taking into account the state of the sick person and his or her physical and moral resources."[9]

Nor does the Church teach "dolorism," a belief that there is something positive about suffering that should not be treated, or that should be sought for its own sake.

Pius XII, in the same 1957 Address, explicitly authorized physicians, "if there are no other means," to use powerful narcotics to suppress pain, even at the risk of causing unconsciousness or shortening the patient's life.[10] The Church's constant support of the development of palliative means, which is reaffirmed in Evangelium Vitae (no. 65), does show her concern about fighting against suffering in all its forms. Many interventions by different national episcopates since the end of the 1970's "devote space above all to the theme of humanizing death, understood as the need and duty on the part of community and of the medical personnel to make the patient feel that someone is near, to keep communication lines open, and to spare the dying or sick person loneliness and a sense of abandonment."[11]

C. Concern for Vulnerable Persons

The Christian message has always focused on the poor, who represent the many forms of vulnerability, and in whom we are led to discern the very presence of Christ. These vulnerable persons are described in many passages by the prophets of the Old Testament (Amos, Isaiah) as well as in the Gospel account of the Last Judgment (Mt. 25). It should be recalled that this account has been very important in the charitable work of the Church throughout her history. In particular, medieval hospitals were heavily influenced by this injunction to see the Lord in all those who arrived at their door. Today, Pope Francis continues the concern to "recognize the suffering Christ" in the person who is suffering. This leads to the requirement to be signs of God's tender love for the sick[12] and "to "care for the vulnerable of the earth" so as to help them "find opportunities in life,"[13] in other words, so that they might find a way to live their life through their suffering.

"The Christian message has always focused on the poor, who represent the many forms of vulnerability, and in whom we are led to discern the very presence of Christ."

The notion of solidarity neatly expresses the unfailing tie that binds the weakest members to the rest of the community. "We are convinced," the bishops of Belgium recently said concerning the extension of euthanasia to children and to persons suffering from dementia, "that society will not find its future except in an increase of solidarity."[14] To accept without further ado a request for death is to consign the other to the solitude of a pseudo-independence and to refuse to see that we belong to the same social body and that we cannot be separated from one another—a truth which is at the basis of the notion of solidarity.

"To accept without further ado a request for death is to consign the other to the solitude of a pseudo-independence and to refuse to see that we belong to the same social body and that we cannot be separated from one another—a truth which is at the basis of the notion of solidarity."

Whereas euthanasia consigns everyone to a deathly solitude, solidarity is the sign of this common concern for one another that was mentioned earlier. It requires us to carry with the other person the burden that seems impossible to take up alone, and to reassure him, given the insidious pressure that increasingly presents euthanasia as an acceptable solution for those who are suffering and therefore are in a situation of the utmost vulnerability.

For the Christian tradition, the poor and vulnerable person has always been the privileged place where Christ makes himself visible. The poor person thereby acquires a singular dignity and inspires a movement of acceptance, encounter, and hospitality, in other words, of reintegration into a social fabric that is a fabric of life.

2. Three Axes of Theological Investigation

A. Life

We said that euthanasia must be addressed primarily from the perspective of life. The argument for euthanasia rests fundamentally on the statement by the patient or by those close to him that it is impossible to continue living. The person who asks to die makes an assessment of his very life, saying that it is no longer worth the trouble of living and that it would be better for it to end.

"Now theology tells us that life comes from God, and thus it urges us to shift the focus away from the increasingly common idea that is becoming acceptable nowadays, that we may accept or reject life at our convenience, as though we considered ourselves external to it."

Now theology tells us that life comes from God, and thus it urges us to shift the focus away from the increasingly common idea that is becoming acceptable nowadays, that we may accept or reject life at our convenience, as though we considered ourselves external to it. What does that say about our relation to life?

How do we Look at Life?

The modern mentality urges us to consider life as the property of the subject.[15] He supposedly has the power to objectify it, in other words, to control it by taking a step back from it,[16] just as he would consider a piece of clothing, for example. Life thus transformed into an object loses its normative force; in other words, it no longer commands respect, but instead the subject imposes his will on it like a proprietor. The consequences of this mentality are starkly evident in the will to control the circumstances surrounding birth and death, the rising and the setting of life among us. It is necessary to be in control of birth, and if it is not in keeping with the parents' desires, they go so far as to sue for "wrongful life." Nor should life continue if it has become undesirable, and this is our topic: the demand for euthanasia.

"Life is much more than a piece of property to be respected, in us or in someone else; life is received as a gift, and it cannot be dissociated from our being-in-the-world."

The faith perspective challenges this objectification of one's lifetime and preserves the fully normative character of life, since it comes from God, as Psalm 104 says: "When you take away their spirit, they die and return to their dust. When you send forth your Spirit, they are created; and you renew the face of the earth" (verses 29-30). Life is much more than a piece of property to be respected, in us or in someone else; life is received as a gift, and it cannot be dissociated from our being-in-the-world. We would have to say, rather, that Life is something much broader and fuller than the fragmentary manifestations that we cause to appear. In the Bible it is associated with the breath of God (ruah) and with the Holy Spirit (the "giver of life," as the Creed says), which are always infinitely greater than what we can show of them by our earthly existence. This means that we must not think about the life that we have, but rather of the way in which, at every moment, we are continually born and come to life; in other words, we welcome and cause to arrive the Life that is always awaiting incarnation,

so to speak.[17] Respecting life is therefore respecting this divine life that is continually offered to us.

Life is Ever New, it is not Capital that has been Dipped Into

Vulnerable and wounded persons are often seen as having already lost some of their life or even almost all of their life. This betrays a way of picturing life as a sum of capital that time eats away at bit by bit. Now, this notion of capital that has already been dipped into changes the way in which euthanasia is viewed, in the case of persons in a situation of dependency. People think that what is being taken away or stopped is only a tiny piece of residual life. By this reasoning the act is less serious, since the life interrupted is already almost no longer a life. "This is not a life!" says a person in a documentary film who is explaining his decision to die.[18]

Now this paradigm is utterly inadequate. Research conducted on the time of dying, particularly in the context of palliative care, shows that this time near death is filled with a full, intense life, often more so than the times that preceded it. Those who work in palliative care customarily say that five minutes before his death a person is one hundred percent alive, whereas according to the model of diminishing capital he would already be ninety-nine percent dead. To say that a person is fully alive even in the most difficult conditions is to say that life is capable of appearing in its fullness in all phases of our human existence. There is no useless time in our existence, or time for life at a discount. The deceptive model of life that crumbles away bit by bit leads moreover to an inappropriate and dangerous use of the notion of quality of life.

"To say that a person is fully alive even in the most difficult conditions is to say that life is capable of appearing in its fullness in all phases of our human existence."

The "Quality of Life" Trap

What ought to be considered are the conditions that help or hinder a person as he makes the life within him emerge, instead of passing judgment on the greater or lesser quality of that life. Reflection on the quality of life was an important step in medicine to dispel the fascination with prolonging biological life at all costs, which was responsible for therapeutic obstinacy.[19] Nevertheless, the expression in itself is ambiguous, and it has come to take on a perverse sense when it has been used to determine the value of a person's life. The extreme fringe of this movement is represented by the quantification of life in the notion of Quality Adjusted Life Years (QALY), whereby it is said that in the healthcare system, the allocation of a resource is justified to the extent that it adds quality years to a life. To put it differently: the social energy that should be invested to preserve a life depends on its probable duration and its measured, calculated quality.[20] When this calculation leads to a negative result, some will conclude simplistically that it would be better for the person to be dead than alive. The quality of life therefore enters in as a factor to be

weighed in a utilitarian equation. The reasoning is distorted: certainly one can legitimately admit that a life may be better if the conditions are more favorable, but on the other hand when conditions are deemed unfavorable that allows us to say nothing about the "possibility" of living.[21] There is an asymmetry therefore in the possible judgments, and the error occurs in seeking to establish symmetry. One could replace the term "better" with "preferable." A life in good conditions is preferable precisely because it can be deployed better. A life in poor conditions will encounter more difficulties, but it is not impossible for it to flourish, and we have even seen lives with an unexpected richness emerge from catastrophic conditions. This is the point of the notion of resilience. So we see that, in discussing "quality of life," it is imperative to limit our evaluation to the conditions imposed on life and not pass judgment on the life itself.

The Right to Life Reformulated

In light of these considerations, it is necessary to return to the notion of the right to life that was already mentioned above.[22] The exact formulation of this right should be a right not to be prevented from welcoming life. The first obstacle is obviously of a biological nature: in order to welcome life there has to be a living body. But since human life is not merely biological but involves psychological, social, and spiritual dimensions, the right to life is a right not to be unduly prevented from allowing the dimensions in which life seeks to express itself to be vibrant and to unfold.[23] Based on what we have said, this can only be a negative right, inasmuch as life is not a good that the community could possess and grant to a person.

"But since human life is not merely biological but involves psychological, social, and spiritual dimensions, the right to life is a right not to be unduly prevented from allowing the dimensions in which life seeks to express itself to be vibrant and to unfold."

If there were such a thing as a right to death, it would be a right derived from the right to freedom, which is subordinate to the right to respect for life (in order to be free, it is necessary to be alive).[24] In theological terms we say that man is created free, but that this freedom, which is a freedom to deploy his life as well as possible, cannot go so far as to deny the creative act itself and its implementation over time, which we have called continual birth to life. The growing demand in contemporary discourse for this right to decide about one's own death is disturbing inasmuch as it seems to say that in some conditions life is no longer "receivable" and that the person would have a right to die. The Christian tradition has always considered that these conditions of a life that is so difficult as to be impossible (which it calls poverty of destitution in the broad sense) ought to be the object of particular attention so that every effort may be concentrated on the removal of obstacles, miseries and forms of poverty (physical, psychological, social) which prevent human being from living fully. Nevertheless it is necessary to clarify the meaning of the term dignity. This is defined as what commands respect. Now the very first thing to be respected is the fact that someone who is naturally tending toward death remains alive still, despite his physical limitations, and has the potential to receive Life from God.

"The Christian tradition has always considered that these conditions of a life that is so difficult as to be impossible (...) ought to be the object of particular attention so that every effort may be concentrated on the removal of obstacles, miseries and forms of poverty (physical, psychological, social) which prevent human being from living fully."

This is what the person has a right to, and this is related to the many rights that follow from the right to life (right to care, right to respect for privacy, right to information, religious liberty, etc.).

B. Suffering

Suffering is irremediably a part of the life of human beings. Nevertheless it involves this paradox: although it is inevitable, it must be fought. We must live with this tension between the necessary rebellion against all suffering and the knowledge that it will never be possible to suppress it entirely. The fight against suffering is an endless task. This awareness must avoid two illusions. The first is to consider suffering as necessary and to justify it, to give it a meaning, a positive character. It is absolutely necessary to dispel all the dolorist illusions that are still all-too-present: suffering as such is fraught with negativity and, even though it is inevitable, it is not indispensable to salvation; it is not an obligatory price to pay in order to be sure of a better life in the next world. In situations of suffering, the best of a human being can certainly come to light, but also very often the worst. The figure of Christ healing that is recorded by the evangelists as an important element of his earthly life clearly demonstrates the always unjustifiable character of all suffering.

The second illusion with regard to suffering is that one can be completely rid of it. Now there is no life without suffering in this world, and there never will be, but there are lives that constantly try to assert themselves despite suffering and try not to be destroyed by it, and this is what must be sought.

"Now there is no life without suffering in this world, and there never will be, but there are lives that constantly try to assert themselves despite suffering and try not to be destroyed by it, and this is what must be sought."

The battle against suffering is in particular the job of medicine. The medical profession has made important progress in this area with the development of palliative care in the last quarter of the twentieth century. This has concentrated on the battle against the symptoms that make life unbearable. The World Health Organization, which is actively engaged in making this care accessible everywhere, recalls that unfortunately, worldwide, only around 14% of persons in need of palliative care actually benefit from it.[25] This must be kept in mind in discussions about a supposed right to death in order to escape excessive suffering. In contrast to that "right," we have mentioned the right not to have one's life hindered, and one means to that is the particular right to be able to benefit from palliative care—all the more so because it is not based on sophisticated and burdensome techniques, but on the well-calibrated usage of products that are widely available and inexpensive, such as morphine.

Does Being Disabled Prevent Someone from Being?

In a society that has prioritized wellbeing over being, ceasing to live, in other words, no longer being, seems preferable to suffering.[26] The idea that the only life that matters and is desirable is that of an independent, rational individual, causes a significant number of our contemporaries to regard disabled persons, the elderly with dementia, or persons in a persistent vegetative state as living "undesirable" lives. It is as though the human being were affected by these bodily or psychological wounds. We now have more and more studies showing that these persons maintain a strong sense of identity, despite their disability, and that it does not dehumanize them. Thus, one person suffering from Alzheimer's disease is able to say in a surprising way: "Sometimes I even have the impression of being still more 'human' than before,"[27] and a research study shows that patients suffering from locked-in syndrome can say that they are happy.[28] These studies call our attention to the fact that very often, given highly undesirable situations, we declare that life in these conditions is not worth the trouble of living because we project ourselves into these situations and we have the impression that we would be very unhappy if we suddenly had to accept them. This is of great importance in discussions about euthanizing persons who are unconscious or supposedly incapable of discernment. We think that we can determine from outside the desirability of life for the person, but more and more studies about these cases show us that the self that we reconstruct from outside does not correspond to the real self. The latter is much more capable than we think of integrating the negative experience of extreme limitation and of "living with it." This is evident for example in the above-cited study of locked-in syndrome, in the fact that some of the persons who declare that they are the happiest are those who have been sick the longest. They have therefore succeeded in owning this particular situation and of letting life be present in it in spite of everything. We can also cite follow-up studies of severely injured patients who are left with a disability. Some, contrary to all expectations, develop a surprisingly intense life, which has been described as post-traumatic growth.[29]

"We think that we can determine from outside the desirability of life for the person, but more and more studies about these cases show us that the self that we reconstruct from outside does not correspond to the real self."

These factors make us attentive to the fact that the connection between disability, in the broad sense, and quality of life should be explored in greater depth and that in particular it is fundamentally necessary to call into question the claim that a disability inevitably diminishes the quality of life.

A Life that Finds Meaning Despite Suffering

The feeling that it is impossible to make room for life alongside suffering, which is expressed in the demand for euthanasia, must always be seen as a failure, and in this sense it should never be validated by a community. By designating death as a possible option, the legalization of euthanasia is in effect the institutionalization of despair. It

"By designating death as a possible option, the legalization of euthanasia is in effect the institutionalization of despair."

is a major turning point for a society. It signifies that society will no longer encourage its members to practice the solidarity and fraternity that are expressed in this common "care for one another" mentioned earlier in the quotation from Saint Paul. By regarding euthanasia as a possible option, society would abandon the idea, in reference to the vulnerability of some of its members, that everyone has a duty to enable each member to live as well as possible the life offered to him at each moment of his personal story. Quite obviously there are situations in which it will be pragmatically impossible to realize such an ideal, but then the discomfort connected with the social unacceptability of trivialized euthanasia should be the source of social creativity. It must still be a powerful stimulus for implementing in the country in question the solutions that do exist or that have yet to be developed.

Incidentally, palliative care, which has greatly enriched medical practice, owes its development to this tension, which was sensed by, among others, Cicely Saunders, who is considered the founder of the movement. Certain kinds of final agony were unacceptable to her, and she refused to consider euthanasia as an option; her convictions fueled her formidable creativity, which led her in 1967 to open Saint Christopher's Hospice, the first of a long series of palliative care centers.

Human communities are still capable of generating this sort of creativity, and this is another reason why they must avoid the path of least resistance, euthanasia, which only saps motivation.

C. Hospitality in the Community

No reflection on community life can ignore the social position of those who are weak and vulnerable. One strong criterion for social inclusion is the criterion of "mutual need," which is connected with the notion of the irreducible uniqueness of every person who makes up the social fabric. Mutual need implies that each member of a community is necessary to the group as a whole, just as every thread is necessary in a tapestry, and that it will be missed if it is no longer there.30

"Mutual need implies that each member of a community is necessary to the group as a whole, just as every thread is necessary in a tapestry, and that it will be missed if it is no longer there."

Pope John Paul II goes even farther by introducing the logic of the divine gift into interpersonal relationships. With regard to each of the others whom I encounter, I must be able to say, "God gave you to me."[31] Considering every other person as a gift is not inconsequential. The gift is given in order to be received, and receiving the other person recalls the notion of hospitality, which has a very rich history in Christian tradition. To offer hospitality to someone means becoming responsible for his life for the duration of that hospitality. This sense of responsibility is summoned when the other person, in the depths of despair, asks for death, but even more so when other members of the community demand the death of one of its most vulnerable members (a newborn, a handicapped

person, an Alzheimer's patient, etc.); at such moments, we should think of speaking up for those who cannot speak or no longer speak.

The hospitality offered to the weakest member of society should never scandalously lead him to his death; instead, by mobilizing the abovementioned creativity, it should tirelessly seek and create spaces in which he can live. This is a much more demanding challenge than the simplistic "solution" of euthanasia. The latter, ultimately, is nothing but a technological response that seeks to control death by assigning to it a time, a place, and a definite form. But the primary requirement is to be able to give a human response, which can never be a response of controlling life, but must always accept our lack of control. True hospitality is like this: it opens the door, it does not know what will happen, but it is an act of becoming present—not a controlling presence, but a presence open to the other, to his mystery and to the surge of life.

