PAUL OSTROVERHY

PAUL'S FINAL ESSAY

BIOETHICS

"Case Study: Against A Physician-Assisted Death"

(Using Principlism to Evaluate the Morality of PAS)

Physician-assisted suicide (PAS) is deliberately terminating a patient's life to relieve them from suffering. A patient is unable to travel elsewhere and wishes to receive assisted suicide from a physician, but this violates local law. The following analysis has been developed using principlism to decide whether the physician will accept the patient's request for assisted suicide. I will argue that the patient must not commit PAS based upon three primary arguments: the violation of established law, the difficulty in determining a patient's mental capability and a physician's duty to preserve the sanctity of human life.

Physician-assisted suicide is distinctly different from euthanasia. Both are made for the purpose of terminating a patient's life peacefully and painlessly to end their suffering. However, euthanasia involves a doctor directly terminating a patient's life to prevent them from further suffering, whereas PAS allows the patient to choose the time of their death. This facilitates a self-administered death and the choice to change opinion at the last possible moment. This is very important because in a situation where a patient is unconscious, euthanasia allows a close family member to decide whether the patient must die. In PAS, it is up to the patient to decide whether they want to die, but also the physician to agree to deliver the patient the necessary lethal drugs. PAS is currently legal in Canada, Spain, New Zealand, Switzerland, Austria, Netherlands, Belgium, Luxembourg, parts of America and Australia. Whilst the constitutional courts of Columbia, Germany and Italy have legalised PAS, it has still not entered legislation (Wallace).

A patient has the right for self-determination. The Bouvia v. Superior Court (CA) states that "The right to die is an integral part of our right to control our own destinies so long as the rights of others are not affected (Morrow)." A patient who will suffer must have the decision on how they would like their suffering best treated, even if this results in death. For example, people suffering chronic illness or those that have incurable suffering may wish to end their lives now rather than personally suffer. A patient could have a proper goodbye with their loved ones and put everything in order if they know that they will die at such-and-such moment of their life, rather than living in the uncertainty of the future. As such, we must uphold the patient's right for autonomy and they, rather than institutional entities, should be the deciders of their fate and what they should do with their body.

However, the patient has no right for self-determination when their mental capacity for decision-making cannot be determined. In evaluating the factors that are influencing the patient's decision, the physician must find out whether emotional and circumstantial factors are influencing the patient's choice. The patient could be a victim of forced coercion, abuse and exploitation. A survey done in 2011 entitled 'Does This Patient Have Medical Decision-Making Capacity?' suggests that determining a patient's mental capabilities is not so easy (Sessums, Zembrzuska, Jackson). This results in a physician's incapability to see whether the physician's request meets the criteria. Furthermore, in the case of the USA, if the patient is terminally ill, evidence requires prognostication of the patient to determine how much time they have left. Even if they are qualified terminally ill and are predicted to die within six months, the prognosis could be inaccurate and thus the patient has a slim chance of survival. Every patient cannot do as they please because they may be mentally incapable of their decision.

We cannot concede to a patient's demands of assisted death without first taking into consideration the principles of beneficence and non-malfeasance. Physicians are here to reduce as much harm as possible to the patient and to anybody that could suffer from the consequences of the patient's death. Perhaps it is best for them to die, for after all it is as they see fit. The outcome remains the same regardless of what we decide; the patient will eventually die. A patient may want to terminate their life to also relieve the financial burden that a terminally ill patient's treatment may entail for themselves and their immediate family. If the patient is willing to donate his organs after his timed death, then we would be maximising good in not only relieving the patient from suffering but also saving people's lives. A physician would therefore uphold his duty if he helps the patient to die, because that decision would help their family with grief and provide other people in critical need of organ donations.

However, the physician must take into account that a patient's autonomy cannot be given priority over established law. Directly violating law may result in legal punishment. The physician may face legal repercussions from the family if he allows the patient to die, for whatever reasons. That family could well have been opposed to the patient's death and further aided by the illegality of the act, seek to legally punish the physician. Also, a physician has the right to object in assisting a homicide upon religious and personal reasons, especially if PAS will result in mental distress. Furthermore, if the physician is subordinated to a medical institution, violating law could threaten to uplift the existing medical institution that is needed to help save other people's lives. We must consider the stakeholders and understand that the physician carries the right for objection and that fulfilling a patient's wish remains a crime punishable in the eyes of the law. This outweighs the benefits described above.

To reiterate, the physician cannot deliver the necessary lethal drugs for their patient to die because they would be breaking the law. Furthermore, in looking at all aspects of principlism, most of the stakeholders in this case are likely to suffer more than the patient if they fulfil his request. Despite the right for personal autonomy, the patient must prove his mental capability which is not easy to determine. The physician has the right to abstain from such a procedure for a variety of reasons. Even if the patient is terminally or chronically ill, writhing in pain and losing the will to live, their decision-making could be influenced by abusive entities intent upon exploiting the patient for personal interest. Deontologically speaking, a physician remains obliged to fulfil his duty in protecting the inherent value of human life and thus the patient is not to be delivered physician-assisted suicide.

Paul Ostroverhy
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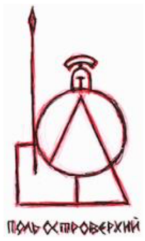

PAUL OSTROVERHY
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