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"Right to die"

The moral basis of the right to die is the right to good quality life

As this week's House of Lords report on assisted dying shows, the question of the right to die has become one of the most important in contemporary ethics.[1] The case of Terri Schiavo in Florida has stimulated further debate about the issue.[2] Her circumstances illustrate the fact that the question has two different aspects. One concerns the assertion by individuals of their own right to die—for example, in a living will. The other concerns those who, like Terri Schiavo, are not in a position to express a wish to die but on whose behalf the request is made either by relatives who believe that this would be their wish or by medical practitioners who judge that it is not in the person's interests to be maintained on life support without realistic chances of recovery.

The first aspect is relatively simple. Individuals of sound mind and settled purpose who wish to die are in many countries free to commit suicide in the sense that if the attempt fails they will not be prosecuted for having tried. In the United Kingdom, suicide was decriminalised in the Suicide Act of 1961. In most jurisdictions people can refuse medical treatment even if the probable outcome is death. Problems arise when individuals seek medical help to die. In the Netherlands, Belgium, Switzerland, and the US state of Oregon it is legal for a person to be given medical help to die in circumstances detailed in the relevant covering laws.

The second aspect is also relatively straightforward when, as often happens in practice, relatives and medical practitioners agree that withdrawing life support is appropriate. Problems arise, as in the Terri Schiavo case, when such consensus is lacking. In this situation the courts are the appropriate place for what is then needed, which is disinterested evaluation of the case by a third party. Underlying both aspects is the general question of whether such a thing as a right to die exists beyond the mere permission to die by suicide, which many jurisdictions tolerate. Arguably it does, for the following reasons.

Every human rights convention recognises a fundamental right to life. Paradoxical as it might at first seem, this entails a right to die also. For life in the phrase "the right to life" does not mean bare existence; it means existence that has a certain minimum quality for its possessors, where the minimum is quite rich, giving its possessors access to a range of basic human goods such as relationships, and in which they are as free as reasonably possible from distress and pain.

The idea that the right to life is a right to life of a certain minimum quality implies that mere existence is not an automatic good. Since illness, permanent injury, and dying are states of living, an individual's rights are fully engaged in them. When individuals maturely judge that their quality of life is below the minimum, they have a right to die if they have a settled and reasoned wish to do so. Considerations of humanity then further imply that they have a supplementary right to assistance of the kind medical science can provide in dying painlessly and easily, since this concerns the quality of the lived experience of dying.

Other rights regarded as fundamental have their part here too: rights to privacy, freedom of thought, and personal autonomy, which together leave life's great questions to individual choice—whom to love, whether to have a family, and the like. The question of when and how to die is one of these questions, even though most people leave the answer to chance. It is perhaps characteristic of humankind that it regards reasoned choices about when and how to die as morally problematic, whereas ignoring the question and hoping for the best is seen as acceptable or even right.

Lawyers and doctors distinguish between withholding treatment with death as the result, and giving treatment that causes death. The first is considered to be permissible in law and ethics, the second is not. But in fact there is no difference between them; for withholding treatment is an act, based on a decision, just as giving treatment is an act, based on a decision. Moreover, someone who starved another person to death would be as liable for murder as if he or she had poisoned the person. Like the doctrine of double effect, which allows death hastening levels of analgesia to be given with the putative sole aim of controlling pain, the distinctions are fictitious. Death, after all, is the ultimate analgesic.

In cases of the Terri Schiavo type, the right to die is exercised on someone's behalf by third parties. When the third parties disagree, the question widens to include the rights of those related to and responsible for the patient and of society, which automatically has an interest. Political and religious sentiments may obscure the interests of the patients in such cases, which is why the dispassionate assessment of the facts in a court of law is the best way to reach a conclusion. This has quite properly happened in Terri Schiavo's case.

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1 Assisted dying for the terminally ill bill. http://www.parliament.uk/parliamentary_committees/lordsassisted.cfm (accessed 4 Apr 2005).
2 Charatan F. President Bush and Congress intervene in "right to die" case. *BMJ* 2005;330:687.

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