In conclusion, we must emphasize again that it is the responsibility of individuals and communities, and not of the State itself, to put this hospitality into practice. The State has a specific responsibility that must remain within well-defined limits. On the one hand, through the judicial system, it must set the minimal rules for social coexistence and define the boundaries that are not to be crossed. Respect for all human life should be part of this universally, inasmuch as it is the expression of the right not to be deprived of life that we described as a primary, fundamental right. On the other hand, the State must see to it that the health care system furnishes the material conditions necessary to relieve suffering. More broadly, it must do everything possible to eliminate also the other types of poverty that hinder human life. By these actions the State does not provide hospitality. Obeying the law that forbids killing says nothing about my way of addressing the other person whom I have allowed to live; it says nothing about how I can foster life with him. The State puts in place favorable conditions in which hospitality has more of a chance to develop with greater ease; it helps to make it possible to open up spaces of encounter where mutual care-giving can grow and not be threatened by institutional inertia and constraints.

This integration between individual responsibility, collective responsibility, and State responsibility creates the space in which solidarity and fraternity are experienced, hospitality is provided, life can be received and respected, and the path of euthanasia can be avoided. Euthanasia is always a failure resulting from the unwillingness or inability to harmonize the several voice parts just described.

Translated by Michael J. Miller

Notes

1. Vatican Council II, Optatam totius, Decree on the Formation of Priests, 16.

2. Gabriel Marcel, Homo viator: Introduction to a Metaphysic of Hope, translated by Emma Craufurd (New York: Harper Torchbooks, 1962), 147.

3. Ibid.

4. Hannah Arendt, "Thinking and Moral Considerations: A Lecture," Social Research 38/3 (Autumn 1971): 417-446 at 417.

5. Catechism of the Catholic Church, no. 1779.

6. Evangelium Vitae, 65; see also, several years earlier, the Declaration Iura et bona by the Congregation for the Doctrine of the Faith (May 5, 1980). The English translation Declaration on Euthanasia is reprinted in Catholic Health Care Ethics: A Manual for Practitioners, second edition, edited by Edward J. Furton et al. (Philadelphia: The National Catholic Bioethics Center, 2009), 318-321.

7. Declaration on Euthanasia, 4 (page 320a).

8. Pius XII, Allocution to the Italian Society of Anesthesiology "On the Moral Problems of Analgesia" (February 24, 1957); http://www.acim-asia.com/Allocution_To_Doctors.htm.

9. Congregation for the Doctrine of the Faith, Declaration on Euthanasia, 4 (page 320a).

10. Allocution to the Italian Society of Anesthesiology "On the Moral Problems of Analgesia" (February 24, 1957), conclusion and answer to the third question.

11. Elio Sgreccia, Personalist Bioethics: Foundations and Applications, translated by John A. Di Camillo and Michael J. Miller (Philadelphia: The National Catholic Bioethics Center, 2012), Chapter 15, p. 678-679.

12. Francis, Message for the Day of the Sick, 2016.

13. Francis, Evangelii Gaudium, 209.

14. Episcopal Conference of Belgium, "Peut-on euthanasier le lien social?" ["Can the social bond be euthanatized?"] (March 6, 2013).

15. Cf. Xavier Labbée, "Le corps humain, le droit et les saintes Écritures," in Guillaume Rousset, ed., Mélanges en l'honneur de Gérard Mémeteau: Droit médical et éthique médicale: regards contemporains (LEH Édition, 2015).

16. Cf. Charles Taylor and his notion of the "disengaged" Cartesian subject in Sources of the Self: The Making of the Modern Identity (Cambridge, MA: Harvard University Press, 1992), 146.

17. This view has been developed extensively by the philosopher Michel Henry, particularly in his work I Am the Truth: Toward a Philosophy of Christianity, translated by Susan Emanuel (Stanford, CA: Stanford University Press, 2003).

18. Exit [le droit de mourir] (Lausanne: Climage, Les Productions JMH, 2005), 1 DVD-video (76 min.).

19. See the essay by Bernard Schumacher in this volume.

20. Jonathan Hughes, "Palliative care and the QALY problem," Health Care Analysis 13/4 (2005): 289-301.

21. Stephen Barrie, "QALYs, euthanasia and the puzzle of death," in Journal of Medical Ethics Online First.

22. For a more thorough reflection, see the essay by Xavier Dijon.

23. This perspective is similar to the notion of capabilities developed by Amartya Sen and Martha Nussbaum: Martha C. Nussbaum, Creating Capabilities: The Human

Development Approach (Cambridge, Massachusetts and London, England: The Belknap Press of Harvard University Press, 2011).

24. Cf. Xavier Dijon, p. 20 [of this volume]: "Life as such necessarily implies some support [adhésion] of himself by the subject, and strictly speaking this support is the foundation of the right."

25. WHO, "Palliative Care," Fact sheet no. 402, July 2015: http://www.who.int/mediacentre/factsheets/fs402/en/. See also Lynch, T., Connor, S., and Clark, D., "Mapping levels of palliative care development: a global update," Journal of Pain and Symptom Management 45/6 (2013): 1094-1106.

26. Antonio Sicari, "Compassion du monde et compassion du Christ," Communio 9 (1984): 76-90.

27. Claude Couturier, Puzzle: Journal d'une Alzheimer (Paris: J. Lyon, 20043), 144.

28. Marie-Aurélie Bruno, et al., "A survey on self-assessed well-being in a cohort of chronic locked-in syndrome patients: happy majority, miserable minority," BMJ Open 1/1 (2011): e000039.

29. Lawrence G. Calhoun and Richard G. Tedeschi, The Handbook of Posttraumatic Growth: Research and Practice (London and New York, etc.: Taylor & Francis, 2006).

30. Cf. 1 Cor 12:21: "The eye cannot say to the hand, 'I have no need of you,' nor again the head to the feet, 'I have no need of you.'"

31. John Paul II, "Le don désintéressé: Méditation," Nouvelle Revue Théologique 134/2 (2012): 188-200.

SECTION TWO

CHURCH TEXTS ON EUTHANASIA

INTRODUCTION TO AND ANALYSIS OF THE CHURCH TEXTS

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The following paragraphs aim to outline the development and trajectory of the Catholic Church's key teachings on euthanasia since its introduction in modern discussion. This line-up of texts is not an exhaustive but a representative series which marks crucial moments and arguments. While these Church documents are properly read as part of the greater Catholic Social Tradition, and no one piece of teaching can truly be isolated as a stand-alone text or categorized by one theme or era, we have attempted to chronologically group the chosen documents into three periods of thought for the sake of organization and analysis. The differences in wording and teaching between the three "periods" serve to highlight the developments in the Church's response to the euthanasia question, simultaneously telling of the changes taking place in society which required such a continuous development of response. In turn, this presentation of texts provides a logical projection of where the current euthanasia discussion undoubtedly leads, revealing the many spiritual and social implications that accompany a Human Right to choose death.

First Stage: Foundational Teachings on Euthanasia

Euthanasia was rarely a topic of formal discussion in the Catholic Church until the late 20th century, previous to which, standard Church teaching maintained an authoritative tone and systematic theological approach. As displayed in these first texts, the Church's straightforward handling of the topic - and the sufficiency of a de-facto response - is reflective of a social consensus that still widely rejected suicide and euthanasia as sinful as well as criminal. Indeed, in reaction to the horrors of World War II, there was a sudden rush within the global community to establish ethical norms and codes of conduct in the 1940's and 50's. Alongside the establishment of the United Nations, the deontological language of

inherent and universal human rights took on heightened social and political significance. Likewise, the role of a doctor was generally agreed upon during this time: "to aid, to cure, and to prevent disease, not to harm or to kill".[1] In following, the 1948 Physician's Oath adopted by the World Medical Association in Geneva, stated: "The health and life of my patient will be my first consideration".[2] This first section of texts (roughly spanning from the 1950's until 1980) juxtaposes the great cultural shift soon to take place, for the Church faced more challenges regarding euthanasia in the following decades than it had for hundreds of years. Consequently, this opening period is not of interest for its novel handling or development of thought on euthanasia but because the documents represent the Church's approach before the topic gained prominence and took on further complexities in public debate.

By way of overview, these four texts provide a sample of the Church's moral teaching on euthanasia when it surfaced after the Second World War as primarily an issue of medical ethics. The first two documents specifically address the medical community, but the latter two were published for a much broader audience. Whether addressing the medical community or all the Catholic faithful, however, the Church's response to the question of euthanasia is to recall, more-or-less, the same moral principles outlined by St. Thomas Aquinas in the thirteenth century, namely, to deprive oneself or another of life is contrary to the natural law, contrary to the charity owed oneself or another, injurious to the common good, and a sin against God.[3] In these beginning documents, questions surrounding euthanasia are handled more from a theological than pastoral manner; only later does Pope John Paul II explore the problem of euthanasia from a deeper philosophical perspective of the human person and relate it to certain ideological or cultural trends.

Instead, focusing on theological norms and questions of morality, the texts from this period present the conventional but still-to-be-developed position of the Church. Given this context, Pope Pius XII's address to the World Medical Association outlines the primary foundations for medical ethics. As new technologies advanced medical practices, however, the euthanasia question gained urgency, necessitating a clearer delineation between procedures that were medically possible and those which were morally applicable. Consequently, in the second document Pope Pius XII begins to apply the Church's established moral principles to specific medical scenarios in his address to the International Congress of Anaesthesiologists. Similar to the first two texts, the third and fourth documents also demonstrate a shift from a broad handling to a specific application of moral principles. In Gaudium et Spes, for instance, the Fathers at the Second Vatican Council address euthanasia along with all other offenses against life in one broad paragraph. Later, responding to the need to focus greater attention on the topic, the Sacred Congregation for the Doctrine of the

Faith succinctly outlines the Church's teaching in their "Declaration on Euthanasia", the first document of such weight and specificity to be issued on the subject. Differences clearly arise between the first and last texts of this period, but these differences reflect a greater change in societal thought than developments yet to be seen in Church teaching.

1. Pope Pius XII

Opening this period of texts is Pope Pius XII's address to the World Medical Association in 1954. Herein the Pope unreservedly makes use of religious language and arguments, building on an assumed belief in a divine creator and the eternal destination of man, even in front of a secular medical audience. Clearly outlining a moral platform for medical care, the Pope states that "medical ethics are, fundamentally, based upon being, reason, and God".[4] In following, there seems to be no great distinction made between general medical ethics and specifically Catholic medical ethics, and as the law had yet to be greatly involved in the issue, emphasis is placed on the ennobled doctor's conscience as a primary guide in such matters. The Pontiff illustrates that, although the law draws the absolute parameters for doctors, it falls to a code of moral principles to set the honourable standard of care, for "it is too much to hope that medical law will, in the foreseeable future, propose all that it should to satisfy the demands of natural ethics."[5] In regards to the strict legality of aiding in an innocent person's death, the Church declares with simple and straight-forward logic: "As the state does not possess the aforementioned right, then, it cannot possibly delegate it to the doctor".[6]

With the rise of interest in establishing ethical standards of health and practice, the Church was called upon to answer particular questions resulting from modern medical advances. Examples of these emerging scenarios and technicalities are displayed in the second text, Pope Pius XII's address to the International Congress of Anaesthesiologists. In summary, the key questions he raises include: the morality and obligation of using or removing resuscitation capabilities and/or life support, how to determine the moment of death, the duty and difference between ordinary and extraordinary care, and the complexities surrounding pain killers and consciousness. Naturally, such scenarios only become more complicated in situations of a coma or an irreversible condition. While addressing these questions and situations in turn, the Church maintains a principled approach, declaring that natural reason and Christian morals outline the duty to "take the necessary treatment for the preservation of life and health."[7] Yet, Pius XII also explains that one is only obliged to use ordinary means to preserve life, "that is to say, means that do not involve any grave burden for oneself or another. A more strict obligation would be too burdensome for most men and would render the attainment of the higher, more important good too difficult."[8] This principle of "ordinary means" soon became a standard

argument in the Church's response to euthanasia, but it proved less than self-explanatory when further advancements turned previously burdensome means into easy and standard treatments. Such advanced technologies and resuscitation abilities also posed the problem of how and when to declare the moment of death, which greatly affect legal, social, familial and professional situations, as well as "many other questions of private and social life".[9] The Pope stresses the need to presume life remains until clearly proven otherwise and reiterates the traditional understanding of death as the separation of the body and soul. Although he also draws a connection between certifiable life and blood flow, this position is debatable from both a medical and theological perspective. In light of questions regarding pain killers and consciousness, Pius XII certainly allows for the necessary and helpful used of drugs to eliminate extreme pain or lend comfort, but he also maintains that it is preferable that a person remain conscious near the end of their life. Not only are the moments before death considered a precious moment when the Christian often says goodbye to loved ones and makes peace with God, but it marks the time when the Church ideally ministers the end-of-life sacraments of confession and extreme unction. Both the delivery and validity of these sacraments are greatly affected by the patient's awareness, lucidity, and even their moment of death.

2. Council Vatican II - Gaudium et Spes

Gaudium et Spes serves as a brief synopsis of the Church's position on euthanasia at the time of its promulgation. With the same broad dogmatic approach already noted in the previous texts, but this time voiced as a pastoral constitution meant for a greater audience, the Council Fathers strictly condemned "anything opposed to life" in a memorable and often quoted paragraph. This text became a standard in the Church's response to euthanasia, but its categorical approach proved insufficient for handling the many questions and situations that later emerged as societal ethics shifted. Typifying this period of social-teaching as a whole, the encyclical references St. Thomas Aquinas's original principles, convicting any offense against life as an injury to all, and most of all to God. Notably, the ability to approach such a large audience and decidedly answer such a complex set of issues in one paragraph (compared to the many pages needed to unpack and explain Catholic thought on the very same issues in later documents), denotes that the audience, at large, held certain moral principles and considered the Church an ethical authority on social issues. In retrospect, what is taught here is not as significant as what is taken for granted or not yet questioned.

3. The Sacred Congregation for the Doctrine of the Faith: Declaration on Euthanasia

Closing the first group of texts, the declaration published by the Sacred Congregation for the Doctrine of the Faith incorporates Church teaching into a new sort of document.[10] At the request of episcopal conferences, this declaration was published as a response to the growing 'right to an easy death' claim, i.e. an early death that would "*shorten suffering and feels more in harmony with human dignity*".[11] The Congregation's answer is the first consistently articulated text of the Church on this issue in modern times. It seeks to establish - still in categorical language - what is considered legitimate or illegitimate treatment from the perspective of the Christian faith. Functioning in part as a summary of previous interventions and texts, this declaration retains tensions inherited from the language and positions of Pope Pius XII.

The document begins by stating that life is "the basis of all good" and has overwhelmingly been held as sacred throughout history. Accordingly, this translates into the widely shared belief that no one can rightfully dispose of life at will. For Christians, human life has paramount meaning: it is a loving gift from God, reflective of His very image, and it is something which human beings do not create but respectfully receive. From this perspective, murder is certainly wrong, as is willful suicide or euthanasia. There is a right to life, not a 'right to death'; therefore, any direct act against human life contradicts a fundamental right.

Considering the different uses and conceptions of 'euthanasia', The Congregation defines its own use of the term as "*an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated*" (§2). The Church is increasingly aware that cases surrounding death and dignity are complex and not easily answered with black-and-white statements. Thus, the document immediately notes that any moral judgment on a case of euthanasia must consider both the *intentions* of the *persons involved* and the *objective means employed*, even if the end result is, in any case, death.

Subsequently, there is no euthanasia when the intention is not death itself but the alleviation of pain, the protection of other persons, the will to forgo an unnecessary and risky treatment or even only a wish to stay conscious (§3). A mother that gives her life to protect her children, for example, is not willingly seeking death itself; she risks it for the life of her children. A man who refuses disproportionate or experimental treatment is not necessarily seeking death; he may be merely accepting the finitude of his human condition, the limits of medical science and/or of social resources. Contrary to the first impressions conveyed by the text, the Congregation distinguishes a wide range of situations where differences in *intentionality* may actually change the *moral signification* of one's own death. This is particularly clear in the case of painkillers (§3). Whereas suffering is an element of our human condition,

its excess frequently bypasses its biological utility. The use of painkillers to treat unbearable pain is therefore morally acceptable, even if it numbs consciousness and accelerates death, because the intention is to forgo pain, not to seek death.[12]

The Congregation says, however, that a judgment on euthanasia must also consider the *objectivity* of the medical means employed. Personal intentionality is not enough to judge all cases of euthanasia. The development of technologies and treatments demands an examination of the medical means employed. Two principles serve our assessment of healthcare methods. First, we have a duty to take care of our health and thus seek available treatments. Yet, we also have a 'right to die'; this is not understood as "*the right to procure death either by one's own hand or by means of someone else, as one pleases, but rather, the 'right to die' peacefully with human and Christian dignity*" [13] (§4). This second duty is but the acceptance of our human condition as limited by death. Moral judgment must balance the two duties. To this effect, the Church distinguishes between proportionate medical means of treatment and disproportionate ones. The difference depends on the *kind of treatment*, its *complexity*, the *risk* involved for the patient, it *accessibility* and *cost*, as well as the *expected results*. The physical and moral resources of the patient are also of importance. In other words, a complex and prudential judgment has to be made regarding the choice of intervention so as to balance the duty to treat and the duty to let someone die "with human and Christian dignity". This prudential decision rests upon the patient, the family and their doctors, and it should respect a patient's wish to forgo disproportionate medical treatments (§4).

