

On Withdrawing Care from the Dying Patient in Israel

Anat Asayag

The purpose of this article is to examine the prohibition on stopping continuous medical treatment as decreed by the Dying Patient Act, 2005. The act classifies stopping continuous medical treatment simply as killing the patient. This article seeks to reveal that this classification does not promote the purposes of the act. Further, this article put forth the argument that stopping continuous medical treatment should be classified as a case of "letting die", and therefore morally permitted.

The Act refers to the Jewish religious law, but the interpretation of Jewish law in the Act is not the only interpretation possible, and it carries with it some negative consequences.

Eventually, we argue that the prohibition found in the Act on ceasing continuous medical treatment may bring unwanted practical effects, and instead of promoting the sanctity of life, the act in its current design might actually undermine its value.

*Currently there is not official translation of the Dying Patient Act. Thus, synonym terms (terminally ill, right to die, end-of-life decision) may apply.

limited scope of this right. The legislature adopted a very limited definition of the dying patient who is entitled to the law defense (one whose life expectancy is no more than six months) and thereby severely limited the rights of other patients to deny life-sustaining treatments. In addition, the law forbids removal of prolonged life-sustaining treatments. The courts however, in suitable cases when pain and suffering were unbearable for the patient, granted motions and ordered lawful disconnection of the patient from respiratory machines. In summary, it seems that although the law gives legal rights to the dying patient to refuse of life-sustaining treatment, it limits and narrows this right in view of the restrictions imposed by the orthodox interpretation of Jewish law.

The Law of the Dying Patient, 2005 - The Influence of Jewish Law on Mercy Killing

Ahuva Ticho

End-of-life decisions, especially in cases of terminally-ill patients who refuse life prolonging treatments, raise ethical, moral and legal dilemmas.

The doctrines of autonomy and of informed consent include the right to refuse medical treatments. The right to refuse life-sustaining medical treatments confronts two basic universal principles: the sanctity of life, on the one hand and human dignity and the autonomy of the patient to formulate his death on the other hand. Indeed, the uses of life-sustaining or invasive interventions in patients who are terminally ill may at times serve only to prolong the dying process and cause pain and suffering.

The Israeli law that regulates end of life decisions is The Dying Patient Act, 2005. The act was prepared by the Steinberg Committee whose mission was to regulate treatments for terminally ill patients in view of medical, moral, and religious aspects. The law offers a balance between the sanctity of life doctrine and the patient's autonomy doctrine. This paper examines whether the law achieved the proper balance and whether it offers proper solutions to ethical dilemmas regarding end-of-life decisions.

The Law stands on three prohibitions: the notion that a deliberate killing, even if it is mercifully motivated, is a criminal offence; the notion that the right to refuse medical treatment differs from assisted suicide, which is prohibited; and the notion that the removal of prolonged treatments, as opposed to withdrawing treatment, is prohibited. A comparative review of the Law's directives with Israeli courts' decisions reveals that although the Law recognizes in principal the patient's right to refuse life sustaining treatments, it offers a very narrow and

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The Criminal Liability of Caregivers and their Institutions for the Death of the Dying Patient

Gabriel Hallevy

Euthanasia has emerged as a complex social and ethical dilemma in human history, especially nowadays, when extending dying patients' life by modern medical means is feasible. Different societies and different cultures came up with different solutions to the medical, philosophical, ethical and legal aspects of this question. Legal systems around the world resolved this issue through **Criminal Law**, and determined whether a physician, who prevents extending a dying patient' life, is a merciful human being, or a killer/murderer, who should be socially banned and legally sanctioned. In Israel, numerous aspects of Euthanasia are regulated by the new Dying Patient Act, 2005, whereas many criminal law aspects of Euthanasia were not resolved by this act. This article deals with the question of **Criminal Liability** of both the medical institution and the medical staff when preventing treatment from a dying patient, in order to let him die, even though the prevention of treatment was according to the Dying Patient Act, 2005. In addition, the article discuss liability in cases where a dying patient decides to commit suicide, and the medical staff prevents it, contrary to the act's directives that patient's will to die should be respected.

Thus, it is argued that the legal incompatibility of the Dying Patient Act, 2005 with the Criminal Law principles negates the applicability of this act as a legal justification for the prosecution on the basis of homicide in a dying patient.

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Ethical Criteria for Prioritization of Medical Services

Ofra Golan

Setting priorities in health care is powerfully manifested in the process of deciding which new medical technologies and medications (hereinafter – "healthcare technologies") will be added to the list of healthcare technologies which are covered by health insurance (the "health basket"). In a resource constrained environment, not all worthy new technologies can be afforded. Thus, every decision to include a certain technology will necessarily come at the expense of other candidates, meaning that certain patient populations would be deprived of the treatment they need. These decisions involve difficult moral dilemmas.

In order to define "reasonable limits" for these crucial decisions, this article attempts to define the relevant moral considerations, and to offer a method to help decisionmakers set an appropriate value for each one of them.

The article deals with the guiding value considerations for comparative priority setting in the context of the coverage of health services in public insurance. It reviews the ethical principals held by the Israeli society, regarding fair distribution of health resources, as reflected in its health legislation. Further, there is a reference to the relevant values and guidelines learned from the Jewish tradition, the position of the experimental "health parliament", and the governmental health basket committee for the year 2005.

We offer a proposed model to help decisionmakers reach fair and transparent decisions, and minimize the ethical dilemmas inherent in the process of comparative priority setting for new healthcare technologies within a strict budget framework.