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THE RIGHT TO LIVE AND THE RIGHT TO DIE?

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*We can adjust to a changing world,
and still hold to unchanging principles.
Jimmy Earl Carter*

Abstract

With the advance of medical science and technology, dying can be postponed now. For how long and how is the quality of life? Frequently modern medicine postpones death only, while leaving the quality of life of many patients in a questionable state. Do we have the right to live? Where do we get that right from? The right to live is inherent to our nature of being alive. With right comes obligation. What about the right to die? Some say if there is the right to live, there must also be the right to die. What is life and what is death anyway? Some say death is part of life. Death is in fact the absence of life. We can measure life, but we can not measure death. It's like stating that darkness is part of light. Also, if there is the right to die, what obligations on earth does a dead person have? 'The right to live' excludes 'the right to die'. This moral philosophical approach is only following our moral-ethical reasoning (not our emotions). If we have 'the right to die', it is not far from having 'the right to kill' or may be 'the duty to die'.

The battle between the pros and the cons on the right to die is not over yet. We may consider the transcendental approach. When curative medicine is of no benefit anymore, care giving and ministering medicine must take its place. The transcendental approach takes the dying person as a bio-psycho-socio-cultural-spiritual being with the belief in life after death, and the 'exit' is with faith, hope and love. It is much more optimistic and relieving than the worldly approaches with an 'exit' because of despair.

Key word : *The Right To Live, The Right To Die, Transcendental approach*

Abstrak

Dengan majunya ilmu dan teknologi kedokteran, kematian sekarang dapat ditunda. Untuk berapa lama dan bagaimana kualitas hidup? Sering kedokteran modern hanya menunda kematian, tetapi meninggalkan banyak pasien dengan kualitas hidup yang dapat dipertanyakan.

Apakah kita mempunyai hak untuk hidup? Dari mana kita memperoleh hak itu? Hak untuk hidup adalah inheren pada keadaan hidup kita. Dengan adanya hak, maka ada kewajiban. Bila ada hak untuk hidup apakah harus ada hak untuk mati? Namun apakah kehidupan dan apakah kematian itu? Ada yang mengatakan bahwa kematian merupakan bagian dari kehidupan. Sebenarnya kematian adalah

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tidak adanya kehidupan. Kita dapat mengukur kehidupan, tetapi kita tidak dapat mengukur kematian. Itu ibarat mengatakan bahwa gelap merupakan bagian dari terang. Juga, jika ada hak untuk mati, maka apa kewajiban seseorang yang sudah mati? Jadi, hak untuk hidup meniadakan hak untuk mati. Pendekatan filsafati ini hanya mengikuti penalaran etika-moral kita (bukan mengikuti perasaan atau emosi kita). Jika kita mempunyai hak untuk mati, maka ini tidak jauh lagi dari hak untuk membunuh atau mungkin kewajiban untuk membunuh.

Pertentangan antara yang pro dan yang kontra hak untuk mati masih belum selesai. Kita dapat mempertimbangkan pendekatan transedental. Bila kedokteran kuratif sudah tidak berhasil lagi, maka kita harus beralih ke asuhan kedokteran yang dapat menyenangkan dan memberi kedamaian. Pendekatan transedental menghadapi pasien sebagai makhluk bio-psiko-sosio-kultural-spiritual dengan keyakinan bahwa ada kehidupan setelah kematian. Dan “kepergian” itu adalah dengan iman, harapan dan kasih. Itu adalah lebih optimistis dan meringankan dari pada pendekatan duniawi terhadap “kepergian” karena putus asa.

Kata kunci : Hak untuk hidup, Hak untuk mati, Pendekatan transedental

Introduction

With the advance of medical science and technology, now dying can be postponed or life can be extended. For how long and how is the quality of life? This is the crucial question which evokes ethical, moral, legal, social, psychological, financial, cultural, as well as medical, technological and religious problems. This shows the great complexity of human life for which all humans have so strong an urge to preserve and defend since the beginning of humankind (with exceptions of the deviants). When we look at the animal world, they also are trying very hard to survive and they usually don't commit suicide or kill members of the same species, which only humans do. In this paper we will discuss the ethical and moral aspects of 'the right to die'.

A century ago most people died at home of illnesses which were incurable by traditional as well as 'modern' medicine at that time. Now, life expectancy is becoming longer, more because of improved economical and financial situation leading to better education,

than of medicine. Now medical technology with its life-sustaining gadgets has created choices for dying patients and their families. To preserve life with an 'all-out' effort or to terminate earlier when it becomes unbearable or the struggle no longer seems worth it? Who decides (IslamOnline.net, 23 March 2005)? The choices raise basic questions about human dignity and what constitutes 'a good death'. Physicians in general have discretion in deciding, when additional efforts are futile to sustain life and the patient should be allowed to die (Public Agenda OnLine [1]). When asked by patients or family members to hasten their death, are physicians morally allowed to do so?