Second Stage: Countering the "Culture of Death"

1. A New Sort of Approach to Euthanasia

The second identified period of texts roughly overlaps John Paul II's long papacy (1978-2005). Its paradigm is the encyclical *Evangelium Vitae* (1995), arguably the Church's main document on euthanasia to this day. This text, representative of the general interventions at the time, shows a marked style-change from the first series of documents. First, there is a clear transformation in the perceived stakes of euthanasia. This is no longer a highly specific question limited to a specialized medical audience but a topic which reveals fundamental changes in western culture's approach to life and death. What constitutes a moral life, human dignity and man's autonomy can no longer be assumed and is far from agreed upon in society. Transitioning from a more restricted dialogue, euthanasia suddenly becomes an issue which includes and reveals a changing civilization. By closely linking abortion and euthanasia, Evangelium Vitae features the

two as hallmarks of a 'culture of death'. Hedonism coupled with a zealous promotion of individual autonomy induces a change in our relationship to our own body and the bodies of others. The points marking the beginning and end of life are now seen as matters of choice, expressions of autonomy rather than key moments of grace as viewed in the Christian tradition. Life and death are no longer thought of as realities received by man but as products engineered through the ever enhancing capabilities of medical science. The anticipated audiences of the texts are also markedly different. Departing from texts which found a limited circulation among experts, John Paul II engages and addresses the Catholic Church as a whole, urging the community of believers to maintain congruence between their faith and moral practice. He also reaches out to non-believers, however, outlining the Catholic position for a wider audience and explaining why the issue of euthanasia surpasses questions of privacy, choice and freedom.[14]

A second notable difference between the texts of the first and second periods lies in the tone and rhetoric adopted by the Church. Whereas the first documents were mostly conversational – short answers to open questions for professionals – and offered guidance on difficult points, the present texts are long and give a comprehensive narrative of the Catholic Church's understanding of and inherent conflict with euthanasia. These texts dig deeply into biblical sources, seeking the root causes of the sudden and modern desire to die, and they invoke practical reason to foster the notion of human dignity and support the inalienable value of life. The tone is that of a *Magister*, explaining in order to be understood and denouncing so as to draw a line in front of practices deemed contrary to the Christian faith. In short, the documents are apologetic and communicate with utmost clarity that euthanasia is incompatible with faith in Christ. Despite an emphasis on natural reason, the core arguments remain theological, lending a rational explanation for the Catholic position.

2. Pope John Paul II - Encylical Letter *Evangelium Vitae*

As previously noted, the dominant text of the second period is Pope John-Paul II's encyclical *Evangelium Vitae* (1995)[15] , and as other texts from this time draw mainly from its content, our attention is specifically focused on this piece. Herein, the Pope dedicates several paragraphs to the question of euthanasia (§64-74), and while he references or quotes many previous documents, he frames them in the broader analysis of a shifting conception of death:

> *"Today… the experience of dying is marked by new features. When the prevailing tendency is to value life only to the extent that it brings pleasure and well-being, suffering seems like an unbearable setback, something from which one must be freed at all cost. Death is considered 'senseless' if it suddenly interrupts a life still open to a future of new and interesting experiences. But it becomes a 'rightful liberation' once life is held to be no longer meaningful*

because it is filled with pain and inexorably doomed to even greater suffering" (§64).

This avoidance of pain or adversity at any cost also mirrors others changes in social thought regarding privacy rights and the state's obligation towards its citizens. According to the new trend, decisions over life and death are the exclusive affair of the autonomous self, and the state is vested with the responsibility to respect and protect the right of each citizen to decide how to dispose of his/her own life. Associated with the present and extraordinary extension of our medical capabilities, the temptation grows to "*take control of death and bring it about before time, 'gently' ending one's own life or the life of others*" (§64). The trend to qualify the worth of a life, correlating with the call to legalize euthanasia, is neither "logical" nor "humane", but "senseless" and "inhumane". With an excessive focus on the autonomous self and concern for efficiency and productivity, the contemporary mentality discards elderly and disabled persons as "intolerable burdens" and does not recognize value in a life with serious constraints or impairments (§65).

Embracing the definition of euthanasia given by the Congregation for the Doctrine of the Faith [16], the Pope further develops previously made distinctions regarding what is or is not considered euthanasia. Intentionality and proportionality are here reexamined, and the previous teachings are either reaffirmed or further nuanced. A solemn condemnation of euthanasia is still clearly communicated: "*In harmony with the Magisterium of my predecessors and in communion with the Bishops of the Catholic Church, I confirm that euthanasia is a grave violation of the law of God, since it is the deliberate and morally unacceptable killing of a human person*" (§65). Plainly speaking, John Paul II is seeking a fuller and better exploration of the many dimensions of the euthanasia issue, yet he also reaffirms and even intensifies the Church's foundational teaching regarding the inherent dignity of human life and the gravity of its willful elimination.

Evangelium Vitae then turns toward suicide and especially assisted suicide: "To concur with the intention of another person to commit suicide and to help in carrying it out through so called 'assisted suicide' means to cooperate in, and at times be the actual perpetrator of, an injustice which can never be excused" (§66). The frequently alleged argument of compassion and mercy to justify assisted suicide is squarely rejected as a "false mercy", or a "disturbing perversion of mercy". "*True compassion leads to sharing another's pain; it does not kill the person whose suffering we cannot bear*" (§66). Even the explicit request of help to commit suicide cannot and must not oblige even the friend or relative to collaborate, because "*The request which arises from the human heart in the supreme confrontation with suffering and death, especially when faced with the temptation to give up in utter desperation, is above all a request for companionship, sympathy and support in the time of trial. It is a plea for help to keep on hoping when all human hopes fail*" (§67).

For John Paul II, the most serious and preoccupying forms of euthanasia arise when they are institutionalized under the guise of a policy or a law. Despite the protections and safeguards put in place, physicians or legislators "*arrogate to themselves the power to decide who ought to live and who ought to die*" (§68). Once institutionalized, intentionality does not function in the same manner as an individual's but often directs the person's choice in a biased way toward the institution's own preference (institutional rationality). Even when respecting the provision of fair individual consent, institutional legalization of euthanasia undermines the "sense of justice" and "mutual trust" necessary for personal and institutional relationship (§68).

Today there is an evolution towards recognizing a 'right to die', understood as the right of each individual citizen to choose and fix the time of their death. This 'right' entails the corresponding obligation by the state to respect and promote the safe enjoyment of this private freedom. Such a 'right to die' is rooted in two underpinning narratives, says the Pope. The first and more radical one claims that life is a relative good, the value of which can only and exclusively be assessed by its owner, i.e. the subject. The state should not interfere with the freedom of a person to determine the value of their own life, as it has no authority over private moral matters in a pluralist society. A legal ban of euthanasia is therefore tantamount to an intolerable display of state authoritarianism. The second narrative holds that civilian law should not set or impose a non-consensual high moral standard but express the communal will of the majority. Failure to stick to the majority's opinion over moral issues imposes undue limitations on personal freedom, promotes illegal practice and undermines the rule of law.

A fundamental contradiction runs through the two narratives underpinning the 'right to die' concept, says John Paul II. In the name of personal privacy, individuals require that their moral choices be absolutely respected, yet they reject moral values in the public sphere, where legal norms supplant individual conscience and everybody must abide by the law.

> "*On the one hand, individuals claim for themselves in the moral sphere the most complete freedom of choice and demand that the State should not adopt or impose any ethical position but limit itself to guaranteeing maximum space for the freedom of each individual (…) On the other hand, it is held that, in the exercise of public and professional duties, respect for other people's freedom of choice requires that each one should set aside his or her own convictions in order to satisfy every demand of the citizens which is recognized and guaranteed by law; in carrying out one's duties the only moral criterion should be what is laid down by the law itself. Individual responsibility is thus turned over to the civil law, with a renouncing of personal conscience, at least in the public sphere*" (§70).

These contradictory attitudes between the private and the public spheres arise from a misconstruction of the relationship between ethics, civil law

and democracy. What is considered 'good' or 'bad' should not be determined by merely the opinion of the majority. Neither should "equality of rights" be taken as equivalent to "justice". The moral value of democracy "*depends on the morality of the ends which it pursues and the means it employs (…) it stands or falls with the values which it embodies and promotes*" (§70). The basis of these values is not the changing opinion of a majority but the objective and universal values written on the human heart. Accordingly, civil law relies on moral law for its ultimate legitimacy. Euthanasia, therefore, cannot be reduced to a personal moral choice over the value of life, nor can the law be merely the majority opinion on moral matters. The dignity of human beings and the dignity of their life is not a question of personal opinion, and it cannot be denied by a parliament's decision - it is a human right, universal and infrangible.

Third Stage : Revealing the Progression and Repercussions of Legalized Euthanasia

1. Characteristics of the Stage

Although the Church continues to develop her teaching on euthanasia, the moral principles and the theological foundations have largely been laid out in previous decades. Nonetheless, the final period of texts (roughly published since the turn of the century) is of great importance, for they show the response of bishops around the world in their dealings with new national legislation and extensions of previous bills of law on euthanasia. These episcopal documents are informed, specific (avoiding technicalities), and short; they are written to have an impact on the social or political debate and are meant for a large audience. The arguments made in previous Catholic teaching are now assimilated and newly emphasized as the factual developments regarding legal forms of assisted suicide corroborate them. Notably, the bishops' interventions apply to specific situations, such as a new bill of law or the extension of the 'right to die' to new categories of people

One of the most striking contemporary texts is published by the Australian Bishop's Conference, and it is structured around the noted opposition of myths and facts; the 'myths' support the introduction of legal forms of euthanasia and the 'facts' contradict them. Six myths are identified and dismissed as ideological constructions that contradict reality. The result is quite efficient in terms of communication. The following sample conveys an impression of the document:

"*Myth 1: Euthanasia can be legislated for safely.*

Fact : Euthanasia and assisted suicide can never be safe. Because terminally ill people are vulnerable to powerful feeling of fear, depression, loneliness, not wanting to be a burden, and even to coercion from family members, no law can adequately protect them from succumbing to euthanasia if it is available." (…)

"*Myth 2: Dying with dignity.*

Fact: (…) There is nothing truly dignified about being killed or assisted to suicide, even when the motive is compassion for suffering. Suicide is always a tragedy." (…)

"*Myth 3: Euthanasia is an issue of personal liberty and personal choice.*

Fact: Euthanasia always involves a second person and is therefore a public act with public consequences." (…)

"*Myth 6: Euthanasia is necessary to relieve pain.*

Fact: Good palliative care, not killing, is the answer to relieve pain from the dying."

2. Some Texts of the Present Stage

The factual language employed by the Australian Bishops' Conference succeeds in re-emphasizing that euthanasia is an objective killing of a human person, but the starkness of their approach comes at the expense of some intricacies connected with moral judgment and intentionality. Straight forward 'definitions' are implemented: "*Euthanasia occurs when a doctor, not an illness, kills a patient (…) Even if it is done for what seems a good reason (…) and even if it is done with the patient's consent, it is still killing*" [17] . This language and approach seems to align the discourse of the Church with the ideological nature of the public euthanasia debate. [18]

Additionally, several of the texts published in this volume explicitly react to existing bills of law which expand access to assisted suicide or euthanasia to new groups of persons. This draws attention to the initial principles and arguments set forward to justify legal forms of assisted suicide. Consider the following two cases regarding euthanasia for children and the demented.

The decision by the Netherlands to extend access to euthanasia for children under 12 years of age threatens the principle of 'informed consent', one of the cornerstones of the legal construct for sustaining assisted suicide. Personal consent is in this case substituted by the parent's decision and the

doctor's professional opinion. According to the Pontifical Academy for Life [19], this move demonstrates that the *first* and only *real* intention of the social adoption of euthanasia is to "free from suffering". Not only does this example from the Netherlands result in the killing of a child, it highlights complications arising from the doctor's or parents' conception of pain. Could it be their own incapacity to bear the situation that actually prompts them to 'free the child from suffering'? This evolution – besides being blatant euthanasia – opens the door to a whole new world of 'mercy killing' which excludes the consent of the person 'needing' to be freed from suffering. At the level of principles, even the reliance on autonomy to defend a 'right to die' is simply abandoned in the face of an apparent need to prevent 'undue suffering'.

Church texts in the past fifteen years are focused on the risks involved with the legal forms of euthanasia, especially in regards to the most vulnerable in society. Numerous social categories, frequently already victims of other abuses (e.g. the elderly) might find it difficult to resist the pressure to 'do the right thing' and 'leave in dignity' . The New Zealand bishops propose that the 'right to die' could soon become a 'duty to die'. This *slippery slope* argument is not merely a scare tactic; facts prove the contrary. Legal control of euthanasia is difficult and has failed repeatedly in Oregon, the Netherlands and Belgium. Violations of the law are notoriously underreported and difficult to prosecute, while at the same time, original limitations have been quickly removed to extend the practice, further enhancing impunity. The bishops fear that down the road, economic interests may have much to gain from an extension of legal forms of euthanasia, and if allowed by law, new traction could be added to this trend. Sadly, the first victims would be the most vulnerable. Here, the bishops remind us that the quality of civil law is measured by its effort to protect the most vulnerable, for the law ultimately exists to protect the weak from the strong and powerful, to enhance and protect their inalienable dignity. "The most vulnerable members of our society depend upon the protections which the legal and medical institutions currently provide".[20]

Conclusion

The Church's rejection of euthanasia is not without many nuances and finesse, yet the fundamental teachings recognize the killing of a human being must always be considered objectively bad and should never become an accepted principle of social life. To kill another person is always a tragedy and must not become the norm for any category of persons. The interdiction of murder must therefore remain as one of the fundamental principles organizing human society and law. Accordingly, a citizen's inherent right to life is the only basis from which to legally approach euthanasia.

In the realm of intention, the line that sets euthanasia apart from other practices is the direct intention to kill oneself or of helping another person to kill himself/herself. Since there is no temporal dignity higher than the essential dignity of human life, there is no admissible motive for its willful violation or negation. Neither can supposed pity, mercy or compassion legitimize the euthanizing of another human being. Respect for an individual's free choice does not morally oblige us to kill him, even at his own request. These conclusions are implied when the Church reminds us that love and palliative care, not euthanasia, is the answer to suffering. It merits repeating that the inherent dignity of a human being cannot be lost through old age, illness or infirmity. This is the reason the Magisterium constantly states that autonomy, however valuable, does not trump life as a right.

Moreover, the Church inquires whether the reasons usually advanced for euthanasia are the ones that truly motivate a person's request for death. Rather, are the real reasons a fear of decay, dependency and aloneness? A fear of suffering? A fear of losing autonomy? As for one who collaborates in euthanasia, is it not our helplessness that drives our need to help kill a beloved friend or relative? Is it not our own incapacity to bear the suffering of others that drives our conviction that it would be better for them to die?

The legal forms of euthanasia – be it a "right to die" or a "medical procedure" allowing a person to ask doctors for euthanasia, a so-called 'mercy-killing' – are rejected by the Church. Not only on the grounds of previously exposed reasons, but because institutional preferences tend to override and impose themselves on individuals. When a "right to die" enters the normal procedures of hospitals and hospice, it creates a subtle social pressure to choose death over life. We are dealing here with different levels of intentionality: individual will and institutional will (or group will) do not hold the same level of influence. No amount of protection for the individual's "informed decision" will truly level the playing field. Institutional authority is difficult to resist. The law (through judges and norms) and the hospital (through doctors and procedures) have a decisive sway over the ruling of a person's value or dignity. This is why the Church constantly reminds society that the law should protect the most vulnerable among us – people without education, the poor, the elderly or handicapped, the migrant worker, etc. – those persons, in other words, who are most easily persuaded that their lives are no longer worth living. No one is dispensable, replies the Magisterium; no one should think that there is nothing else left for him but death.

These are the main lines of arguments that have progressively emerged through the different interventions of the Magisterium during the last 70 years. Without ambiguity, there is no place in Catholic teaching for a willful termination of human life, even when thought more 'dignified'. What determines the dignity of a life is no value attached or merited by man, but a nature and worth decided by God. This is the transcendental and universal foundation for human rights.

Notes

1. Address of Pope Pius XII to the VIII Congress of the World Medical Association, 30 September 1954

2. Adopted by the 2nd General Assembly of the World Medical Association, Geneva, Switzerland, September 1948

3. St. Thomas Aquinas, Summa Theologica II-II.64.5. The phrase "and life" was later removed in 1968

4. Address of Pope Pius XII to the VIII Congress of the World Medical Association, 30 September 1954

5. Ibid.

6. Ibid.

7. Address of Pope Pius XII to an International Congress of Anaesthesiologists, "Basic Principles", 24 November 1957

8. Ibid.

9. Ibid., "The Fact of Death".

10. Sacred Congregation for the Doctrine of the Faith, Declaration on Euthanasia, 5 May 1980.

11. Ibid., Introduction.

12. The reduction of pain is not an overwhelming obligation. Suffering can be accepted as participation in Christ's sacrifice. The decision to reduce pain at the cost of consciousness should never be made lightly and without "serious reasons".

13. Not to be confused with the 'right to death'- the right to willingly choose and enact the moment of my death.

14. From the first period to the next, the Church's position also shifts from being that of a critical observer and respected advisor in medical matters to being a defiant and counter-cultural witness of a social trend it cannot sway. Contradicted by the cultural and institutional development of the western world, the Church is keen to convey its position to society, attempting to explain, defend and clarify its teaching; yet, the shift in position from being a dominant actor to being considered obsolete is not addressed.

15. Pope John Paul II, Encyclical Letter *Evangelium Vitae*, 25 March 1995.

16. Euthanasia is thus defined by the Pope as "an action or omission which of itself and by intention causes death with the purpose of eliminating all suffering". Note that the definition crucially drops the "which by itself or by intention" from the Congregation's definition to replace it by "which of itself and by intention".

17. New Zealand Conference of Catholic Bishops, The Dangers of Euthanasia, 19 October 2011

18. Public discussions on euthanasia are usually not about fine arguments and subtle moral distinctions, but emotional power plays to establish the prevalence of one vision over the other. This ideological approach of the debate by the tenants of euthanasia drives the Church toward objective facts, because ideological constructs can't be opposed but by facts that show the inadequacy and inner contradiction of ideological construction.

19. Statement by H.E. Msgr Elio Sgreccia Secretary of the Pontifical Academy for Life, Legalizing Euthanasia for Children in the Netherlands, 3 September 2004

20. New Zealand Conference of Catholic Bishops, The Dangers of Euthanasia, 19 October 2011

FIRST STAGE: PRIMARY TEACHING

ADDRESS TO THE VIII CONGRESS OF THE WORLD MEDICAL ASSOCIATION

POPE PIUS XII

30 September 1954

(Selected Excerpts)

It is a pleasure to be once again among doctors, as has so often been the case in recent years, to say a few words to them.

You have made it a point to inform us of the aims of the World Medical Association, and of the results which it has achieved during the seven years it has been in existence. It was with great interest, that We learned of this news, and of the large number of tasks to which you have devoted your attention and your efforts: the establishment of contact with, and the grouping of, national medical associations; the exchange of experimental data among them on a reciprocal basis; the study of problems which are today of concern to various countries throughout the world; the conclusion of formal agreements with numerous related organizations; the creation of a general secretariat in New York; the founding of your own publication, the World Medical Journal. Then, too, in addition to these accomplishments of a predominant character, several important questions which concern the profession and medical practice in general, have been settled, and your conclusions put into effect; the honor and reputation of the medical fraternity have been upheld; an international code of medical ethics, already approved by forty-two nations, has been carefully drawn up; a newly edited version of the Hippocratic Oath (the Geneva Oath) has gained acceptance; and euthanasia has been officially condemned. Among a great many other questions, moreover, you have also taken up those which pertain to the adaptation and advancement of university instruction intended to further the training of young doctors and, more particularly, the ends of medical

research. And these are only a few of the many problems with which you have dealt.

.../...

To some, the creation of a uniform code of medical ethics may appear to be an ordinary accomplishment. The basic laws and characteristics of human nature are, no doubt, the same throughout the world; the goal of medical science, and consequently that of the conscientious doctor, is also the same: to aid, to cure, and to prevent disease, not to harm or to kill.

This being the case, then, there must be certain things which no doctor would do, that no doctor would tolerate, or would attempt to justify, but which he would, assuredly, condemn. And, likewise, there must also be things which no doctor would fail to do, things which, on the contrary, he would insist upon and put into execution. Such would be, if you wish, the doctor's code of honor and of duty.

In truth, however, medical ethics are still far from being uniform and complete throughout the world. There are relatively few principles which enjoy universal acceptance. But this relatively small number is in itself worthy of consideration, and should' be acclaimed proudly and positively as a point of departure for future development.

On the subject of medical ethics, We would like to propose for your consideration three basic ideas:

1. Medical Ethics should be Based upon Being and Nature.

This stems from the fact that, medical ethics should conform to the essence of human nature, and to its laws and immanent relations. All moral norms, including those which pertain to medical science, necessarily proceed from corresponding ontological principles. Whence comes the maxim: «Be what you are»! It is for this reason that a purely positivistic code of medical ethics is self-repudiating.

2. Medical Ethics should Conform to Reason and Finality, and should be Based upon Positive Values.

Medical ethics do not find expression in things, but in men, in individuals, in doctors, in their minds, their personalities, and in their conception and recognition of values. For a doctor the problem of medical ethics manifests itself in the form of numerous

questions which he must answer according to the dictates of his own conscience: «What does this norm of action entail? How can it be justified?» (That is to say, what ultimate goal does it pursue and set for itself ?) «What is its independent value, its value to man, and its value to society?» In other words: «With what is it concerned?» «Why? For what purpose? What is its worth?» Men of moral principle must not be superficial and, if they are so, they must not remain so.

3. Medical Ethics should be Rooted in the Transcendental.

What man, in the final analysis, has established, he can also, in the final analysis, do away with; hence, if necessity or personal desire so dictate, man has the capacity to free himself from the end results of his own creation. Opposed to this, however, are the constancy of human nature, of its intended purpose and ultimate objectives, and the absolute and imprescriptible character of its moral demands. Indeed, these demands do not suggest: «If, as a doctor, you wish to judge wisely and do what is right, do this!» On the contrary, they make their .presence felt in the depths of the individual conscience on an entirely different basis: «You should do what is right, whatever its cost! Hence, you should act in this way and in no other!» The absolute character of moral demands remains constant, whether man pays heed to them or not. Moral duty is not dependent upon the pleasure of man! He is only concerned with moral action. The absolute character of the moral order, a phenomenon to which men have always been able to attest, compels us to acknowledge that medical ethics are, in the final analysis, rooted in the transcendental, and subject to higher authority. In Our address to the Congress of Military Medicine, We had occasion to enlarge upon these considerations, and to speak of the forces which govern medical morality. (5)

We would like to add a word on medical law, with which we have previously dealt in greater detail.

Fixed and clearly defined norms are needed to regulate the life of men living in a community, but these norms should be no greater in number than is demanded by the common good. Moral norms, on the other hand, are much broader in scope, far more numerous, and in many respects – less precisely defined, in order to allow for the adaptation which is necessary to meet with the justified demand of particular cases. The doctor has a highly important role to play in private and community life by virtue of the profession which he practices. In society, he has need of broad juridical support; and, also, of personal security for himself and his medical activities. Society, on the other hand, seeks assurance with regard to the intelligence

and competence of those who profess to be doctors and fulfill their functions. Now, all this points to the need for a national and, to the extent possible, international code of medical law. That is not to say that such a code should consist of detailed regulations established by law. On the contrary, the state should allow medical associations (national and international) as much freedom as possible in the drawing up of such statutes by granting to them the powers and sanctions which they need to accomplish their work. The state should play a broader supervisory role, grant ultimate sanctions, and assume full responsibility for the proper integration of the medical fraternity and its associations into the general structure of national life.

Medical ethics should fend expression in medical law, at least to the extent that medical law should not contain principles which are inimical to medical ethics. On the basis of past experience, however, it is too much to hope that medical law will, in the foreseeable future, propose all that it should to satisfy the demands of natural ethics.

To summarize what has just been said: medical ethics are, fundamentally, based upon being, reason, and God; medical law depends, in addition, upon man.

We have singled out three topics for discussion from the many which are included on the program of your congress, and We have spoken briefly of war and peace, of experimentation on man, and of the efforts which have been made to draw up a world-wide code of medical ethics and of medical law..

NOTES

NOTE 5

The ultimate authority is the Creator himself God. We would not do justice to the fundamental principles of your program, and to the consequences which they imply, were we to consider (them solely as human demands, as humanitarian ends. This, they most definitely are; but they are essentially something more. The ultimate source from which they derive their power and their dignity is the Creator of human nature. If it were a question of principles formulated by the will of man alone, one would be under no greater obligation to honor them than to honor men. They could be applied today, and discarded tomorrow; one country might accept them, and another reject them. When they are considered in the light of the Creator's authority, however, the whole complexion of the program changes. And the basic principles of medical ethics are a part of the divine law. It is for this reason that the doctor may place unlimited confidence in these fundamentals of medical ethics. (ibid, vol XV, pp 422-423).

ADDRESS TO AN INTERNATIONAL CONGRESS OF ANESTHESIOLOGISTS

POPE PIUS XII

24 November 1957

L'Osservatore Romano

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Dr. Bruno Haid, chief of the anesthesia section at the surgery clinic of the University of Innsbruck, has submitted to us three questions on medical morals treating the subject known as "resuscitation" [la réanimation].

We are pleased, gentlemen, to grant this request, which shows your great awareness of professional duties, and your will to solve in the light of the principles of the Gospel the delicate problems that confront you.

Problems of Anesthesiology

According to Dr. Haid's statement, modern anesthesiology deals not only with problems of analgesia and anesthesia properly so-called, but also with those of "resuscitation." This is the name given in medicine, and especially in anesthesiology, to the technique which makes possible the remedying of certain occurrences which seriously threaten human life, especially asphyxia, which formerly, when modern anesthetizing equipment was not yet available, would stop the heartbeat and bring about death in a few minutes. The task of the anesthesiologist has therefore extended to acute respiratory difficulties, provoked by strangulation or by open wounds of the chest. The anesthesiologist intervenes to prevent asphyxia resulting from the internal obstruction of breathing passages by the contents of the stomach or by drowning, to remedy total or partial respiratory paralysis in cases of serious tetanus, of poliomyelitis, of poisoning by gas, sedatives, or alcoholic intoxication, or even in cases of paralysis of the central respiratory apparatus caused by serious trauma of the brain.

The Practice of "Resuscitation"

In the practice of resuscitation and in the treatment of persons who have suffered head wounds, and sometimes in the case of persons who have undergone brain surgery or of those who have suffered trauma of the brain through anoxia and remain in a state of deep unconsciousness, there arise a number of questions that concern medical morality and involve the principles of the philosophy of nature even more than those of analgesia.

It happens at times -- as in the aforementioned cases of accidents and illnesses, the treatment of which offers reasonable hope of success -- that the anesthesiologist can improve the general condition of patients who suffer from a serious lesion of the brain and whose situation at first might seem desperate. He restores breathing either through manual intervention or with the help of special instruments, clears the breathing passages, and provides for the artificial feeding of the patient.

Thanks to this treatment, and especially through the administration of oxygen by means of artificial respiration, a failing blood circulation picks up again and the appearance of the patient improves, sometimes very quickly, to such an extent that the anesthesiologist himself, or any other doctor who, trusting his experience, would have given up all hope, maintains a slight hope that spontaneous breathing will be restored. The family usually considers this improvement an astonishing result and is grateful to the doctor.

If the lesion of the brain is so serious that the patient will very probably, and even most certainly, not survive, the anesthesiologist is then led to ask himself the distressing question as to the value and meaning of the resuscitation processes. As an immediate measure he will apply artificial respiration by intubation and by aspiration of the respiratory tract; he is then in a safer position and has more time to decide what further must be done. But he can find himself in a delicate position if the family considers that the efforts he has taken are improper and opposes them. In most cases this situation arises, not at the beginning of resuscitation attempts, but when the patient's condition, after a slight improvement at first, remains stationary and it becomes clear that only automatic, artificial respiration is keeping him alive. The question then arises if one must, or if one can, continue the resuscitation process despite the fact that the soul may already have left the body.

The solution to this problem, already difficult in itself, becomes even more difficult when the family -- themselves Catholic perhaps -- insist that the doctor in charge, especially the anesthesiologist, remove the artificial respiration apparatus in order to allow the patient, who is already virtually dead, to pass away in peace.

A Fundamental Problem

Out of this situation there arises a question that is fundamental from the point of view of religion and the philosophy of nature. When, according to Christian faith, has death occurred in patients on whom modern methods of resuscitation have been used? Is Extreme Unction valid, at least as long as one can perceive heartbeats, even if the vital functions properly so-called have already disappeared, and if life depends only on the functioning of the artificial respiration apparatus?

Three Questions

The problems that arise in the modern practice of resuscitation can therefore be formulated in three questions:

First, does one have the right, or is one even under the obligation, to use modern artificial respiration equipment in all cases, even those which, in the doctor's judgment, are completely hopeless?

Second, does one have the right, or is one under obligation, to remove the artificial respiration apparatus when, after several days, the state of deep unconsciousness does not improve if, when it is removed, blood circulation will stop within a few minutes? What must be done in this case if the family of the patient, who has already received the last sacraments, urges the doctor to remove the apparatus? Is Extreme Unction still valid at this time?

Third, must a patient plunged into unconsciousness through central paralysis, but whose life -- that is to say, blood circulation -- is maintained through artificial respiration, and in whom there is no improvement after several days, be considered *de facto* or even *de jure* dead? Must one not wait for blood circulation to stop, in spite of the artificial respiration, before considering him dead?

Basic Principles

We shall willingly answer these three questions. But before examining them we would like to set forth the principles that will allow formulation of the answer.

Natural reason and Christian morals say that man (and whoever is entrusted with the task of taking care of his fellowman) has the right and the duty in case of serious illness to take the necessary treatment for the preservation of life and health. This duty that one has toward himself, toward God, toward the human community, and in most cases toward certain determined persons, derives from well-ordered charity, from submission to the Creator, from social justice and even from strict justice, as well as from devotion toward one's family.

But normally one is held to use only ordinary means -- according to circumstances of persons, places, times, and culture -- that is to say, means that do not involve any grave burden for oneself or another. A more strict obligation would be too burdensome for most men and would render the attainment of the higher, more important good too difficult. Life, health, all temporal activities, are in fact subordinated to spiritual ends. On the other hand, one is not forbidden to take more than the strictly necessary steps to preserve life and health, as long as he does not fail in some more serious duty.

Administration of the Sacraments

The Fact of Death

The question of the fact of death and that of verifying the fact itself (de facto) or its legal authenticity (de jure) have, because of their consequences, even in the field of morals and of religion, an even greater importance. What we have just said about the presupposed essential elements for the valid reception of a sacrament has shown this. But the importance of the question extends also to effects in matters of inheritance, marriage and matrimonial processes, benefices (vacancy of a benefice), and to many other questions of private and social life.

It remains for the doctor, and especially the anesthesiologist, to give a clear and precise definition of "death" and the "moment of death" of a patient who passes away in a state of unconsciousness. Here one can accept the usual concept of complete and final separation of the soul from the body; but in practice one must take into account the lack of precision of the terms "body" and "separation." One can put aside the possibility of a person being buried alive, for removal of the artificial respiration apparatus must necessarily bring about stoppage of blood circulation and therefore death within a few minutes.

In case of insoluble doubt, one can resort to presumptions of law and of fact. In general, it will be necessary to presume that life remains, because there is involved here a fundamental right received from the Creator, and it is necessary to prove with certainty that it has been lost.

We shall now pass to the solution of the particular questions.

Answers to the Questions

A Doctor's Rights and Duties

1. Does the anesthesiologist have the right, or is he bound, in all cases of deep unconsciousness, even in those that are considered to be completely hopeless in the opinion of the competent doctor, to use modern artificial respiration apparatus, even against the will of the family?

In ordinary cases one will grant that the anesthesiologist has the right to act in this manner, but he is not bound to do so, unless this becomes the only way of fulfilling another certain moral duty.

The rights and duties of the doctor are correlative to those of the patient. The doctor, in fact, has no separate or independent right where the patient is concerned. In general he can take action only if the patient explicitly or implicitly, directly or indirectly, gives him permission. The technique of resuscitation which concerns us here does not contain anything immoral in itself. Therefore the patient, if he were capable of making a personal decision, could lawfully use it and, consequently, give the doctor permission to use it. On the other hand, since these forms of treatment go beyond the ordinary means to which one is bound, it cannot be held that there is an obligation to use them nor, consequently, that one is bound to give the doctor permission to use them.

The rights and duties of the family depend in general upon the presumed will of the unconscious patient if he is of age and *sui jurist*. Where the proper and independent duty of the family is concerned, they are usually bound only to the use of ordinary means.

Consequently, if it appears that the attempt at resuscitation constitutes in reality such a burden for the family that one cannot in all conscience impose it upon them, they can lawfully insist that the doctor should discontinue these attempts, and the doctor can lawfully comply. There is not involved here a case of direct disposal of the life of the patient, nor of euthanasia in any way: this would never be licit. Even when it causes the arrest of circulation, the interruption of attempts at resuscitation is never more than an indirect cause of the cessation of life, and one must apply in this case the principle of double effect and of "voluntarium in cause."

Extreme Unction

2. We have, therefore, already answered the second question in essence: "Can the doctor remove the artificial respiration apparatus before the blood circulation has come to a complete stop? Can he do this, at least, when the patient has already received Extreme Unction? Is this Extreme Unction valid when it is administered at the moment when circulation ceases, or even after?"

We must give an affirmative answer to the first part of this question, as we have already explained. If Extreme Unction has not yet been administered, one must seek to prolong respiration until this has been done. But as far as concerns the validity of Extreme Unction at the moment when blood circulation stops completely or even after this moment, it is impossible to answer "yes" or "no."

If, as in the opinion of doctors, this complete cessation of circulation means a sure separation of the soul from the body, even if particular organs

go on functioning, Extreme Unction would certainly not be valid, for the recipient would certainly not be a man anymore. And this is an indispensable condition for the reception of the sacraments.

If, on the other hand, doctors are of the opinion that the separation of the soul from the body is doubtful, and that this doubt cannot be solved, the validity of Extreme Unction is also doubtful. But, applying her usual rules: "The sacraments are for men" and "In case of extreme measures" the Church allows the sacrament to be administered conditionally in respect to the sacramental sign.

When Is One "Dead"?