More and more people die in hospitals hooked up to all kinds of instruments. Frequently modern medicine postpones death only, while leaving the quality of life of many patients in a questionable state. We are getting more and more patients who with the aid of life-sustaining gadgets are 'neither dead nor alive', those who are in a terminal state of illness, in a persistent coma or in a persistent

vegetative state. Many people for some reason or another are trying to hang on as long as possible, but there are also a few who want to 'exit' (or to 'check out' as we say it here) as soon as possible. Questions arise whether we have 'the right to die' and to exercise it in its many forms with different names, like euthanasia and assisted suicide.

'The right to live' and 'The right to die'

Speaking about the right to live and the right to die, where do we get that right from? **The right to live** is a natural right, owed to us in virtue of our human nature or inherent in our nature as living human beings. The believers say we get it from the Creator; a few even say that we don't have the right to live, we are not the source of our own existence, and we are accountable for it to another, namely the Creator, we only have the duty to preserve it. In fact it is 'the privilege to live'. The view is that human life has inherent dignity unaffected by a person's own self-perception or his utility to society. It is a natural, moral, and *in rem* right and it is a legal right too (this last one is beginning to change by court rulings in several places). We did not ask to be born, but once alive we have 'the right to live'.

With right comes obligation. We have an obligation to take care of our lives as good as possible with proportional means. We have an inherent drive to defend and preserve life which is so strong that it must have something special and specific, which is called 'sanctity of life'. But even a person adhering to the sanctity of life, at one point in time must face the reality that hanging on at all costs or with

disproportional means is not an obligation anymore and that it is time to let go. How far may one go to preserve and extend life is also a big problem. Nobody can live eternally on earth, and even if it is possible, most people would not be willing to experience it, it is useless and senseless.

We have an obligation to preserve life with ordinary means. This is any treatment or procedure which provides some benefit to the patient without excessive burden or hardship. We have no obligation anymore when the means become extraordinary; they become optional. These are measures which do present an excessive burden, or simply do no good for the patient (Frank A. Pavone). The separation line between the two can be the point of debate because it depends on the circumstances and conditions of the person and family (psychological, financial and cultural back ground), the health providers (capabilities, instruments and facilities), and the community (beliefs, elders, traditional medicine and health care system e.g. insurance, which is an indication that big companies are beginning to have also a say in how long we may sustain our lives). May be it is better to use the phrases proportional and disproportional means.

What about **the right to die**? Some say when there is the right to live, there must be also the right to die. Is that so? What is life and what is death anyway? Life can be measured (signs or symptoms of life), our efforts emerging out of our obligation to preserve it can be measured. Our quality of life can be measured even it is very difficult, because it depends on many factors, including cultural factors (the medical

profession or even WHO should not pretend to be the only authority in this field).

Some say death is part of life. Is that so? Death is in fact the absence of life, not part of it. We can measure life (as said above), but we can not measure death. It is like stating that darkness is part of light. Darkness is in fact the absence of light, which we can measure. Darkness is not part of light and we can not measure darkness. Also, if there is the right to die, what obligations on earth does a dead person have? Nil, that earthly being is dead and does not exist anymore. So, I think, the statement 'the right to die' must be non-existing, it is contra logic. 'The right to live' excludes 'the right to die' like 'the privilege to live' excludes 'the privilege to die'. When a living person says he has the right to die, it is in contradiction to his or her right to live. This is moral philosophical reasoning (not moral theological, which will be discussed briefly in the next paragraph). Doing moral-ethical reasoning, using our brain, and not our feelings, will have the same result everywhere.

There are people who claim they have the right to die. Those cases happen in a special context, in a particular situation (like having mercy, becoming a burden, fear of pain, fatalism); those are deviants. More and more people are claiming they have 'the right to die', and that it must be supported by state or court rulings. If all this become the norm, then we are going to live in a deviant society. Some are questioning this movement by bluntly saying 'The right to die, or the right to kill?' (Mary Beth Bonacci 2003).

There are euphemisms for ending one's life in these situations, e.g. euthanasia, auto-euthanasia, self-deliverance, assisted suicide, aid-in-dying, family or physician assisted suicide or dying, voluntary euthanasia, passive euthanasia (Kevin Williams 2005), direct and indirect euthanasia, to soften the meaning in the public's head.