3. "When the blood circulation and the life of a patient who is deeply unconscious because of a central paralysis are maintained only through artificial respiration, and no improvement is noted after a few days, at what time does the Catholic Church consider the patient 'dead' or when must he be declared dead according to natural law (questions de facto and de jure)?"

(Has death already occurred after grave trauma of the brain, which has provoked deep unconsciousness and central breathing paralysis, the fatal consequences of which have nevertheless been retarded by artificial respiration? Or does it occur, according to the present opinion of doctors, only when there is complete arrest of circulation despite prolonged artificial respiration?)

Where the verification of the fact in particular cases in concerned, the answer cannot be deduced from any religious and moral principle and, under this aspect, does not fall within the competence of the Church. Until an answer can be given, the question must remain open. But considerations of a general nature allow us to believe that human life continues for as long as its vital functions -- distinguished from the simple life of organs -- manifest themselves spontaneously or even with the help of artificial processes. A great number of these cases are the object of insoluble doubt, and must be dealt with according to the presumptions of law and of fact of which we have spoken.

May these explanations guide you and enlightened you when you must solve delicate questions arising in the practice of your profession. As a token of divine favors which We call upon you and all those who are dear to you, We heartily grant you Our Apostolic Blessing.

GAUDIUM ET SPES

PASTORAL CONSTITUTION ON THE CHURCH IN THE MODERN WORLD COUNCIL VATICAN II

7 December 1965

(Selected Excerpts)

27. Coming down to practical and particularly urgent consequences, this council lays stress on reverence for man; everyone must consider his every neighbor without exception as another self, taking into account first of all His life and the means necessary to living it with dignity, so as not to imitate the rich man who had no concern for the poor man Lazarus.

In our times a special obligation binds us to make ourselves the neighbor of every person without exception and of actively helping him when he comes across our path, whether he be an old person abandoned by all, a foreign laborer unjustly looked down upon, a refugee, a child born of an unlawful union and wrongly suffering for a sin he did not commit, or a hungry person who disturbs our conscience by recalling the voice of the Lord, "As long as you did it for one of these the least of my brethren, you did it for me" (Matt. 25:40).

Furthermore, whatever is opposed to life itself, such as any type of murder, genocide, abortion, euthanasia or willful self-destruction, whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself; whatever insults human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions, where men are treated as mere tools for profit, rather than as free and responsible persons; all these things and others of their like are infamies indeed. They poison human society, but they do more harm to those who practice them than those who suffer from the injury. Moreover, they are supreme dishonor to the Creator.

DECLARATION ON EUTHANASIA

SACRED CONGREGATION FOR THE DOCTRINE OF THE FAITH

5 May 1980

Introduction

The rights and values pertaining to the human person occupy an important place among the questions discussed today. In this regard, the Second Vatican Ecumenical Council solemnly reaffirmed the lofty dignity of the human person, and in a special way his or her right to life. The Council therefore condemned crimes against life "such as any type of murder, genocide, abortion, euthanasia, or willful suicide" (Pastoral Constitution Gaudium et Spes, no. 27). More recently, the Sacred Congregation for the Doctrine of the Faith has reminded all the faithful of Catholic teaching on procured abortion.[1] The Congregation now considers it opportune to set forth the Church's teaching on euthanasia. It is indeed true that, in this sphere of teaching, the recent Popes have explained the principles, and these retain their full force[2]; but the progress of medical science in recent years has brought to the fore new aspects of the question of euthanasia, and these aspects call for further elucidation on the ethical level. In modern society, in which even the fundamental values of human life are often called into question, cultural change exercises an influence upon the way of looking at suffering and death; moreover, medicine has increased its capacity to cure and to prolong life in particular circumstances, which sometime give rise to moral problems. Thus people living in this situation experience no little anxiety about the meaning of advanced old age and death. They also begin to wonder whether they have the right to obtain for themselves or their fellowmen an "easy death," which would shorten suffering and which seems to them more in harmony with human dignity. A number of Episcopal Conferences have raised questions on this subject with the Sacred Congregation for the Doctrine of the Faith. The Congregation, having sought the opinion of experts on the various aspects of euthanasia, now wishes to respond to the Bishops' questions with the present Declaration, in order to help them to give correct teaching to the faithful entrusted to their care, and to offer them elements for reflection that they can present to the civil authorities with regard to this very seri-

ous matter. The considerations set forth in the present document concern in the first place all those who place their faith and hope in Christ, who, through His life, death and resurrection, has given a new meaning to existence and especially to the death of the Christian, as St. Paul says: "If we live, we live to the Lord, and if we die, we die to the Lord" (Rom. 14:8; cf. Phil. 1:20). As for those who profess other religions, many will agree with us that faith in God the Creator, Provider and Lord of life - if they share this belief - confers a lofty dignity upon every human person and guarantees respect for him or her. It is hoped that this Declaration will meet with the approval of many people of good will, who, philosophical or ideological differences notwithstanding, have nevertheless a lively awareness of the rights of the human person. These rights have often, in fact, been proclaimed in recent years through declarations issued by International Congresses[3]; and since it is a question here of fundamental rights inherent in every human person, it is obviously wrong to have recourse to arguments from political pluralism or religious freedom in order to deny the universal value of those rights.

1. The Value of Human Life

Human life is the basis of all goods, and is the necessary source and condition of every human activity and of all society. Most people regard life as something sacred and hold that no one may dispose of it at will, but believers see in life something greater, namely, a gift of God's love, which they are called upon to preserve and make fruitful. And it is this latter consideration that gives rise to the following consequences:

1. No one can make an attempt on the life of an innocent person without opposing God's love for that person, without violating a fundamental right, and therefore without committing a crime of the utmost gravity.[4]

2. Everyone has the duty to lead his or her life in accordance with God's plan. That life is entrusted to the individual as a good that must bear fruit already here on earth, but that finds its full perfection only in eternal life.

3. Intentionally causing one's own death, or suicide, is therefore equally as wrong as murder; such an action on the part of a person is to be considered as a rejection of God's sovereignty and loving plan. Furthermore, suicide is also often a refusal of love for self, the denial of a natural instinct to live, a flight from the duties of justice and charity owed to one's neighbor, to various communities or to the whole of society - although, as is generally recognized, at times there are psychological factors present that can diminish responsibility or even completely remove it. However, one must clearly distinguish suicide from that sacrifice of one's life whereby for a higher cause, such as God's glory, the salvation of souls or the service of

one's brethren, a person offers his or her own life or puts it in danger (cf. Jn. 15:14).

2. Euthanasia

In order that the question of euthanasia can be properly dealt with, it is first necessary to define the words used. Etymologically speaking, in ancient times Euthanasia meant an easy death without severe suffering. Today one no longer thinks of this original meaning of the word, but rather of some intervention of medicine whereby the suffering of sickness or of the final agony are reduced, sometimes also with the danger of suppressing life prematurely. Ultimately, the word Euthanasia is used in a more particular sense to mean "mercy killing," for the purpose of putting an end to extreme suffering, or having abnormal babies, the mentally ill or the incurably sick from the prolongation, perhaps for many years of a miserable life, which could impose too heavy a burden on their families or on society. It is, therefore, necessary to state clearly in what sense the word is used in the present document. By euthanasia is understood an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated. Euthanasia's terms of reference, therefore, are to be found in the intention of the will and in the methods used. It is necessary to state firmly once more that nothing and no one can in any way permit the killing of an innocent human being, whether a fetus or an embryo, an infant or an adult, an old person, or one suffering from an incurable disease, or a person who is dying. Furthermore, no one is permitted to ask for this act of killing, either for himself or herself or for another person entrusted to his or her care, nor can he or she consent to it, either explicitly or implicitly. nor can any authority legitimately recommend or permit such an action. For it is a question of the violation of the divine law, an offense against the dignity of the human person, a crime against life, and an attack on humanity. It may happen that, by reason of prolonged and barely tolerable pain, for deeply personal or other reasons, people may be led to believe that they can legitimately ask for death or obtain it for others. Although in these cases the guilt of the individual may be reduced or completely absent, nevertheless the error of judgment into which the conscience falls, perhaps in good faith, does not change the nature of this act of killing, which will always be in itself something to be rejected. The pleas of gravely ill people who sometimes ask for death are not to be understood as implying a true desire for euthanasia; in fact, it is almost always a case of an anguished plea for help and love. What a sick person needs, besides medical care, is love, the human and supernatural warmth with which the sick person can and ought to be surrounded by all those close to him or her, parents and children, doctors and nurses.

3. The Meaning of Suffering for Christans and the Use of Painkillers

Death does not always come in dramatic circumstances after barely tolerable sufferings. Nor do we have to think only of extreme cases. Numerous testimonies which confirm one another lead one to the conclusion that nature itself has made provision to render more bearable at the moment of death separations that would be terribly painful to a person in full health. Hence it is that a prolonged illness, advanced old age, or a state of loneliness or neglect can bring about psychological conditions that facilitate the acceptance of death. Nevertheless the fact remains that death, often preceded or accompanied by severe and prolonged suffering, is something which naturally causes people anguish. Physical suffering is certainly an unavoidable element of the human condition; on the biological level, it constitutes a warning of which no one denies the usefulness; but, since it affects the human psychological makeup, it often exceeds its own biological usefulness and so can become so severe as to cause the desire to remove it at any cost. According to Christian teaching, however, suffering, especially suffering during the last moments of life, has a special place in God's saving plan; it is in fact a sharing in Christ's passion and a union with the redeeming sacrifice which He offered in obedience to the Father's will. Therefore, one must not be surprised if some Christians prefer to moderate their use of painkillers, in order to accept voluntarily at least a part of their sufferings and thus associate themselves in a conscious way with the sufferings of Christ crucified (cf. Mt. 27:34). Nevertheless it would be imprudent to impose a heroic way of acting as a general rule. On the contrary, human and Christian prudence suggest for the majority of sick people the use of medicines capable of alleviating or suppressing pain, even though these may cause as a secondary effect semi-consciousness and reduced lucidity. As for those who are not in a state to express themselves, one can reasonably presume that they wish to take these painkillers, and have them administered according to the doctor's advice. But the intensive use of painkillers is not without difficulties, because the phenomenon of habituation generally makes it necessary to increase their dosage in order to maintain their efficacy. At this point it is fitting to recall a declaration by Pius XII, which retains its full force; in answer to a group of doctors who had put the question: "Is the suppression of pain and consciousness by the use of narcotics ... permitted by religion and morality to the doctor and the patient (even at the approach of death and if one foresees that the use of narcotics will shorten life)?" the Pope said: "If no other means exist, and if, in the given circumstances, this does not prevent the carrying out of other religious and moral duties: Yes."[5] In this case, of course, death is in no way intended or sought, even if the risk of it is reasonably taken; the intention is simply to relieve pain effectively, using for this purpose painkill-

ers available to medicine. However, painkillers that cause unconsciousness need special consideration. For a person not only has to be able to satisfy his or her moral duties and family obligations; he or she also has to prepare himself or herself with full consciousness for meeting Christ. Thus Pius XII warns: "It is not right to deprive the dying person of consciousness without a serious reason."[6]

4. Due Proportion in the Use of Remedies

Today it is very important to protect, at the moment of death, both the dignity of the human person and the Christian concept of life, against a technological attitude that threatens to become an abuse. Thus some people speak of a "right to die," which is an expression that does not mean the right to procure death either by one's own hand or by means of someone else, as one pleases, but rather the right to die peacefully with human and Christian dignity. From this point of view, the use of therapeutic means can sometimes pose problems. In numerous cases, the complexity of the situation can be such as to cause doubts about the way ethical principles should be applied. In the final analysis, it pertains to the conscience either of the sick person, or of those qualified to speak in the sick person's name, or of the doctors, to decide, in the light of moral obligations and of the various aspects of the case. Everyone has the duty to care for his or he own health or to seek such care from others. Those whose task it is to care for the sick must do so conscientiously and administer the remedies that seem necessary or useful. However, is it necessary in all circumstances to have recourse to all possible remedies? In the past, moralists replied that one is never obliged to use "extraordinary" means. This reply, which as a principle still holds good, is perhaps less clear today, by reason of the imprecision of the term and the rapid progress made in the treatment of sickness. Thus some people prefer to speak of "proportionate" and "disproportionate" means. In any case, it will be possible to make a correct judgment as to the means by studying the type of treatment to be used, its degree of complexity or risk, its cost and the possibilities of using it, and comparing these elements with the result that can be expected, taking into account the state of the sick person and his or her physical and moral resources. In order to facilitate the application of these general principles, the following clarifications can be added: - If there are no other sufficient remedies, it is permitted, with the patient's consent, to have recourse to the means provided by the most advanced medical techniques, even if these means are still at the experimental stage and are not without a certain risk. By accepting them, the patient can even show generosity in the service of humanity. - It is also permitted, with the patient's consent, to interrupt these means, where the results fall short of expectations. But for such a decision to be made, account will have to be taken of the reasonable wishes of

the patient and the patient's family, as also of the advice of the doctors who are specially competent in the matter. The latter may in particular judge that the investment in instruments and personnel is disproportionate to the results foreseen; they may also judge that the techniques applied impose on the patient strain or suffering out of proportion with the benefits which he or she may gain from such techniques. - It is also permissible to make do with the normal means that medicine can offer. Therefore one cannot impose on anyone the obligation to have recourse to a technique which is already in use but which carries a risk or is burdensome. Such a refusal is not the equivalent of suicide; on the contrary, it should be considered as an acceptance of the human condition, or a wish to avoid the application of a medical procedure disproportionate to the results that can be expected, or a desire not to impose excessive expense on the family or the community. - When inevitable death is imminent in spite of the means used, it is permitted in conscience to take the decision to refuse forms of treatment that would only secure a precarious and burdensome prolongation of life, so long as the normal care due to the sick person in similar cases is not interrupted. In such circumstances the doctor has no reason to reproach himself with failing to help the person in danger.

Conclusion

The norms contained in the present Declaration are inspired by a profound desire to service people in accordance with the plan of the Creator. Life is a gift of God, and on the other hand death is unavoidable; it is necessary, therefore, that we, without in any way hastening the hour of death, should be able to accept it with full responsibility and dignity. It is true that death marks the end of our earthly existence, but at the same time it opens the door to immortal life. Therefore, all must prepare themselves for this event in the light of human values, and Christians even more so in the light of faith. As for those who work in the medical profession, they ought to neglect no means of making all their skill available to the sick and dying; but they should also remember how much more necessary it is to provide them with the comfort of boundless kindness and heartfelt charity. Such service to people is also service to Christ the Lord, who said: "As you did it to one of the least of these my brethren, you did it to me" (Mt. 25:40).

At the audience granted prefect, His Holiness Pope John Paul II approved this declaration, adopted at the ordinary meeting of the Sacred Congregation for the Doctrine of the Faith, and ordered its publication.

Rome, the Sacred Congregation for the Doctrine of the Faith, May 5, 1980.

Franjo Cardinal Seper, Prefect

Jerome Hamer, O.P. Tit. Archbishop of Lorium, Secretary

SECOND STAGE: DEVELOPMENT OF TEACHING

ENCYCLICAL LETTER EVANGELIUM VITAE

POPE JOHN PAUL II

25 March 1995

(Relevant Excerpts)

"It is I who bring both death and life" (Dt 32:39): the tragedy of euthanasia

64. At the other end of life's spectrum, men and women find themselves facing the mystery of death. Today, as a result of advances in medicine and in a cultural context frequently closed to the transcendent, the experience of dying is marked by new features. When the prevailing tendency is to value life only to the extent that it brings pleasure and well-being, suffering seems like an unbearable setback, something from which one must be freed at all costs. Death is considered "senseless" if it suddenly interrupts a life still open to a future of new and interesting experiences. But it becomes a "rightful liberation" once life is held to be no longer meaningful because it is filled with pain and inexorably doomed to even greater suffering.

Furthermore, when he denies or neglects his fundamental relationship to God, man thinks he is his own rule and measure, with the right to demand that society should guarantee him the ways and means of deciding what to do with his life in full and complete autonomy. It is especially people in the developed countries who act in this way: they feel encouraged to do so also by the constant progress of medicine and its ever more advanced techniques. By using highly sophisticated systems and equipment, science and medical practice today are able not only to attend to cases formerly considered untreatable and to reduce or eliminate pain, but also to sustain and prolong life even in situations of extreme frailty, to resuscitate artificially patients whose basic biological functions have undergone sudden collapse, and to use special procedures to make organs available for transplanting.

In this context the temptation grows to have recourse to euthanasia, that is, to take control of death and bring it about before its time, "gently"

ending one's own life or the life of others. In reality, what might seem logical and humane, when looked at more closely is seen to be senseless and inhumane. Here we are faced with one of the more alarming symptoms of the "culture of death", which is advancing above all in prosperous societies, marked by an attitude of excessive preoccupation with efficiency and which sees the growing number of elderly and disabled people as intolerable and too burdensome. These people are very often isolated by their families and by society, which are organized almost exclusively on the basis of criteria of productive efficiency, according to which a hopelessly impaired life no longer has any value.

65. For a correct moral judgment on euthanasia, in the first place a clear definition is required. Euthanasia in the strict sense is understood to be an action or omission which of itself and by intention causes death, with the purpose of eliminating all suffering. "Euthanasia's terms of reference, therefore, are to be found in the intention of the will and in the methods used".

Euthanasia must be distinguished from the decision to forego so-called "aggressive medical treatment", in other words, medical procedures which no longer correspond to the real situation of the patient, either because they are by now disproportionate to any expected results or because they impose an excessive burden on the patient and his family. In such situations, when death is clearly imminent and inevitable, one can in conscience "refuse forms of treatment that would only secure a precarious and burdensome prolongation of life, so long as the normal care due to the sick person in similar cases is not interrupted". Certainly there is a moral obligation to care for oneself and to allow oneself to be cared for, but this duty must take account of concrete circumstances. It needs to be determined whether the means of treatment available are objectively proportionate to the prospects for improvement. To forego extraordinary or disproportionate means is not the equivalent of suicide or euthanasia; it rather expresses acceptance of the human condition in the face of death.

In modern medicine, increased attention is being given to what are called "methods of palliative care", which seek to make suffering more bearable in the final stages of illness and to ensure that the patient is supported and accompanied in his or her ordeal. Among the questions which arise in this context is that of the licitness of using various types of painkillers and sedatives for relieving the patient's pain when this involves the risk of shortening life. While praise may be due to the person who voluntarily accepts suffering by forgoing treatment with pain-killers in order to remain fully lucid and, if a believer, to share consciously in the Lord's Passion, such "heroic" behaviour cannot be considered the duty of everyone. Pius XII

affirmed that it is licit to relieve pain by narcotics, even when the result is decreased consciousness and a shortening of life, "if no other means exist, and if, in the given circumstances, this does not prevent the carrying out of other religious and moral duties". In such a case, death is not willed or sought, even though for reasonable motives one runs the risk of it: there is simply a desire to ease pain effectively by using the analgesics which medicine provides. All the same, "it is not right to deprive the dying person of consciousness without a serious reason": as they approach death people ought to be able to satisfy their moral and family duties, and above all they ought to be able to prepare in a fully conscious way for their definitive meeting with God.

Taking into account these distinctions, in harmony with the Magisterium of my Predecessors and in communion with the Bishops of the Catholic Church, I confirm that euthanasia is a grave violation of the law of God, since it is the deliberate and morally unacceptable killing of a human person. This doctrine is based upon the natural law and upon the written word of God, is transmitted by the Church's Tradition and taught by the ordinary and universal Magisterium.

Depending on the circumstances, this practice involves the malice proper to suicide or murder.

66. Suicide is always as morally objectionable as murder. The Church's tradition has always rejected it as a gravely evil choice. Even though a certain psychological, cultural and social conditioning may induce a person to carry out an action which so radically contradicts the innate inclination to life, thus lessening or removing subjective responsibility, suicide, when viewed objectively, is a gravely immoral act. In fact, it involves the rejection of love of self and the renunciation of the obligation of justice and charity towards one's neighbour, towards the communities to which one belongs, and towards society as a whole. In its deepest reality, suicide represents a rejection of God's absolute sovereignty over life and death, as proclaimed in the prayer of the ancient sage of Israel: "You have power over life and death; you lead men down to the gates of Hades and back again" (Wis 16:13; cf. Tob 13:2).

To concur with the intention of another person to commit suicide and to help in carrying it out through so-called "assisted suicide" means to cooperate in, and at times to be the actual perpetrator of, an injustice which can never be excused, even if it is requested. In a remarkably relevant passage Saint Augustine writes that "it is never licit to kill another: even if he should wish it, indeed if he request it because, hanging between life and death, he begs for help in freeing the soul struggling against the bonds of

the body and longing to be released; nor is it licit even when a sick person is no longer able to live". Even when not motivated by a selfish refusal to be burdened with the life of someone who is suffering, euthanasia must be called a false mercy, and indeed a disturbing "perversion" of mercy. True "compassion" leads to sharing another's pain; it does not kill the person whose suffering we cannot bear. Moreover, the act of euthanasia appears all the more perverse if it is carried out by those, like relatives, who are supposed to treat a family member with patience and love, or by those, such as doctors, who by virtue of their specific profession are supposed to care for the sick person even in the most painful terminal stages.

The choice of euthanasia becomes more serious when it takes the form of a murder committed by others on a person who has in no way requested it and who has never consented to it. The height of arbitrariness and injustice is reached when certain people, such as physicians or legislators, arrogate to themselves the power to decide who ought to live and who ought to die. Once again we find ourselves before the temptation of Eden: to become like God who "knows good and evil" (cf. Gen 3:5). God alone has the power over life and death: "It is I who bring both death and life" (Dt 32:39; cf. 2 Kg 5:7; 1 Sam 2:6). But he only exercises this power in accordance with a plan of wisdom and love. When man usurps this power, being enslaved by a foolish and selfish way of thinking, he inevitably uses it for injustice and death. Thus the life of the person who is weak is put into the hands of the one who is strong; in society the sense of justice is lost, and mutual trust, the basis of every authentic interpersonal relationship, is undermined at its root.

67. Quite different from this is the way of love and true mercy, which our common humanity calls for, and upon which faith in Christ the Redeemer, who died and rose again, sheds ever new light. The request which arises from the human heart in the supreme confrontation with suffering and death, especially when faced with the temptation to give up in utter desperation, is above all a request for companionship, sympathy and support in the time of trial. It is a plea for help to keep on hoping when all human hopes fail. As the Second Vatican Council reminds us: "It is in the face of death that the riddle of human existence becomes most acute" and yet "man rightly follows the intuition of his heart when he abhors and repudiates the absolute ruin and total disappearance of his own person. Man rebels against death because he bears in himself an eternal seed which cannot be reduced to mere matter".

This natural aversion to death and this incipient hope of immortality are illumined and brought to fulfilment by Christian faith, which both promises and offers a share in the victory of the Risen Christ: it is the victory

of the One who, by his redemptive death, has set man free from death, "the wages of sin" (Rom 6:23), and has given him the Spirit, the pledge of resurrection and of life (cf. Rom 8:11). The certainty of future immortality and hope in the promised resurrection cast new light on the mystery of suffering and death, and fill the believer with an extraordinary capacity to trust fully in the plan of God.

The Apostle Paul expressed this newness in terms of belonging completely to the Lord who embraces every human condition: "None of us lives to himself, and none of us dies to himself. If we live, we live to the Lord, and if we die, we die to the Lord; so then, whether we live or whether we die, we are the Lord's" (Rom 14:7-8). Dying to the Lord means experiencing one's death as the supreme act of obedience to the Father (cf. Phil 2:8), being ready to meet death at the "hour" willed and chosen by him (cf.Jn 13:1), which can only mean when one's earthly pilgrimage is completed. Living to the Lord also means recognizing that suffering, while still an evil and a trial in itself, can always become a source of good. It becomes such if it is experienced for love and with love through sharing, by God's gracious gift and one's own personal and free choice, in the suffering of Christ Crucified. In this way, the person who lives his suffering in the Lord grows more fully conformed to him (cf. Phil 3:10; 1 Pet 2:21) and more closely associated with his redemptive work on behalf of the Church and humanity. This was the experience of Saint Paul, which every person who suffers is called to relive: "I rejoice in my sufferings for your sake, and in my flesh I complete what is lacking in Christ's afflictions for the sake of his Body, that is, the Church" (Col 1:24).

"We must obey God rather than men" (Acts 5:29): civil law and the moral law

68. One of the specific characteristics of present-day attacks on human life-as has already been said several times-consists in the trend to demand a legal justification for them, as if they were rights which the State, at least under certain conditions, must acknowledge as belonging to citizens. Consequently, there is a tendency to claim that it should be possible to exercise these rights with the safe and free assistance of doctors and medical personnel.

It is often claimed that the life of an unborn child or a seriously disabled person is only a relative good: according to a proportionalist approach, or one of sheer calculation, this good should be compared with and balanced against other goods. It is even maintained that only someone present and personally involved in a concrete situation can correctly judge the goods at stake: consequently, only that person would be able to decide on the mora-

lity of his choice. The State therefore, in the interest of civil coexistence and social harmony, should respect this choice, even to the point of permitting abortion and euthanasia.

At other times, it is claimed that civil law cannot demand that all citizens should live according to moral standards higher than what all citizens themselves acknowledge and share. Hence the law should always express the opinion and will of the majority of citizens and recognize that they have, at least in certain extreme cases, the right even to abortion and euthanasia. Moreover the prohibition and the punishment of abortion and euthanasia in these cases would inevitably lead-so it is said-to an increase of illegal practices: and these would not be subject to necessary control by society and would be carried out in a medically unsafe way. The question is also raised whether supporting a law which in practice cannot be enforced would not ultimately undermine the authority of all laws.

Finally, the more radical views go so far as to maintain that in a modern and pluralistic society people should be allowed complete freedom to dispose of their own lives as well as of the lives of the unborn: it is asserted that it is not the task of the law to choose between different moral opinions, and still less can the law claim to impose one particular opinion to the detriment of others.

69. In any case, in the democratic culture of our time it is commonly held that the legal system of any society should limit itself to taking account of and accepting the convictions of the majority. It should therefore be based solely upon what the majority itself considers moral and actually practises. Furthermore, if it is believed that an objective truth shared by all is de facto unattainable, then respect for the freedom of the citizens-who in a democratic system are considered the true rulers-would require that on the legislative level the autonomy of individual consciences be acknowledged. Consequently, when establishing those norms which are absolutely necessary for social coexistence, the only determining factor should be the will of the majority, whatever this may be. Hence every politician, in his or her activity, should clearly separate the realm of private conscience from that of public conduct.

As a result we have what appear to be two diametrically opposed tendencies. On the one hand, individuals claim for themselves in the moral sphere the most complete freedom of choice and demand that the State should not adopt or impose any ethical position but limit itself to guaranteeing maximum space for the freedom of each individual, with the sole limitation of not infringing on the freedom and rights of any other citizen. On the other hand, it is held that, in the exercise of public and professional

duties, respect for other people's freedom of choice requires that each one should set aside his or her own convictions in order to satisfy every demand of the citizens which is recognized and guaranteed by law; in carrying out one's duties the only moral criterion should be what is laid down by the law itself. Individual responsibility is thus turned over to the civil law, with a renouncing of personal conscience, at least in the public sphere.

70. At the basis of all these tendencies lies the ethical relativism which characterizes much of present-day culture. There are those who consider such relativism an essential condition of democ- racy, inasmuch as it alone is held to guarantee tolerance, mutual respect between people and acceptance of the decisions of the majority, whereas moral norms considered to be objective and binding are held to lead to authoritarianism and intolerance.

But it is precisely the issue of respect for life which shows what misunderstandings and contradictions, accompanied by terrible practical consequences, are concealed in this position.

It is true that history has known cases where crimes have been committed in the name of "truth". But equally grave crimes and radical denials of freedom have also been committed and are still being committed in the name of "ethical relativism". When a parliamentary or social majority decrees that it is legal, at least under certain conditions, to kill unborn human life, is it not really making a "tyrannical" decision with regard to the weakest and most defenceless of human beings? Everyone's conscience rightly rejects those crimes against humanity of which our century has had such sad experience. But would these crimes cease to be crimes if, instead of being committed by unscrupulous tyrants, they were legitimated by popular consensus?

Democracy cannot be idolized to the point of making it a substitute for morality or a panacea for immorality. Fundamentally, democracy is a "system" and as such is a means and not an end. Its "moral" value is not automatic, but depends on conformity to the moral law to which it, like every other form of human behaviour, must be subject: in other words, its morality depends on the morality of the ends which it pursues and of the means which it employs. If today we see an almost universal consensus with regard to the value of democracy, this is to be considered a positive "sign of the times", as the Church's Magisterium has frequently noted. 88 But the value of democracy stands or falls with the values which it embodies and promotes. Of course, values such as the dignity of every human person, respect for inviolable and inalienable human rights, and the adoption of

the "common good" as the end and criterion regulating political life are certainly fundamental and not to be ignored.

The basis of these values cannot be provisional and changeable "majority" opinions, but only the acknowledgment of an objective moral law which, as the "natural law" written in the human heart, is the obligatory point of reference for civil law itself. If, as a result of a tragic obscuring of the collective conscience, an attitude of scepticism were to succeed in bringing into question even the fundamental principles of the moral law, the democratic system itself would be shaken in its foundations, and would be reduced to a mere mechanism for regulating different and opposing interests on a purely empirical basis.

Some might think that even this function, in the absence of anything better, should be valued for the sake of peace in society. While one acknowledges some element of truth in this point of view, it is easy to see that without an objective moral grounding not even democracy is capable of ensuring a stable peace, especially since peace which is not built upon the values of the dignity of every individual and of solidarity between all people frequently proves to be illusory. Even in participatory systems of government, the regulation of interests often occurs to the advantage of the most powerful, since they are the ones most capable of maneuvering not only the levers of power but also of shaping the formation of consensus. In such a situation, democracy easily becomes an empty word.

71. It is therefore urgently necessary, for the future of society and the development of a sound democracy, to rediscover those essential and innate human and moral values which flow from the very truth of the human being and express and safeguard the dignity of the person: values which no individual, no majority and no State can ever create, modify or destroy, but must only acknowledge, respect and promote.

Consequently there is a need to recover the basic elements of a vision of the relationship between civil law and moral law, which are put forward by the Church, but which are also part of the patrimony of the great juridical traditions of humanity.

Certainly the purpose of civil law is different and more limited in scope than that of the moral law. But "in no sphere of life can the civil law take the place of conscience or dictate norms concerning things which are outside its competence", which is that of ensuring the common good of people through the recognition and defence of their fundamental rights, and the promotion of peace and of public morality. The real purpose of civil law is to guarantee an ordered social coexistence in true justice, so that all may

"lead a quiet and peaceable life, godly and respectful in every way" (1 Tim 2:2). Precisely for this reason, civil law must ensure that all members of society enjoy respect for certain fundamental rights which innately belong to the person, rights which every positive law must recognize and guarantee. First and fundamental among these is the inviolable right to life of every innocent human being. While public authority can sometimes choose not to put a stop to something which-were it prohibited- would cause more serious harm, it can never presume to legitimize as a right of individuals-even if they are the majority of the members of society-an offence against other persons caused by the disregard of so fundamental a right as the right to life. The legal toleration of abortion or of euthanasia can in no way claim to be based on respect for the conscience of others, precisely because society has the right and the duty to protect itself against the abuses which can occur in the name of conscience and under the pretext of freedom.

In the Encyclical Pacem in Terris, John XXIII pointed out that "it is generally accepted today that the common good is best safeguarded when personal rights and duties are guaranteed. The chief concern of civil authorities must therefore be to ensure that these rights are recognized, respected, co-ordinated, defended and promoted, and that each individual is enabled to perform his duties more easily. For to safeguard the inviolable rights of the human person, and to facilitate the performance of his duties, is the principal duty of every public authority'. Thus any government which refused to recognize human rights or acted in violation of them, would not only fail in its duty; its decrees would be wholly lacking in binding force".

72. The doctrine on the necessary conformity of civil law with the moral law is in continuity with the whole tradition of the Church. This is clear once more from John XXIII's Encyclical: "Authority is a postulate of the moral order and derives from God. Consequently, laws and decrees enacted in contravention of the moral order, and hence of the divine will, can have no binding force in conscience...; indeed, the passing of such laws undermines the very nature of authority and results in shameful abuse". This is the clear teaching of Saint Thomas Aquinas, who writes that "human law is law inasmuch as it is in conformity with right reason and thus derives from the eternal law. But when a law is contrary to reason, it is called an unjust law; but in this case it ceases to be a law and becomes instead an act of violence". And again: "Every law made by man can be called a law insofar as it derives from the natural law. But if it is somehow opposed to the natural law, then it is not really a law but rather a corruption of the law".

Now the first and most immediate application of this teaching concerns a human law which disregards the fundamental right and source of all other rights which is the right to life, a right belonging to every individual.

Consequently, laws which legitimize the direct killing of innocent human beings through abortion or euthanasia are in complete opposition to the inviolable right to life proper to every individual; they thus deny the equality of everyone before the law. It might be objected that such is not the case in euthanasia, when it is requested with full awareness by the person involved. But any State which made such a request legitimate and authorized it to be carried out would be legalizing a case of suicide-murder, contrary to the fundamental principles of absolute respect for life and of the protection of every innocent life. In this way the State contributes to lessening respect for life and opens the door to ways of acting which are destructive of trust in relations between people. Laws which authorize and promote abortion and euthanasia are therefore radically opposed not only to the good of the individual but also to the common good; as such they are completely lacking in authentic juridical validity. Disregard for the right to life, precisely because it leads to the killing of the person whom society exists to serve, is what most directly conflicts with the possibility of achieving the common good. Consequently, a civil law authorizing abortion or euthanasia ceases by that very fact to be a true, morally binding civil law.

73. Abortion and euthanasia are thus crimes which no human law can claim to legitimize. There is no obligation in conscience to obey such laws; instead there is a grave and clear obligation to oppose them by conscientious objection. From the very beginnings of the Church, the apostolic preaching reminded Christians of their duty to obey legitimately constituted public authorities (cf. Rom 13:1-7; 1 Pet 2:13-14), but at the same time it firmly warned that "we must obey God rather than men" (Acts 5:29). In the Old Testament, precisely in regard to threats against life, we find a significant example of resistance to the unjust command of those in authority. After Pharaoh ordered the killing of all newborn males, the Hebrew midwives refused. "They did not do as the king of Egypt commanded them, but let the male children live" (Ex 1:17). But the ultimate reason for their action should be noted: "the midwives feared God" (ibid.). It is precisely from obedience to God-to whom alone is due that fear which is acknowledgment of his absolute sovereignty-that the strength and the courage to resist unjust human laws are born. It is the strength and the courage of those prepared even to be imprisoned or put to the sword, in the certainty that this is what makes for "the endurance and faith of the saints" (Rev 13:10).