Toward a transcendental approach

Since the cases of Karen Ann Quinlan (1975-1985) (Wikipedia), Nancy Cruzan (1983-1990) (Wikipedia), Hugh Finn (1995-1998) (John J. Paris 1998) and Terri Schiavo (1990-2005) (Wikipedia) in USA, the battle between the pros and cons on the right to die is not over yet. The group of pros is becoming bigger and more vocal after the Quinlan case in New Jersey in 1976. They are using the mercy model, burdenhood model (Mary Beth McCauley 2005) or the cost-benefit model and applying their own standards in evaluating a fellow human being to decide how and when someone must die.

Those who use the mercy model or burdenhood model (fear of being a burden, fear of pain) are working on our emotions in facing such situations like those of Quinlan and Cruzan. Some Governments are constructing rules for deciding whether a person in persistent coma or persistent vegetative state may die or not, as if they have the right to do so. Dr. Jack Kevorkian, a Michigan pathologist, whose business card reads 'Jack Kevorkian, M.D., Bioethics and Obiatriy, Special Death Counseling', who has publicly acknowledged helping 130 people commit suicide with his 'death machine' in his Volkswagen Combi, was

convicted of second-degree murder in 1999 and sentenced to 10 – 25 years in prison for administering a fatal injection to a terminally ill man (Public Agenda OnLine).

Derek Humphry, with his 1991 best-selling book, 'Final Exit: The Practicalities of Self-Deliverance and Assisted Suicide for the Dying', admits that there is an exit, as the title states. But exit to where? If it is an exit to nowhere, why do we bother how we live? We live only once, enjoy and have fun. Other fellow human beings standing in our way will be gotten rid of. Why not, what can prevent us from doing that? Moral and ethical values become relative, the 'slippery slope' becomes longer and steeper, more and more deviant cases will appear.

What can prevent us from abandoning the 'useless', non productive members of society (the severely mentally retarded or psychotics, the quadriplegics and those suffering from severely crippling diseases, and the more those in a persistent coma or persistent vegetative state), or may be also the elderly, the centenarians). And then it is not so far anymore from happenings like the holocaust in former Nazi Germany which started with active euthanasia.

It is already taking place in the Netherlands where in 1990, 2,300 people were euthanized by doctors, one thousand were killed without their consent, including 140 cases involving fully competent persons who never were given a choice, according to the Family Research Council (Robert A. Sirico 1996). According to Sirico, the anti-ethics of

'the right to die' represents an attack on the sanctity of human life; those who advocate it are caught in a performative contradiction, a doctor defending the right to choose and, at the same time, making a living by preventing people from ever choosing again (physician-assisted suicide), is contradictory.

Using the worldly models (mercy, burden, fear of pain, fatalism, cost-benefit) will never lead to a satisfactory solution in end-of-life decision making. Even advance directives or 'living will', if vaguely stated can kill a person. More carefully people make a 'will to live' which is carefully stated and with back-up proxies. And after all, when curative medicine is of no benefit anymore, care giving and ministering medicine must take its place. This is often lacking in advance directives.

More and more hospices have grown up, specifically to make terminal patients as comfortable as possible during their last months. Advocates of palliative care say the real problem is that terminal patients don't get enough pain relief medicine than they should because doctors are reluctant to use pain killers aggressively enough (Frank A. Pavone). They are also not getting enough emotional support. Many of them suffer from treatable clinical depression, when relieved they can deal with their suffering more adequately (Public Agenda [2]). Care givers must be taken care of too, to prevent a burn-out.

Also, we have to look at the positive points of suffering. Who is the giver in this case? Is it the care giver only? The sufferer

must be seen as a giver too. It is a mutual giving situation. Not knowing, the sufferer is in fact giving others a chance to do something good for a fellow human being. Don't those who are burdening themselves serve by allowing another the opportunity to give? (Mary Beth McCauley 2005). The care giver is attending the sufferer, communicating empathically, remembering the five emotional stages of terminally ill persons (Elisabeth Kübler-Ross, 1970), giving comfort and peace during the rest of the earthly life, while waiting for the final exit to a more promising life after death to meet the Creator face to face. The transcendental approach is much more optimistic and relieving and the exit is with faith, hope and love, while with the worldly approaches the exit is because of despair.

The transcendental approach takes the dying person as a bio-psycho-socio-cultural-spiritual being and with the belief that there is life after death. The 'exit' is not to no-where, but to somewhere much more promising. Death of the earthly body and mind (mental processes) is only a transition to another life of the spirit, a spiritual life of the soul, which according to religious Christian belief, will be united with the body and mind to become a whole person again at the end of time.

*We ourselves feel that
what we are doing
is just a drop in the ocean,
but the ocean would be less because
of that missing drop.
Mother Teresa of Calcuta*

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