In the case of an intrinsically unjust law, such as a law permitting abortion or euthanasia, it is therefore never licit to obey it, or to "take part in a propaganda campaign in favour of such a law, or vote for it".

(...)

74. The passing of unjust laws often raises difficult problems of conscience for morally upright people with regard to the issue of cooperation, since they have a right to demand not to be forced to take part in morally evil actions. Sometimes the choices which have to be made are difficult; they may require the sacrifice of prestigious professional positions or the relinquishing of reasonable hopes of career advancement. In other cases, it can happen that carrying out certain actions, which are provided for by legislation that overall is unjust, but which in themselves are indifferent, or even positive, can serve to protect human lives under threat. There may be reason to fear, however, that willingness to carry out such actions will not only cause scandal and weaken the necessary opposition to attacks on life, but will gradually lead to further capitulation to a mentality of permissiveness.

In order to shed light on this difficult question, it is necessary to recall the general principles concerning cooperation in evil actions. Christians, like all people of good will, are called upon under grave obligation of conscience not to cooperate formally in practices which, even if permitted by civil legislation, are contrary to God's law. Indeed, from the moral standpoint, it is never licit to cooperate formally in evil. Such cooperation occurs when an action, either by its very nature or by the form it takes in a concrete situation, can be defined as a direct participation in an act against innocent human life or a sharing in the immoral intention of the person committing it. This cooperation can never be justified either by invoking respect for the freedom of others or by appealing to the fact that civil law permits it or requires it. Each individual in fact has moral responsibility for the acts which he personally performs; no one can be exempted from this responsibility, and on the basis of it everyone will be judged by God himself (cf. Rom 2:6; 14:12).

To refuse to take part in committing an injustice is not only a moral duty; it is also a basic human right. Were this not so, the human person would be forced to perform an action intrinsically incompatible with human dignity, and in this way human freedom itself, the authentic meaning and purpose of which are found in its orientation to the true and the good, would be radically compromised. What is at stake therefore is an essential right which, precisely as such, should be acknowledged and protected by civil law. In this sense, the opportunity to refuse to take part in the phases of consultation, preparation and execution of these acts against life should be guaranteed to physicians, health-care personnel, and directors of hospitals, clinics and convalescent facilities. Those who have recourse to conscientious objection must be protected not only from legal penalties but also from any negative effects on the legal, disciplinary, financial and professional plane.

THIRD STAGE: REPERCUSSIONS OF LEGALIZED EUTHANASIA

LEGALIZING EUTHANASIA FOR CHILDREN IN THE NETHERLANDS

STATEMENT BY MSGR ELIO SGRECCIA PONTIFICAL ACADEMY FOR LIFE

3 September 2004

The Last Restriction Overcome

It has not been possible thus far to locate the text of the protocol describing the agreement made by the University Clinic of Groningen in The Netherlands and the Dutch judicial Authorities concerning the extension of euthanasia to children under the age of 12 and even at birth. This protocol, according to press reports attributed to Dr Edward Verhagen, director of the clinic mentioned, establishes "extremely strictly, step by step, the procedures that doctors are obliged to follow" when dealing with the problem of "freeing from pain" children (within the above-mentioned age group) who are seriously ill by subjecting them to euthanasia.

A law passed by the Dutch Parliament on 1 April 2002 had already provided for help in dying ("assisted suicide"), not only for sick adults who make "an explicit, logical and repeated" request for it and young people between the ages of 16 to 18 who submit a written request (art. 3, sect. 2 of the law), but also for adolescents capable of consent from 12 to 16 years of age, on condition that their parents or legal guardian add their consent to the personal request of those affected by incurable disease or pain (art. 4, sect. 2).

Now, in Holland, with this latest medical-juridical agreement, a boundary prescribed by the Helsinki Code and thus far prohibited even for clinical experimentation has also been crossed: euthanasia is permitted - according to the news published which, unfortunately, we are bound to accept as well-founded - also for children under age 12, including newborn infants, for whom it is of course impossible to speak of valid consent. For this age

group, as mentioned, clinical experimentation continues to be prohibited throughout the world because of the risk, however minimal, to the subject that is always involved; nor is it possible to depart from this norm with the consent of the parents or guardians, except in the case that such experimentation will be of benefit to the life or health of the subject on whom it is carried out.

Recent events in The Netherlands have gone far beyond the ethical norms concerning clinical experimentation, inspired by the principles proclaimed after the Nuremberg Trials. In fact, the medical-judiciary agreement allows for access to euthanasia as long as the consent of the parents and the opinion of the doctor treating the patient and - as rumour has it - of a possibly "independent" doctor have been obtained.

Here it is not a question of "helping someone to die" or of "assisted suicide" but of death inflicted "to release from pain", in other words, euthanasia true and proper.

The observations this gives rise to are many and deeply disconcerting, particularly on the moral plane.

The "Slippery Slope"

It is easy to see how the law of the "slippery slope" functions: once the legitimacy had been recognized of inducing death out of pity for the lucid adult who has made an explicit, repeated and documented request for it, its application was then extended to young people, to adolescents with the consent of their parents or guardians, and in the end, also to children and newborn infants, obviously without their consent.

It is also easy to foresee that people will slide further down the slippery slope of euthanasia in years to come, until adult patients deemed incapable of being asked for their consent are included, such as, for example, the mentally ill or those in a persistent coma or so-called vegetative state.

It is said that in any case there is always a judge who can monitor abuses and punish the physician who might violate the norms, but to what can the judge appeal when the norm removes all grounds for the definition of the abuse itself?

It is also said that the argument of the slippery slope is a weak one: in my opinion, however, it shows that its perverse efficiency functions unavoidably because it implies the absence of absolute values that are to be upheld and is accompanied by an obvious moral relativism. It functions in the context of euthanasia as in various other fields of public ethics, regardless

of whether it is a question of abortion (in this case, one begins with the case of anencephaly and ends up with the case of the child conceived before a holiday), or a matter of procreation (here, the first step is the request for the legalization of the homologous insemination, that ends up with the matter of the authorization of therapeutic cloning).

Once on the slippery slope, not only the logical slant comes into play but also economic interests, and then the slipperiness becomes fatal and inexorable.

On What Ethical Basis?

Should one wish to seek an "ethical reason" for this "gradual decline in humanity", it would be easy to trace it to contemporary literature.

To justify mercy killing, the starting point was the reference to the principle of autonomy as it was spelled out by the Manifesto on Euthanasia in 1974, and reinforced in some countries by the request for the so-called "testament of life"; in this perspective, its morality would be focused in the fact that patients, knowing they can do what they wish with their life, also want to do what they wish with their death.

To reassure public opinion, the Dutch law at the time of its approval emphasized that the patient's request must be insistent, lucid, preferably in writing; but with this new Dutch development, the wishes of the subject, who is obviously incapable of expressing a choice of his own because of his age, are overruled, and his will is substituted by the desire of others - parents or guardians, with the opinion of the doctor who interprets it. The doctor must also assess the pain and suffering of the patient and ascertain whether they are such as to justify inducing his or her death.

But then, it is no longer the principle of autonomy which is at stake, but rather an "external" decision which must be considered ethical even when it is imposed by an able, thinking adult on behalf of a subject who is incapable of making an evaluation or request: following this, death is deliberately forced upon the "beneficiary", who dies like someone "put to death": quite different from autonomy and a sense of compassion!

We are dealing with a type of freedom available to adults that is considered legitimate even when it is exercised over those who have no autonomy.

So, in order to justify euthanasia, there has even been an appeal for liberation from "useless" pain and suffering, as shown by the gentle prefix "eu" of the deadly term euthanasia (easy death). But what kind of suffering is involved? And to whom does this suffering belong?

The child or newborn infant, who as the paediatricians say suffers less than the adult, is not capable of evaluating or defining his or her suffering as unbearable; the person who assesses it, according to Dutch law, is the doctor, and those who consent and decide are relatives. Incidentally, is not this an issue of their own suffering?

Everyone then knows that in our time almost all pain has become "curable"; palliative and analgesic treatments, promoted, thanks be to God, throughout the world and prescribed by doctors and by health ministries, succeed in maintaining and harmonizing the humanity of treatments and the serenity of death.

The dignity of the sick person's pain aside and the value of solidarity that innocent suffering raises, should pain and suffering be treated by recourse to the violence of inducing premature death?

We should think seriously about the possible appearance of a kind of "social Darwinism" that is intended to facilitate the elimination of human beings burdened by suffering or defects, all in order to "anaesthetize" the whole of society. Darwin himself held that building hospitals for the insane, the disabled and the sick and passing laws for the support of the poverty-stricken were obstacles to human evolution (cf. C. Darwin, The Descent of Man and Selection in Relation to Sex [1871], cited in J.C. Guillebaud, Le principe d'humanité, Editions du Seuil, 2001, p. 368), because such an attitude on the part of society would prevent or delay the natural elimination of defective persons.

It is not for nothing that certain commentators, also non-medical, have recently been reported in the newspapers as speaking of "eugenics in disguise", with reference to this latest development in Dutch law concerning euthanasia.

The Utilitarian Drift

I think, however, that it would not be incongruous to focus attention on a utilitarian mindset that is steadily penetrating Western society, together with the ideology of the maximization of pleasure and the minimization of pain. This ideology is backed by a utilitarianism linked to budgets and the allocation of resources in the field of medicine which is defined as "impossible" precisely because of its excessive cost for the community. This utilitarianism, given its budgetary links, stresses programmes involving an increase of wealth and productivity or industrial competition rather than the duty to relieve suffering and support the sick, persons who increasingly have to depend on the precarious situation of their own financial resources as they receive less and less assistance from the State.

So we have gone a long way not only from the ethic of freedom, but also from the ethic of solidarity. We are dominated by the society of the strong and the healthy and by the logic of the primacy of the economy. But are we still part of "humanity"?

The Principle of Humanity

Some scholars have noted the existence of a great contradiction in contemporary society, a sort of schizophrenic split: on the one hand, the proclamation of "human rights" and the search for the definition of "crimes against humanity", and on the other, the inability to define who the human person is, and consequently, what action should be deemed human or inhuman (cf. J.C. Guillebaud, Le principe d'humanité, Chap. I).

What it seems we are losing in our culture is the "principle of humanity".

Is it human to treat pain and to provide hospices for the sick afflicted with tumours or is it more humane to make available to those afflicted by incurable illnesses lethal drugs, whether they ask for them personally or their doctors presume that they would seek them if they could?

Who has the authority to decide whether a concept is "humane or inhumane", when human nature, the ontology of the person and an adequate concept of human dignity have been denied?

Does the person who is dying retain his or her human dignity so that no one can impose a despotism of life and death on one suffering and about to die?

This is the point: rediscovering human dignity, the dignity of every person who has value as such, a value that transcends earthly reality and is the source and purpose of social life, a good on which the universe converges (St Thomas Aquinas describes the person "quod est perfectissimum in rerum natura"), a good that cannot be exploited for any other interest by anyone (as the best of the secular moral traditions recalls, starting with Kant).

Biblical tradition sees in the human person's dignity the "image and likeness" of the Creator and, particularly in Christianity, identifies it with Christ himself: "I was sick and you visited me" (cf. Mt 25).

This is a matter of saving both the concept of humanity and the foundations of morality, with respect for the life and dignity of the human person.

The Contribution of the Church

The Church's position on the subject of euthanasia is well known, constantly reasserted and confirmed with the intention to uphold the dignity and life of every human being:

"It is necessary to state firmly once more that nothing and no one can in any way permit the killing of an innocent human being, whether a fetus or an embryo, an infant or an adult, an old person, or one suffering from an incurable disease, or a person who is dying. Furthermore, no one is permitted to ask for this act of killing, either for himself or herself or for another person entrusted to his or her care, nor can he or she consent to it, either explicitly or implicitly. Nor can any authority legitimately recommend or permit such an action. For it amounts to the violation of the divine law, an offence against the dignity of the human person, a crime against life and an attack on humanity" (Congregation for the Doctrine of the Faith, Iura et Bona, Chap. II).

John Paul II's Encyclical Evangelium Vitae, which reaffirms the moral condemnation of euthanasia as "a grave violation of the law of God, since it is the deliberate and morally unacceptable killing of a human person" (n. 65), insists on suggesting a quite different way, "the way of love and true mercy, which our common humanity calls for and upon which faith in Christ the Redeemer, who died and rose again, sheds ever new light".

"The request which rises from the human heart in the supreme confrontation with suffering and death, especially when faced with the temptation to give up in utter desperation, is above all a request for companionship, sympathy and support in the time of trial" (n. 67). The Church, with her teaching, her activities and her own structures, constantly takes this view.

Europe, which is presenting itself to the world as a unity of peoples in solidarity in the name of "human rights", and which can still today preserve a plurimillennial patrimony of humanist civilization marked by respect for the human person and the practice of solidarity, must reject every cultural trend inspired by utilitarian cynicism or by the primacy of the economy over the human being, in order to continue to draft legislation that supports men and women and their dignity in a supportive society.

ADDRESS TO THE 22ND INTERNATIONAL CONGRESS OF THE PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF HEALTH CARE WORKERS

POPE BENEDICT XVI

17 November 2007

Clementine Hall

Your Eminence,

Venerable Brothers in the Episcopate and in the Priesthood,

Dear Brothers and Sisters,

I am pleased to meet you on the occasion of this International Conference organized by the Pontifical Council for Health Pastoral Care. I address my cordial greeting to each of you, which goes in the first place to Cardinal Javier Lozano Barragán, with sentiments of gratitude for the kind expressions he addressed to me in the name of all. With him I greet the Secretary and the other members of the Pontifical Council, the distinguished persons present and all those who are taking part in this meeting to reflect together on the theme of the pastoral care of the aged sick. This is a central aspect of pastoral health care today, which, thanks to the increase in life span, concerns an ever greater population who have multiple needs, but at the same time indubitable human and spiritual resources.

If it is true that human life in every phase is worthy of the maximum respect, in some sense it is even more so when it is marked by age and sickness. Old age constitutes the last step of our earthly pilgrimage, which has distinct phases, each with its own lights and shadows. One may ask: does a human being who moves toward a rather precarious condition due to age and sickness still have a reason to exist? Why continue to defend life when the challenge of illness becomes dramatic, and why not instead accept euthanasia as a liberation? Is it possible to live illness as a human experience to accept with patience and courage?

The person called to accompany the aged sick must confront these questions, especially when there seems to be no possibility of healing. Today's

efficiency mentality often tends to marginalize our suffering brothers and sisters, as if they were only a "weight" and "a problem" for society. The person with a sense of human dignity knows that they are to respect and sustain them while they face serious difficulties linked to their condition. Indeed, recourse to the use of palliative care when necessary is correct, which, even though it cannot heal, can relieve the pain caused by illness.

Alongside the indispensable clinical treatment, however, it is always necessary to show a concrete capacity to love, because the sick need understanding, comfort and constant encouragement and accompaniment. The elderly in particular must be helped to travel in a mindful and human way on the last stretch of earthly existence in order to prepare serenely for death, which - we Christians know - is a passage toward the embrace of the Heavenly Father, full of tenderness and mercy.

I would like to add that this necessary pastoral solicitude for the aged sick cannot fail to involve families, too. Generally, it is best to do what is possible so that the families themselves accept them and assume the duty with thankful affection, so that the aged sick can pass the final period of their life in their home and prepare for death in a warm family environment. Even when it would become necessary to be admitted to a health-care structure, it is important that the patient's bonds with his loved ones and with his own environment are not broken. In the most difficult moments of sickness, sustained by pastoral care, the patient is to be encouraged to find the strength to face his hard trial in prayer and with the comfort of the sacraments. He is to be surrounded by brethren in the faith who are ready to listen and to share his sentiments. Truly, this is the true objective of "pastoral" care for the aged, especially when they are sick, and more so if gravely sick.

On many occasions, my Venerable Predecessor John Paul II, who especially during his sickness offered an exemplary testimony of faith and courage, exhorted scientists and doctors to undertake research to prevent and treat illnesses linked to old age without ever ceding to the temptation to have recourse to practices that shorten the life of the aged and sick, practices that would turn out to be, in fact, forms of euthanasia. May scientists, researchers, doctors, nurses, as well as politicians, administrative and pastoral workers never forget that the temptation of euthanasia appears as "one of the more alarming symptoms of the "culture of death', which is advancing above all in prosperous societies" (Evangelium Vitae, n. 64). Man's life is a gift of God that we are all called to guard always. This duty also belongs to health-care workers, whose specific mission is to be "ministers of life" in all its phases, particularly in those marked by fragility connected with infirmity. A general commitment is needed so that human life is respected, not only in Catholic hospitals, but in every treatment facility.

It is faith in Christ that enlightens Christians regarding sickness and the condition of the aged person, as in every other event and phase of existence. Jesus, dying on the Cross, gave human suffering a transcendent value and meaning. Faced with suffering and sickness, believers are invited to remain calm because nothing, not even death, can separate us from the love of Christ. In him and with him it is possible to face and overcome every physical and spiritual trial and to experience, exactly in the moment of greatest weakness, the fruits of Redemption. The Risen Lord manifests himself to those who believe in him as the Living One who transforms human existence, giving even sickness and death a salvific sense.

Dear brothers and sisters, while I invoke upon each one of you and your daily work the maternal protection of Mary, Salus infirmorum, and of the Saints who have spent their lives at the service of the sick, I exhort you to always work to spread the "Gospel of life". With these sentiments, I warmly impart the Apostolic Blessing, willingly extending it to your loved ones, coworkers and particularly to the aged patients.

ETHICAL AND RELIGIOUS DIRECTIVES FOR CATHOLIC HEALTH CARE SERVICES

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

17 November 2009 (Fifth Edition)

(Selected Excerpts)

PART FIVE

Issues in Care for the Seriously Ill and Dying

Introduction

Christ's redemption and saving grace embrace the whole person, especially in his or her illness, suffering, and death. The Catholic health care ministry faces the reality of death with the confidence of faith. In the face of death—for many, a time when hope seems lost—the Church witnesses to her belief that God has created each person for eternal life.

Above all, as a witness to its faith, a Catholic health care institution will be a community of respect, love, and support to patients or residents and their families as they face the reality of death. What is hardest to face is the process of dying itself, especially the dependency, the helplessness, and the pain that so often accompany terminal illness. One of the primary purposes of medicine in caring for the dying is the relief of pain and the suffering caused by it. Effective management of pain in all its forms is critical in the appropriate care of the dying.

The truth that life is a precious gift from God has profound implications for the question of stewardship over human life. We are not the owners of our lives and, hence, do not have absolute power over life. We have a duty to preserve our life and to use it for the glory of God, but the duty to pre-

serve life is not absolute, for we may reject life-prolonging procedures that are insufficiently beneficial or excessively burdensome.

Suicide and Eeuthanasia are Never Morally Acceptable Options

The task of medicine is to care even when it cannot cure. Physicians and their patients must evaluate the use of the technology at their disposal. Reflection on the innate dignity of human life in all its dimensions and on the purpose of medical care is indispensable for formulating a true moral judgment about the use of technology to maintain life. The use of life-sustaining technology is judged in light of the Christian meaning of life, suffering, and death. In this way two extremes are avoided: on the one hand, an insistence on useless or burdensome technology even when a patient may legitimately wish to forgo it and, on the other hand, the withdrawal of technology with the intention of causing death.

The Church's teaching authority has addressed the moral issues concerning medically assisted nutrition and hydration. We are guided on this issue by Catholic teaching against euthanasia, which is "an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated." While medically assisted nutrition and hydration are not morally obligatory in certain cases, these forms of basic care should in principle be provided to all patients who need them, including patients diagnosed as being in a "persistent vegetative state" (PVS), because even the most severely debilitated and helpless patient retains the full dignity of a human person and must receive ordinary and proportionate care.

Directives

55. Catholic health care institutions offering care to persons in danger of death from illness, accident, advanced age, or similar condition should provide them with appropriate opportunities to prepare for death. Persons in danger of death should be provided with whatever information is necessary to help them understand their condition and have the opportunity to discuss their condition with their family members and care providers. They should also be offered the appropriate medical information that would make it possible to address the morally legitimate choices available to them. They should be provided the spiritual support as well as the opportunity to receive the sacraments in order to prepare well for death.

56. A person has a moral obligation to use ordinary or proportionate means of preserving his or her life. Proportionate means are those that in

the judgment of the patient offer a reasonable hope of benefit and do not entail an excessive burden or impose excessive expense on the family or the community.

57. A person may forgo extraordinary or disproportionate means of preserving life. Disproportionate means are those that in the patient's judgment do not offer a reasonable hope of benefit or entail an excessive burden, or impose excessive expense on the family or the community.

58. In principle, there is an obligation to provide patients with food and water, including medically assisted nutrition and hydration for those who cannot take food orally. This obligation extends to patients in chronic and presumably irreversible conditions (e.g., the "persistent vegetative state") who can reasonably be expected to live indefinitely if given such care. Medically assisted nutrition and hydration become morally optional when they cannot reasonably be expected to prolong life or when they would be "excessively burdensome for the patient or [would] cause significant physical discomfort, for example resulting from complications in the use of the means employed." For instance, as a patient draws close to inevitable death from an underlying progressive and fatal condition, certain measures to provide nutrition and hydration may become excessively burdensome and therefore not obligatory in light of their very limited ability to prolong life or provide comfort.

59. The free and informed judgment made by a competent adult patient concerning the use or withdrawal of life-sustaining procedures should always be respected and normally complied with, unless it is contrary to Catholic moral teaching.

60. Euthanasia is an action or omission that of itself or by intention causes death in order to alleviate suffering. Catholic health care institutions may never condone or participate in euthanasia or assisted suicide in any way. Dying patients who request euthanasia should receive loving care, psychological and spiritual support, and appropriate remedies for pain and other symptoms so that they can live with dignity until the time of natural death.

61. Patients should be kept as free of pain as possible so that they may die comfortably and with dignity, and in the place where they wish to die. Since a person has the right to prepare for his or her death while fully conscious, he or she should not be deprived of consciousness without a compelling reason. Medicines capable of alleviating or suppressing pain may be given to a dying person, even if this therapy may indirectly shorten

the person's life so long as the intent is not to hasten death. Patients experiencing suffering that cannot be alleviated should be helped to appreciate the Christian understanding of redemptive suffering.

62. The determination of death should be made by the physician or competent medical authority in accordance with responsible and commonly accepted scientific criteria.

63. Catholic health care institutions should encourage and provide the means whereby those who wish to do so may arrange for the donation of their organs and bodily tissue, for ethically legitimate purposes, so that they may be used for donation and research after death.

64. Such organs should not be removed until it has been medically determined that the patient has died. In order to prevent any conflict of interest, the physician who determines death should not be a member of the transplant team.

65. The use of tissue or organs from an infant may be permitted after death has been determined and with the informed consent of the parents or guardians.

66. Catholic health care institutions should not make use of human tissue obtained by direct abortions even for research and therapeutic purposes.

THE DANGERS OF EUTHANASIA

NEW ZEALAND CONFERENCE OF CATHOLIC BISHOPS

19 October 2011

Life is full of blessings, challenges and opportunities. Even dying brings its own unique blessings, challenges and opportunities. 'Dying well' is as important as reaching our potential at school and at work, or finding happiness and fulfilment within our families and with our friends. The work of dying well often involves the healing and/or deepening of relationships.

In 1995 we wrote: "Euthanasia occurs when a doctor, not an illness, kills a patient." At that time we drew attention to a very important distinction: it is one thing to withhold or withdraw extraordinary methods of keeping a person alive when it is no longer sensible to do so; it is another thing to do something, or omit to do something for the purpose of terminating a person's life. In the former case, we are simply allowing a person to die. In the latter case, we are killing.

Even if it is done for what seems a good reason, (e.g. to prevent suffering), and even if it is done with the patient's consent, it is still killing.

In a society in which many regard suffering as meaningless and intolerable, euthanasia is presented as a way of avoiding suffering. This can be made to look like an attractive option, or even a right. But to legalise the killing of those who are suffering would be to introduce a whole new, and dangerous, dimension to society.

What kind of society would we have if euthanasia were legalised? People with advanced progressive illnesses, or simply in old age, may well find it difficult to trust their doctors and nurses. We need to ask: What would that do for the regard we have traditionally had for the medical and nursing

professions? How would this impact on the ability of doctors and nurses to help those who are not quite sure they can trust them?

The experience of those countries that have already legalised euthanasia shows that the demand for euthanasia cannot be limited to a carefully defined group. In the Netherlands euthanasia was initially only available to dying adults with terminal illness who were able to give informed consent and who repeatedly requested euthanasia. Since 1973 all of these restrictions have fallen away and lethal injections can now be given to newborns and teenagers with disabilities, as well as to persons with dementia and depression. In some of these cases there is no explicit request from the person concerned for euthanasia.

Once we allow access to euthanasia for some, the reasons for confining it to just that group begin to look arbitrary. It is quickly argued that to deprive those incapable of giving consent to euthanasia is an injustice. It is also argued that allowing it for some conditions and not others is discriminatory.

We would have to expect the same erosion of boundaries and safeguards to happen here too, especially because there is already ambivalence about people who are perceived as having little or nothing to contribute to society while 'swallowing up' large amounts of health resources. In other words, legalising euthanasia will place at greater risk the lives of those whom others might be tempted to think would be better off dead.

Abuse of the disabled and elderly is already a serious issue in our country and overseas. Legalising euthanasia has the potential to worsen the problem in a society where the numbers of elderly are growing and where pressure on the health budget is increasing.

Further, in a society in which euthanasia becomes legal, the disabled, sick and elderly may more easily come to see themselves as an excessive financial and emotional burden. The 'right to die' could very quickly become a 'duty to die'. This is not free choice. This is not real consent. The most vulnerable members of our society depend upon the protections which the legal and medical institutions currently provide.

The good news is that advances in palliative care mean there is now no need for anyone to die in pain. When treatment is no longer effective for a person in the end stages of an illness, the priority is to provide sufficient pain relief to make the person comfortable, while supporting their physical, emotional, mental, relational and spiritual needs. This can be a very

important time in a person's life, involving growth and the healing of relationships.

Research also shows that persistent requests for euthanasia are not related to physical pain but to depression and feelings of hopelessness and/or a sense of social isolation. There is a deeper malaise: our society has failed to respond in a satisfactory way to the emotional, psychological and spiritual suffering that people often feel at the end of life. As we stated in 1995, "we cannot be free from blame if there are people in our communities unable to find human comfort and assistance as they approach the end of their lives."

The real moral imperative is on us all to be bearers of hope and to offer selfless care to all those who are sick, disabled and dying while ensuring that there are adequate resources for palliative care.

We have the expertise and the means to care for those who have advanced progressive illness in ways which are in harmony with their human dignity and their status as our fellow New Zealanders. The legalisation of euthanasia will undermine trust in the medical profession and put vulnerable groups in our society at risk. It will send a message that the lives of some people are not worth living. Its introduction would seriously undermine good caring and be detrimental to the growth of a caring community.

We need to ensure that our laws promote a society in which there is room for the most vulnerable – room in our hearts and room in our homes and other places of care – rather than 'showing people the door'.

True compassion calls for us all to stand alongside, and in solidarity with, all those who are suffering. We commend all those who already do so much to care for those people who are sick, elderly or disabled as well as those who are dying. The mark of a great society is evidenced in its ability to care for those who are most vulnerable.

We do not need euthanasia. We need to promote equitable access to good palliative care for all New Zealanders. We need to learn how to live well and die well.

REAL CARE, LOVE AND COMPASSION

AUSTRALIAN CONFERENCE OF CATHOLIC BISHOPS

15 April 2015

From time to time euthanasia or assisted suicide is proposed as the compassionate choice for people who are facing such illness. Euthanasia may be defined as intentionally bringing about death by active intervention, or by neglect of reasonable care in order to end suffering. Physician Assisted Suicide is when a person is prescribed lethal drugs with which to kill themselves, with the purpose of eliminating suffering.

We hear people saying that this would allow people to 'die with dignity' and that it is each individual's 'right' to choose the timing and manner of their death.

This view, although born of compassion, is misguided and even dangerous. Killing people is wrong, and this principle is fundamental to our law. In the very few jurisdictions overseas where euthanasia or assisted suicide have been introduced, there is already ample evidence that the system is being abused and the legislated safeguards are being ignored.

All Australians seek a compassionate response to illness and suffering. We ask you to consider the following myths and facts outlining why euthanasia, or government authorized killing, is never the best expression of compassion.

Myth 1: Euthanasia can be Legislated for Safely

Fact: Euthanasia and assisted suicide can never be safe. Because terminally ill people are vulnerable to powerful feelings of fear, depression, loneliness, not wanting to be a burden, and even to coercion from family members, no law can adequately protect them from succumbing to euthanasia if it is available.

Experience in other countries has shown clearly that it is impossible for government-authorized killing to be made safe. This is one of many strong reasons that the principle of prohibiting killing is so deeply embedded in our law and ethics throughout the world, recognized in international human rights documents, and basic to our common morality.

Myth 2: Dying with Dignity

Fact: Our dignity is not dependent on our usefulness or health, but simply on our humanity. Our society should be judged by how well we care for the sick and vulnerable. Everyone should be loved, supported and cared for until they die. There is nothing truly dignified about being killed or assisted to suicide, even when the motive is compassion for suffering. Suicide is always a tragedy. People at a very low ebb are not helped by being told by our laws that we think they would better off dead or that we would be better off if they were dead. The community is rightly concerned about the high level of suicide in Australia and much effort is put into reducing it. To then introduce government authorized killing on request, or assisted suicide, would be to create a dangerous double standard, and promote a false idea of dignity.

Myth 3: Euthanasia is an Issue of Personal Liberty and Personal Choice

The alternative to euthanasia

Compassion for the sick and suffering is something which unites us all. Many of us have accompanied friends or family as they face the fear and uncertainty of a serious illness. Our heart goes out to them and we wish only the best for them.

Fact: Euthanasia always involves a second person and is therefore a public act with public consequences. One person assisting the death of another is a matter of significant public concern because it can lead to abuse, exploitation and erosion of care for vulnerable people. Euthanasia would forever change the nature of doctor patient relationships, from one of a duty to care, and heal and comfort, to one where a doctor is given the power to kill or to help you kill yourself.

Myth 4: It's worked well in other places, like The Netherlands, Belgium & Oregon in the US

Fact: The overseas models are not working well. The so-called strict guidelines are failing badly, with deadly consequences. When euthanasia was introduced in Belgium in 2002 it was considered to be only for terminally ill adults, deemed to be in their right mind, with full consent given. Doctors were required to report cases of euthanasia to a nominated authority. A little over a decade later, the Belgian parliament has now legalised euthanasia for children of all ages and dementia patients. Studies show only half of euthanasia cases are reported to the authority (1) and in a study in Flanders, 66 of 208 cases of euthanasia occurred without explicit consent.(2) Similarly in the Netherlands, despite the supposed safeguards, the Dutch government's own statistics show that more than 300 people die each year from euthanasia without explicit consent(3). From its strictly controlled beginnings, euthanasia in the Netherlands has now grown to include the unconscious, disabled babies, children aged 12 and over, and people with dementia and psychiatric illnesses(4). In Oregon the legislation allows lethal drugs to be administered without oversight, leaving enormous scope for family pressure or elder abuse to be applied.

Myth 5: Euthanasia Should Be Legalised Because Opinion Polls Support It

Fact: Parliaments don't legislate on opinion polls alone. Parliaments are elected to consider all the relevant arguments, to legislate in favour of the common good, to endorse responsible action and to protect the vulnerable, whose voices and concerns are often not heard in opinion polls. The devil is very much in the detail when it comes to euthanasia, and when parliaments across the world have had a chance to examine all the evidence and all the dangers, the great majority of them have voted against it, even in the face of strong opinion poll support.

Myth 6: Euthanasia is Necessary to Relieve Pain

Fact: Good palliative care, not killing, is the answer to relieving pain for the dying. Palliative Care Australia says that good, well-resourced palliative care gives people the ability not only to live well in their illness, but to die well too, "free from pain, in the place of their choice, with people they wish to be present, and above all, with dignity". Great medical gains are being made in palliative care and many families speak of palliative care as providing very precious time with their loved one. But the fact is that palliative care is not offered to many dying people in Australia and in

some places there would be no opportunity to receive it, even if a person in great pain asked for it. No one should be talking euthanasia in Australia until we have righted this wrong.

What Can You Do?

You can help ensure that Australians are always treated with true dignity and compassion, right up to the point of their death. Talk to your friends, family, colleagues and Members of Parliament about the dangers of euthanasia for our society, and put forward the alternative pathway of good, readily available palliative care, loving support, and true, life-affirming compassion. Get involved in the debate because this is a debate which affects us all.

Notes

1. British Medical Journal: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2950259/pdf/bmj.c5174.pdf
2. Canadian Medical Association Journal: http://www.cmaj.ca/content/early/2010/05/17/cmaj.091876.full.pdf
3. Statistics Netherlands: http://statline.cbs.nl/StatWeb/publication/?VW=T&DM=SLen&PA=81655ENG&LA=en
4. Dutch Government:
5. http://www.government.nl/issues/euthanasia/euthanasia-assisted-suicide-and-non-resuscitation-on-request
6. http://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf

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The emerging vocabulary of a human "right" to a dignified death is discreetly rising in UN texts and reports, establishing its terms as "non-opposed language". Over time, this might become "consensual language".

However, the notion of inherent and universal dignity is one of the corner stones of the Human Rights system. Dignity does not change or alter with illness or age. If inherent, it is not qualifiable. To speak plainly, there is nothing dignified in assisted suicide. The killing of another human being is always a tragedy. In all UN texts, dignity is supposed to be objective, universal and undeniable, not linked to the actual capacity of an individual to perform autonomous acts. This is why children, the demented or persons with disabilities are said to have an essential and inviolable dignity that no state, no group of persons, no piece of legislation can deny. This was one of the great lessons learned as a result of both the World Wars. This was moral progress.

Yet, the push for recognition of legal forms of euthanasia at the national level is quickly transforming the fundamental assumption of inherent human dignity. This is not the road forward. This is not progress, but a regression, a loss of humanity, a painful crawling backwards in term of human rights. This working paper argues from three different perspectives – legal, philosophical and theological – the reasons we oppose such a move. It shows what is at stake and why we should avoid walking down the road towards the recognizing of a human right to "dignified death".

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